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REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – SECOND SESSION - 2023

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DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE

REPORT ON THE PROPOSED REDUCTION OF PROJECTED CEILINGS FOR
KENYA RURAL ROADS AUTHORITY FOR THE FINANCIAL YEARS 2024/25 AND
2025/26

Published by:-

The Directorate of Departmental Committees
Clerk's Chambers
Parliament Buildings
NAIROBI


 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 26 SEP 2023	
TUESDAY	
TABLED BY:	CHAIRPERSON, COMMITTEE ON TRANSPORT & INFRASTRUCTURE Hon. G. K. George Kariuki
CLERK AT THE TABLE:	B. INZOFU SEPTEMBER, 2023

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LIST OF ABBREVIATIONS AND ACRONYMS

CRA - Commission on Revenue Allocation

KeRRA - Kenya Rural Roads Authority

KRB - Kenya Roads Board

RMLF - Roads Maintenance Levy Fund

ANNEXURES

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CHAIRPERSON'S FOREWORD

On Tuesday 22nd August, 2023 the Committee noted and deliberated on the contents of a Communication from the Kenya Rural Roads Authority to Regional Directors regarding reduction of projected funding ceilings to the Constituency Roads from 22% to 15% and to the Critical Roads from 10% to 6.8%, in the Financial Years 2024/25 and 2025/26.

The Committee resolved to invite the Director General for the Kenya Rural Roads Authority and the Director General for the Kenya Roads Board to a meeting to deliberate on the matter.

In the afternoon sitting of the same day (Tuesday, 22nd August, 2023), while rising on a point of order, the Member for Nyando, Hon. Jared Okello, M.P raised the matter in House and sought the direction of the Honourable Speaker. The Honourable Speaker directed that the Leader of the Majority Party follows up on the matter and responds before the House.

The Leader of the Majority Party, Hon. Kimani Ichungwah, M.P subsequently issued a Statement to the House in the afternoon Sitting of Thursday, 24th August, 2023. In his statement, he read a submission by the Cabinet Secretary for Roads and Transport, Hon. Kipchumba Murkomen, which indicated that the lower ceiling issued to KeRRA was made under caution to safeguard the Authority from early procurement of works and the resulting pending bills that may arise if the county governments are funded.

The Leader of the Majority Party also informed the House that the matter was now before the Departmental Committee on Transport and Infrastructure and the Committee would consider the matter further and report back to the House.

The Committee via letter Ref. NA/DDC/TI/2023/072, dated 28th August, 2023, invited the Directors for KeRRA and KRB to a meeting on 6th September, 2023. However, Director General for KRB via a letter Ref. No. KRB/DG1/A VOL.II (214) dated 1st September, 2023 requested that the meeting be rescheduled to a later date. He however The Director General made a written submission. The Director General for KeRRA also via a letter Ref. KeRRA/ 05/1/VOL.II (673) dated 5th September, 2023 requested that the meeting be rescheduled but concurred with submissions from KRB.

The Committee having considered the submissions received observed that the 9th National and County Governments Coordinating Summit held in February 2023 in Naivasha resolved that the RMLF allocation to the counties would be given consideration in the Financial Year 2024/2025 through a restructured process. Implementation of the resolution would entail amendment of the Kenya Roads Board Act, 1999 which has not been done. The Committee also observed that the Communication by the Kenya Roads Board on the lower ceilings was only cautionary to prevent resulting pending bills that may arise in the event that county governments are funded in the Financial Year 2024/25 and 2025/26. The allocations for the Financial Year 2023/24 have not and will not be affected by the Communication.

The Committee therefore recommends that Section 6 of the Kenya Roads Board Act, 1999 provides for the allocation from the Roads Maintenance Levy Fund as follows:

Kenya Rural Roads Authority (KeRRA) - 32% (22% for Constituency Roads & 10% for Critical link roads);


- (i) Kenya Urban Roads Authority (KuRA) - 15%;
- (ii) Kenya National Highways Authority (KeNHA) - 40%;
- (iii) Kenya Wildlife Service (KWS) - 1%;
- (iv) Emergency interventions/Cabinet Secretary - 10%; and
- (v) Kenya Roads Board (KRB) Administration - 2%.

Further, the Committee recommends that the Director General for the Kenya Rural Roads Authority should withdraw the Memo to Regional Managers report back to the House within seven (7) days of adoption of this Report.

Pursuant to Standing Order 199, it is my pleasant duty to present the **Report of the Departmental Committee on Transport and Infrastructure regarding the proposed reduction of projected ceilings for Kenya Rural Roads Authority for the Financial Years 2024/25 and 2025/26.**

Hon. GK George Kariuki, M.P.

Chairperson, Departmental Committee on Transport and Infrastructure

 THE NATIONAL ASSEMBLY OF KENYA	
DATE: 26 SEP 2023	
DAY: TUESDAY	
TABLED BY:	CHAIRPERSON, COMMITTEE ON TRANSPORT & INFRASTRUCTURE Hon. G.K. George Kariuki
CLERK OF THE TABLE:	B. INZOFU

1.0 PREFACE

1.1 Introduction and Committee Mandate

1. The Departmental Committee on Transport and Infrastructure is established under the National Assembly Standing Orders No. 216 (1). The functions and mandate of the Committee as per Standing Orders, No. 216(5) include: -
 - a) To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
 - b) To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;
 - c) To study and review all the legislation referred to it;
 - d) To study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
 - e) To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
 - f) To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments);
 - g) To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - h) To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
 - i) To examine any questions raised by Members on a matter within its mandate.
 - j) To examine treaties, agreements and conventions;
2. The subject matter of the Departmental Committee on Transport and Infrastructure are stated in the Second Schedule of the National Assembly Standing Orders as follows: Transport, including non- motorized transport and maintenance of Roads, rails, air and marine transport, seaports and national integrated infrastructure policies and programmes and transport safety.

1.2 Committee Subjects and Oversight

3. The Committee is mandated to consider the following subjects as per the second schedule of the Standing Orders:
 - (i) Transport, including non-motorized transport;
 - (ii) Construction and maintenance of roads;
 - (iii) Rails, air and marine transport; Seaports and national integrated infrastructure

- (iv) policies and
- (v) programmes; and
- (vi) Transport safety.

Oversight

4. The Committee oversees the Ministry of Roads and Transport which has two (2) state departments namely:
 - i. State department for Roads
 - ii. State department for Transport
5. Further, Committee oversees the State Department for Shipping and Maritime Affairs which is under the Ministry of Mining, Blue Economy, and Maritime Affairs.

1.3 Committee Membership

6. The Committee comprises the following Members:

The Hon. G.K George Kariuki, M.P - **Chairperson**
Ndia Constituency
United Democratic Alliance Party

The Hon. Mutua Didmus Wekesa Barasa, M.P- **Vice- Chairperson**
Kimilili Constituency
United Democratic Alliance Party

The Hon. Arama Samuel. M.P
Nakuru Town West Constituency
Jubilee Party

The Hon. Kiunjuri Festus Mwangi, M.P.
Laikipia East Constituency
The Service Party

The Hon. Abdul Rahim Dawood, M.P.
North Imenti Constituency
Independent

The Hon. Bady, Bady Twalib, M.P.
Jomvu Constituency
Orange Democratic Movement Party

The Hon. Naicca, Johnson Many, M.P
Mumias East Constituency
Orange Democratic Movement Party

The Hon. Abdirahman, Husseinweytan
Mohamed, M.P.
Mandera East Constituency
Orange Democratic Movement Party

The Hon. Elsie Muhanda, M.P.
Kakamega County
Orange Democratic Movement Party

The Hon. Komingoi Kibet Kirui, M.P.
Bureti Constituency
United Democratic Alliance Party

The Hon. Francis, Kajwang' Tom Joseph,
Ruaraka Constituency
Orange Democratic Movement Party

The Hon. Saney Ibrahim Abdi, M.P
Wajir North Constituency
United Democratic Alliance Party

The Hon. Chege John Kiragu, M.P.
Limuru Constituency
United Democratic Alliance Party

The Hon. Jhanda Zaheer, M.P
Nyaribari Chache Constituency
United Democratic Alliance

The Hon. Kiaraho, David Njuguna, M.P.
Ol Kalao Constituency
Jubilee Party

1.4 Secretariat

7. The Committee is serviced by the following Members of Staff:

Ms. Tracy Chebet Koskei
Senior Clerk Assistant
Lead Clerk

Mr. Mohamednur Mohamud Abdullahi
Clerk Assistant III

Mr. Mabuti Mutua
Legal Counsel II

Mr. Abdinasir Moge
Fiscal Analyst

Mr. Eric Kariuki
Research Officer

Ms. Clare Choper Doye
Clerk Assistant III

Ms. Ivy Maritim
Media Relations Officer

Mr. Eugene Luteshi
Audio Officer

Mr. Josphat Bundotich
Serjeant at-Arms

CHAPTER TWO: BACKGROUND INFORMATION

2.0 Introduction

8. On Tuesday 22nd August, 2023 the Committee noted and deliberated on the contents of a Communication from the Kenya Rural Roads Authority to Regional Directors regarding reduction of projected funding ceilings to the Constituency Roads from 22% to 15% and to the Critical Roads from 10% to 6.8%, in the Financial Years 2024/25 and 2025/26.
9. The Committee resolved to invite the Director General for the Kenya Rural Roads Authority and the Director General for the Kenya Roads Board to a meeting to deliberate on the matter.
10. In the afternoon sitting of the same day (Tuesday, 22nd August, 2023), while rising on a point of order, the Member for Nyando, Hon. Jared Okello, M.P raised the matter in House and sought the direction of the Speaker. The Speaker directed that the Leader of Majority follows up on the matter and responds before the House.
11. The Leader of the Majority Party, Hon. Kimani Ichungwah, M.P subsequently issued a Statement to the House in the afternoon Sitting of Thursday, 24th August, 2023. He read a submission by the Cabinet Secretary for Roads and Transport, Hon. Kipchumba Murkomen which indicated that the lower ceiling issued to KeRRA was made under caution to safeguard the Authority from early procurement of works and the resulting pending bills that may arise if the county governments are funded.
12. The Leader of the Majority Party also informed the House that the matter was now before the Departmental Committee on Transport and Infrastructure and the Committee would consider the matter further and report back to the House.
13. The Committee via letter Ref. NA/DDC/TI/2023/ 072, dated 28th August, 2023, invited the Directors for KeRRA and KRB to a meeting on 6th September, 2023. However, Director General for KRB via a letter Ref. No. KRB/DG1/A VOL.II (214) dated 1st September, 2023 requested that the meeting be rescheduled to a later date. He however The Director General made a written submission. The Director General for KeRRA via a letter Ref. KeRRA/ 05/1/VOL.II (673) dated 5th September, 2023, also requested that the meeting be rescheduled but concurred with submissions from KRB.

14.

2.2 Legal Framework

15. The Constitution of Kenya 2010 in part I of the Fourth Schedule, paragraph 18, has assigned the National Government responsibility for the construction and maintenance of national trunk roads, while part II of the Fourth Schedule assigns county governments the responsibility for county roads. The county governments became beneficiaries of the Road Maintenance Levy Fund (RMLF) conditional grant from Financial Year 2015/2016 based on the County Allocation of Revenue Act, 2015. The Kenya Roads Board (KRB), therefore, allocated 15 per cent of RMLF as conditional grant to the county governments for six years from Financial Year 2015/2016 to Financial Year 2020/21. Effective Financial Year 2021/22, the maintenance of county roads was incorporated into the equitable revenue share.
16. The 9th National and County Governments Coordinating Summit held in February 2023 in Naivasha resolved that the RMLF allocation to the counties would be given consideration in the Financial Year 2024/2025 through a restructured process. To effect the resolution of the Summit, the Intergovernmental Relations Technical Committee convened a meeting on 8th August 2023 at the Kenya School of Government (KSG), where the road sector was expected to restructure the Kenya Roads Board Act or the Road Maintenance Levy Fund Act to include allocations to the county governments and review the road classification to align it with the restructured Act.
17. However, the discussion of the meeting was not concluded and, therefore, the Intergovernmental Relations Technical Committee was advised to convene a stakeholders' meeting involving the Council of Governors, CRA and the Ministry of Roads, Transport and Infrastructure, and its affiliate agencies to discuss the above matter further.

CHAPTER THREE

3.0 SUBMISSIONS FROM STAKEHOLDERS

18. The Committee received written submissions by the Kenya Roads Board dated 1st September, 2023. The Kenya Rural Roads Authority vide a letter dated 5th September, 2023 concurred with the submissions by the Kenya Roads Board. The details of the submissions are detailed below:

3.1 SUBMISSION BY THE KENYA ROADS BOARD

19. According to the submissions by the Kenya Roads Board and the Statement by the Leader of the Majority Party tabled in the House on 24th August, 2023, the legal notice no. 2 of 2016 classified the Country's road network in to National Trunk roads (Class S, A, B & C) and County roads (class D, E, F & G). In this classification KeRRA was given responsibility class C roads.
20. As such Counties became beneficiaries from the fund effective 2015/16 financial year based on CARA act, 2015 and instructions from the National Treasury issued on 28th August 2015. In this regard KRB allocated 15% of the fund to the Counties as conditional grants for Six (6) years up to 2020/21 financial year. However, effective financial year 2021/22 maintenance of county roads was incorporated into the equitable share and hence KRB stopped the conditional grants from the RMLF to the Counties and reverted to the original formulae as provided for in the KRB Act 1999 (KeRRA – 32% (22% & 10%), KuRA – 15%, KeNHA – 40% , KWS – 1%, Emergency interventions/CS – 10%, KRB Admin – 2%).
21. The 9th National and County Governments Coordinating Summit held in February 2023 resolved that effective 2024/25 consideration be given to allocate a share of RMLF to Counties through structured process. In order to effect the resolutions of the summit, the Intergovernmental Relations Technical Committee proposed that the Ministry of Roads and Transport amends the KRB Act to provide for allocations to County Governments and review classification of roads to align with amendments. According to the Submission of the Board, **the discussion is still ongoing on this matter.**
22. Section 19 of the KRB Act, 1999 requires the Board to communicate to the road agencies at least a year in advance on the projected funding likely to be available for allocation which they are required to prepare their annual roads programme. In these regard the Board issued the projected funding ceiling to KeRRA in July, 2023 reducing the share of Constituency roads allocation to 15% from 22% and Critical link roads from 10% to 6.8%.
(*Annexure 5*)

23. Therefore the lower ceilings issued to KeRRA were made under caution to safeguard the Authority from early procurement of works and the resulting pending bills that may arise in the event that the Counties are funded from the RMLF.

CHAPTER FOUR

4.0 OBSERVATIONS

24. The Committee having considered the matter observed the following, THAT:

- (1) The 9th National and County Governments Coordinating Summit held in February 2023 in Naivasha resolved that the Roads Maintenance Levy Fund (RMLF) allocation to the counties would be given consideration in the Financial Year 2024/2025 through a restructured process. Implementation of the resolution would entail amendment of the Kenya Roads Board Act, 1999 which has not been done. Article 95 of the Constitution gives the National assembly mandate to enact legislation and determine the allocation of national revenue between levels of government;
- (2) The Communication by the Kenya Rural Roads Authority on the lower ceilings was only cautionary to prevent resulting pending bills that may arise in the event that county governments are funded from the RMLF in the Financial Year 2024/25 and 2025/26. **The allocations for the Financial Year 2023/24 have not and will not be affected by the Communication; and**
- (3) **The Communication** Kenya Rural Roads Authority on the lower ceilings is inconsistent with section 6 of the Kenya Roads Board Act, 1999;

CHAPTER FIVE

5.0 RECOMMENDATIONS

(1) Section 6 of the Kenya Roads Board Act, 1999 provides that the Board shall allocate funds from the Roads Maintenance Levy Fund as follows:

- (i) Kenya Rural Roads Authority (KeRRA) - 32% (22% for Constituency Roads & 10% for Critical link roads);
- (ii) Kenya Urban Roads Authority (KuRA) - 15%;
- (iii) Kenya National Highways Authority (KeNHA) - 40%;
- (iv) Kenya Wildlife Service (KWS) – 1%;
- (v) Emergency interventions/Cabinet Secretary – 10%; and
- (vi) Kenya Roads Board (KRB) Administration – 2%).


And as long as the Law has not been changed, the position of the Law must be maintained;

- (2) The Director General for the Kenya Rural Roads Authority should withdraw the Memo to Regional Managers report back to the House within seven (7) days of adoption of this Report;
- (3) Public officers should refrain from issuing communications/ circulars that have legal implication before the approval of Parliament; and
- (4) The Kenya Roads Board expedites release of funds for the Financial Year 2023/24 to the Road Agencies.

SIGNED.......... DATE. 26.09.2023.....

HON. GK GEORGE KARIUKI, M.P.
CHAIRPERSON

DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 26 SEP 2023	DAY TUESDAY
TABLED BY:	CHAIRPERSON COMMITTEE ON TRANSPORT & INFRASTRUCTURE Hon. G. K. George Kariuki
CLERK AT THE TABLE:	B. Inzofu

Annexure 1: Adoption List



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT - SECOND SESSION - 2023
DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE
MEMBERS ATTENDANCE LIST

DATE 26/9/2023 START 1:30 END 2:20 pm
VENUE Committee Room 5, Main Parliament Building

AGENDA: Consideration and Adoption of the Report on the proposed Reduction in the Projected Funding ceilings for the Kenya Rural Roads Authority (KeRRA) for the FYs 2024/25 and 2025/26

NO.	NAME	SIGNATURE
1.	The Hon. GK George Kariuki, MP - Chairperson	
2.	The Hon. Didmus Barasa, MP- Vice Chairperson	
3.	The Hon. Kiunjuri, Festus Mwangi, MP	
4.	The Hon. Abdul Rahim Dawood, MP	
5.	The Hon. Arama Samuel, MP	
6.	The Hon. Bady, Bady Twalib, MP	
7.	The Hon. Francis, Kajwang' Tom Joseph, MP	
8.	The Hon. Kiaraho, David Njuguna, MP	
9.	The Hon. Naicca, Johnson Many, MP	
10.	The Hon. Chege, John Kiragu, MP	
11.	The Hon. Elsie Muhanda, MP	
12.	The Hon. Saney, Ibrahim Abdi, MP	
13.	The Hon. Hussein Weytan Mohamed, MP	
14.	The Hon. Jhanda Zaheer, MP	
15.	The Hon. Komingoi, Kibet Kirui, MP	

Forwarded by:

Signed Tracy Chebet Date 26/9/2023

Ms. Tracy Chebet Koskei
Senior Clerk Assistant - Committee Clerk

Approved by:

Signed.....Date.....

Mr. Peter K. Chemweno,
Director -Directorate of Departmental Committee

Annexure 2: Committee Minutes

MINUTES OF THE THIRTY-FIFTH SITTING OF THE DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE HELD ON THURSDAY, 24TH AUGUST, 2023 IN THE MINI CHAMBER, COUNTY HALL, PARLIAMENT BUILDINGS AT 12.00 P.M.

MEMBERS PRESENT

1. The Hon. Mutua Didmus Wekesa Barasa, M.P. – **Vice-Chairperson**
2. The Hon. Kiunjuri Festus Mwangi, M.P.
3. The Hon. Abdul Rahim Dawood, M.P.
4. The Hon. Bady, Bady Twalib, M.P.
5. The Hon. Francis, Kajwang' Tom Joseph, M.P.
6. The Hon. Johnson Manya Naicca, M.P.
7. The Hon. Chege John Kiragu, M.P.
8. The Hon. Muhanda Elsie Busihile, M.P.
9. The Hon. Hussein Weytan Mohamed , M.P.
10. The Hon. Jhanda Zaheer, M.P.
11. The Hon. Komingoi Kibet Kirui, M.P.

APOLOGIES

1. The Hon. GK George Kariuki, M.P. – **Chairperson**
2. The Hon. Samuel Arama, M.P.
3. The Hon. David Njuguna Kiaraho, M.P.
4. The Hon. Saney Ibrahim Abdi, M.P.

SECRETARIAT

1. Ms. Tracy Chebet Koskei - Senior Clerk Assistant
2. Ms. Choper Clare Doye - Clerk Assistant III
3. Mr. Mohamednur M. Abdullahi - Clerk Assistant III
4. Mr. Mabuti Mutua - Legal Counsel
5. Mr. Abdinasir Moge - Fiscal Analyst
6. Ms. Ivy Maritim - Media Relations Officer
7. Ms. Libbie Kiargu - Attachee Media Relations
8. Mr. Moses Kariuki - Serjeant At-Arms

MIN./NO./TI/2023/169: PRELIMINARIES

The meeting was called to order at twenty minutes past noon (12.20 pm) with a word of prayer by the Vice-Chairperson. The Agenda of the meeting was adopted having been proposed by the Hon. Francis, Kajwang' M.P and seconded by the Hon. Chege John Kiragu, M.P.

MIN./NO./TI/2023/170: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

The following Minutes were confirmed:

- i. Minutes of the twenty-ninth Sitting were confirmed as a true record of the proceedings after being proposed and seconded by the Hon. Chege, John Kiragu, M.P and the Hon. Komingoi Kibet Kirui M.P, respectively.
- ii. Minutes of the thirtieth Sitting were confirmed as a true record of the proceedings after being proposed and seconded by the Hon. Komingoi Kibet Kirui, M.P and the Hon. Francis, Kajwang' Tom M.P, respectively.
- iii. Minutes of the thirty-first Sitting were confirmed as a true record of the proceedings after being proposed and seconded by the Hon. Chege, John Kiragu, M.P and the Hon. Komingoi Kibet Kirui M.P, respectively.
- iv. Minutes of the thirty-second Sitting were confirmed as a true record of the proceedings after being proposed and seconded by the Hon. Chege, John Kiragu, M.P and the Hon. Komingoi Kibet Kirui M.P, respectively.
- v. Minutes of the thirty-third Sitting were confirmed as a true record of the proceedings after being proposed and seconded by the Hon. Chege, John Kiragu, M.P and the Hon. Komingoi Kibet Kirui, M.P, respectively.
- vi. Minutes of the thirty-fourth Sitting were confirmed as a true record of the proceedings after being proposed and seconded by the Hon. Francis, Kajwang' Tom M.P and the Hon. Komingoi Kibet Kirui, M.P, respectively.

MIN./NO./TI/2023/171: BRIEF BY THE LEGAL COUNSEL ON THE PROPOSED KENYA ROADS BOARD (AMENDMENT) BILL, 2023

The Legal Counsel informed the Committee that the Kenya Roads Board (Amendment) Bill 2023 is sponsored by Hon Wanjiku Muhia, Member of Parliament for Kipipiri Constituency. The Legislative proposal aims to prioritize the allocation of funds based on the specific needs of constituencies, especially those experiencing heavy rainfall, and to establish a limit (in respect to distance) of road work projects awarded to a single contractor to 35 kilometers on the strength that this segmented awarding of road maintenance and development contracts will encourage wider participation from various contractors and thereby promote job creation.

The Legal Counsel informed the Committee that the Committee received a memorandum from the Kenya Law Reform Commission. The Commission raised concerns about the proposal to allocate funds based on rainfall patterns. They pointed out that determining which constituencies experience heavy rains is unclear and challenging. Rainfall is unpredictable and varies yearly, making legislative decisions based on it impractical.

The Commission also submitted that all constituencies need road maintenance, regardless of rainfall, as roads are crucial for economic infrastructure. Focusing solely on rainfall might neglect other road maintenance issues like heavy traffic or wear and tear. Consistently monitoring rainfall across constituencies could be administratively inefficient, delaying road work. Additionally, this approach could lead to misinformation, disputes, and misallocation of funds, with constituencies exaggerating rainfall or road degradation for more funding.

The Kenya Law Reform Commission notes that road maintenance and development require a comprehensive approach, taking into account traffic volume, the importance of the road in regional connectivity, the age of the road, and other external factors. Prioritizing rainfall alone, might be inadvertently ignore other multifaceted needs.

The commission also indicates that while the intent behind the proposal, to address the specific challenges roads in heavy rainfall areas face is understandable, a broader, more comprehensive, and flexible approach might better serve the diverse needs of all constituencies and ensure equitable development.

In respect to the second proposal to limit the award of roadworks contracts for a single contractor to 35 kilometers the Commission raised the following concerns: —

Efficiency: Larger projects benefit from economies of scale. Limiting contracts could increase costs, as larger contractors can streamline operations.

Administrative Burden: Using multiple contractors raises administrative tasks (vetting, oversight, etc.), potentially delaying projects.

Expertise and Disputes: Limited contracts might lack expertise; disputes among contractors could arise.

The Commission however proposes that these proposals can be achieved through policy directives administratively and implemented by the relevant government agencies through their procurement processes instead of imposing a limit through legislation which is more tedious to change or amend.

MIN./NO./TI/2023/172: COMMITTEE CONCERNS

The Committee raised the following concerns:

The criteria for identifying constituencies prone to heavy rains lack clarity and would be hard to establish, as there is uncertainty about the precise annual rainfall measurements or metrics to employ. Members also noted that rainfall trends are unpredictable and can differ annually and that relying on such variable criteria for legislative decisions might not be practical.

Members also noted that the changing climate patterns could render this legislative approach difficult to implement and it would require frequent updates.

Members further labeled the Legislative proposal as discriminatory because it aims to allocate funds according to maintenance needs caused by heavy rainfall in certain areas. Members believe this could introduce bias into resource distribution, which goes against the current practice of distributing funds equally to all constituencies.

As regards the second proposal to limit the award of roadworks contracts for a single contractor to 35 kilometers, the Committee noted that this could be managed administratively and was already being implemented and did not need to be legislated.

MIN./NO./TI/2023/173: ANY OTHER BUSINESS

The Committee noted with concern the contents of a Communication from the Kenya Rural Roads Authority to Regional Directors regarding reduction of projected funding ceilings to the Constituency Roads from 22% to 15% and to the Critical Roads from 10% to 6.8%, in the Financial Years 2024/25 and 2025/26.


The Committee has resolved to invite the Director General for the Kenya Rural roads Authority and the Director General for Kenya Roads Board Roads to clarify on the contents of the communication from the Kenya Rural Roads Authority to Regional Directors regarding reduction of projected funding ceilings to the Constituency Roads on **6th of September, 2023**.

MIN./NO./TI/2023/175:

ADJOURNMENT / DATE OF THE NEXT MEETING


There being no other business, the meeting was adjourned at twenty past one O'clock (1.20pm).

The next meeting will be held on notice.

Signed..........Date...26-09-2023

HON. GK GEORGE KARIUKI, MP – CHAIRPERSON

Annexure 3: Memo by the Kenya Rural Roads Authority on the projected funding ceilings for FY 2024/25

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 26 SEP 2023	
TUESDAY	
TABLED	CHAIRPERSON, COMMITTEE ON TRANSPORT & INFRASTRUCTURE Hon. G. K. George Karuki
	B. Inzofu



KENYA RURAL ROADS AUTHORITY

Tel: 020-7807600/01-05 0771451679
Mobile No. 0711-851103
General Email: kerra@kerra.go.ke/
Director General: dgkerra.go.ke
Website: www.kerra.go.ke

Barabara Plaza Block B,
Airport South Road,
P.O. Box 48151-00100,
Nairobi, Kenya

Ref: KeRRA/05/02/Vol. II/ (185)

Date: 16th August, 2023.

TO: ALL REGIONAL DIRECTORS

RE: PROJECTED FUNDING CEILINGS FOR KERRA FINANCIAL YEAR 2024/25

We have received projected funding ceilings for FY 2024/2025 from Kenya Roads Board.

The provided projected funding ceiling per constituency for the year 2024/2025 are as shown below;

Funding	Projected Estimates (Kshs)	
	FY 2024/25	FY 2025/26
15% Constituency Roads	29,157,267.56	30,429,387.35
6.8% Critical links Roads	13,217,961.29	13,794,655.60
Total KeRRA Allocation	42,375,228.85	44,224,042.95

In this regard, you are required to prepare your Annual Road Works Programme (ARWP) for FY 2024/25 in compliance with the above ceiling and submit/upload it in the Road Management System by 29th September, 2023.

Please ensure that your ARWP for FY 2024/25 adheres to the guidelines provided by KRB as contained here below:

- (i) **Road Asset Preservation** - priority for routine and periodic maintenance should be given to the roads in good and fair condition as far as possible in order to preserve the existing road assets.
- (ii) **Road Asset Restoration** - some critical roads which are in poor condition should be included in the APRP to receive full scale/partial rehabilitation or reconstruction. In addition, spot improvement should be undertaken on selected roads which are in poor

Annexure 4: Correspondence to the Kenya Roads Board and the Kenya Rural Roads



THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: NA/DDC/TI/2023/072

28th August, 2023

Eng. Philemon Kandie
Director General
Kenya Rural Roads Authority (KeRRA)
Barabara Plaza, Block B, Airport South Road
NAIROBI

Mr. Rashid Mohamed
Director General
Kenya Roads Board
3rd Floor, Kenya Re Towers
Ragati Road, Upper Hill
P.O. Box 73718- 00200
NAIROBI

Dear *Sir*

RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE REGARDING THE REDUCTION IN PROJECTED FUNDING CEILINGS FOR THE KENYA RURAL ROADS AUTHORITY FOR THE FINANCIAL YEARS 2024/25 AND 2025/26

The Departmental Committee on Transport & Infrastructure is established pursuant to Standing Order 216 (5) of the National Assembly Standing Orders, and is mandated to *inter alia*, 'investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments; and study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation'.


The Committee has noted with concern the contents of a Communication from the Kenya Rural Roads Authority to Regional Directors regarding reduction of projected funding ceilings to the Constituency Roads from 22% to 15% and to the Critical Roads from 10% to 6.8%, in the Financial Years 2024/25 and 2025/26.

In that regard, the Committee has resolved to invite the Director General for the Kenya Rural Roads Authority and the Director General for Kenya Roads Board to clarify on the contents of the communication and circumstances under which it was issued.

The purpose of this letter is to invite you to attend a meeting of the Committee scheduled for Wednesday, 6th September, 2023 to be held in the Committee Room on 2nd Floor Continental House, Parliament Buildings at 10.00 a.m.

You are requested to provide twenty (20) copies of your submission during the meeting and send a soft copy to the office of the Clerk via email: cna@parliament.go.ke by **Monday, 4th September, 2023.**

Our contact persons on this subject are **Ms. Tracy Chebet Koskei** who may be contacted on tel. no. 0726416794 or email: tracy.koskei@parliament.go.ke and **Mr. Mohamednur M. Abdullahi** on tel. 0720928507 or email: mohamednur.abdullahi@parliament.go.ke.

Yours *sincerely*


SERAH KIOKO, MBS

For: CLERK OF THE NATIONAL ASSEMBLY

Copy to: **Eng. Joseph M. Mungai**
Principal Secretary
State Department for Roads
Ministry of Roads and Transport
Transcom House, Ngong Road
NAIROBI

Annexure 5: Submission by the Kenya Roads Board (KRB)



KENYA ROADS BOARD

3rd Floor, Kenya Re Towers, off Ragati Road, Upper Hill
P.O. Box 73718 - 00200, Nairobi, Kenya
ISDN Tel: +254 20 498 0000, 020 272 3185, 020 272 2865
Cell: +254 722 203 418, 0733 334 422
Email: info@krb.go.ke | Website: www.krb.go.ke
ISO 9001:2015 Certified

KRB/DG/I/A VOL II (214)

1st September, 2023

Mr. Samwel Njoroge
Clerk of the National Assembly
Main Parliament Buildings
P.O. Box 41842- 00100
NAIROBI

Dear Mr. Njoroge


RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE REGARDING THE REDUCTION IN PROJECTED FUNDING CEILINGS FOR THE KENYA RURAL ROADS AUTHORITY FOR THE FINANCIAL YEARS 2024/25 AND 2025/26

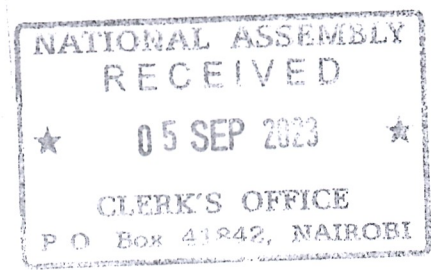
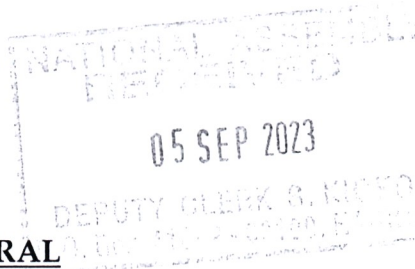
Reference is made to your letter of Ref. No. NA/DDC/TU/2023/072 dated 28th August, 2023 on the above subject.

Due to unavoidable commitments, the Board is unable to attend the meeting scheduled on 6th September, 2023. The Board requests for an alternative date at the committee's convenience. A comprehensive response on the same has been submitted for your consideration.

The Board is willing to engage and support the Committee of the National Assembly on the above referenced matter.

Yours sincerely,

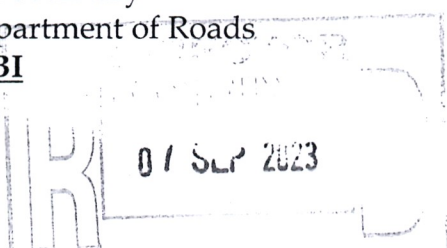

R. Mohamed, MBS
DIRECTOR GENERAL



Cc:

Eng. Joseph M. Mbugua
Principal Secretary
State Department of Roads
NAIROBI

Eng. Philemon Kandie, MBS
Director General
Kenya Rural Roads Authority
NAIROBI



DDC
Please deal
S.G.
05/09/23

Tracy chabet
to facilitate
on 7/9/23



KENYA ROADS BOARD

3rd Floor, Kenya Re Towers, off Ragati Road, Upper Hill
P.O. Box 73718 - 00200, Nairobi, Kenya
ISDN Tel: +254 20 498 0000, 020 272 3185, 020 272 2865
Cell: +254 722 203 418, 0733 334 422
Email: info@krb.go.ke | Website: www.krb.go.ke

ISO 9001:2015 Certified

KRB/DRCR/1/VOL I A (267)

Mr. Samwel Njoroge
Clerk of the National Assembly
Main Parliament Buildings
P.O. Box 41842 -00100
NAIROBI

Dear *Mr. Njoroge,*

DDC

Please deal. via

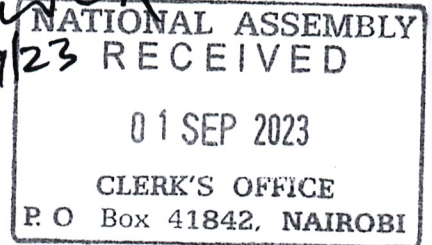
sure.

04/09/23

Tracy chebet

As facilitator

30th August, 2023



MEETING WITH THE DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE REGARDING THE REDUCTION IN PROJECTED FUNDING CEILINGS FOR THE KENYA RURAL ROADS AUTHORITY FOR THE FINANCIAL YEARS 2024/25 AND 2025/26

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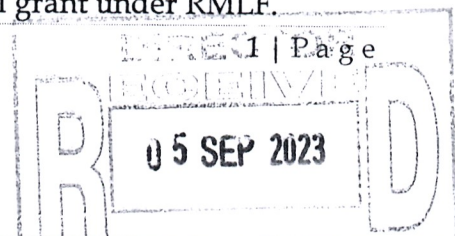
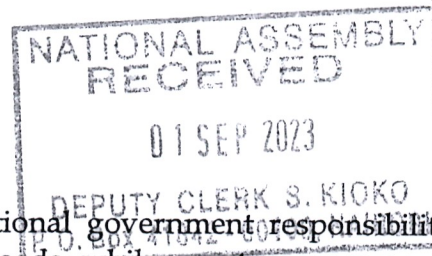
The Board hereby submits as follows:

1.0 BACKGROUND

The Constitution of Kenya, 2010 assigns the national government responsibility for construction and maintenance of national trunk roads, while county governments are assigned the responsibility for county roads. Legal Notice No. 2 of 2016 classified the road network into national trunk roads (class S, A, B & C) and county roads (class D, E, F, & G) of which KeRRA is responsible for class C roads.

County Governments became beneficiaries of the Road Maintenance Levy Fund (RMLF) conditional grant with effect from FY 2015/16, based on the County Allocation of Revenue Act (CARA) 2015 and an instruction from the National Treasury issued on 28th August 2015. Kenya Roads Board therefore allocated 15% of RMLF as a conditional grant to the county governments for six (6) financial years, up to FY 2020/21. These allocations were based on the CARA Acts that were passed by Parliament annually in subsequent financial years.

The maintenance of county roads was incorporated into the equitable revenue share with effect from FY 2021/2022- bringing an end to the conditional grant under RMLF.



The 9th National and County Governments Coordinating Summit held in February 2023 in Naivasha resolved that the RMLF allocation to the counties would be given consideration in the FY 2024/2025 through a restructured process.

To effect the resolution of the summit, Inter-Governmental Relations Technical Committee (IGRTC) convened a meeting on 8th August, 2023 at the Kenya School of Government where the following proposals were made:

- i. Ministry of Roads & Transport to review and amend the KRB Act section 6(2)(d) to include allocations to the County Governments.
- ii. Ministry of Roads & Transport to review the classification of roads to align with the amendments proposed in (i).

The discussion of the meeting was not concluded, and it was agreed that IGRTC engages key stakeholders for further discussions.

2.0 PROJECTED FUNDING CEILINGS FOR KERRA FOR FY 2024/25 AND 2025/2026

Section 19 of the KRB Act, 1999 requires the Board to communicate to the Road Agencies *at least a year in advance* on the funding likely to be available for allocation in the coming year. Every road agency is then required to submit to the Board an annual roads programme. The Board is further required in accordance with section 35(2A) of the Act to submit a collated annual roads maintenance programme to the National Assembly for approval.

To ensure compliance with the tight budget requirements under the KRB Act, the Board issued projected funding ceilings to KeRRA in July, 2023 as shown in **Table 1** below:

Table 1: KRBF Allocation to KeRRA FY 2024/25 (Option 1)

ALLOCATION DESCRIPTION	PROJECTED ESTIMATES (Kshs)	
	FY 2024/25	FY 2025/26
15% Constituency Roads Allocation	11,265,896,674.09	11,756,078,845.42
6.8% Critical links Roads Allocation	5,107,206,492.26	5,329,422,409.93
Total KeRRA Allocation	16,373,103,166.35	17,085,501,255.35
Allocated as follows:		
(a) Admin & Operations (5.5% of RMLF)		
15% Constituency Roads	2,810,289,082.57	2,931,556,513.76
6.8% Critical links Roads	1,273,997,717.43	1,328,972,286.24
Total Admin & Operations	4,084,286,800.00	4,260,528,800.00
(b) Roadworks		
15% Constituency Roads	8,455,607,591.52	8,824,522,331.66

ALLOCATION DESCRIPTION	PROJECTED ESTIMATES (Kshs)	
	FY 2024/25	FY 2025/26
6.8% Critical links Roads	3,833,208,774.82	4,000,450,123.69
KeRRA Total Road Works	12,288,816,366.35	12,824,972,455.35
(c) Roadworks Allocation per Constituency		
15% Constituency Roads	29,157,267.56	30,429,387.35
6.8% Critical links Roads	13,217,961.29	13,794,655.60
Total Allocation per Constituency	42,375,228.85	44,224,042.95

The ceilings issued to KeRRA were based on the assumption that county governments shall receive 15% of the RMLF effective FY 2024/25 as proposed by the 9th Summit.

It was noted that in the six financial years (FY 2015/16 to FY 2020/21) that counties received 15% RMLF in accordance with the CARA Act, KeRRA and KURA were allocated 21.8% and 10.2% respectively on a prorated basis. Noting that the road network administered under these two road agencies are within counties, both KeRRA and KURA included county roads in their Annual Roads Work Programmes.

RMLF Allocation to KeRRA in FY 2024/25 (Option 2)

The Board shall be guided by the resolution of Parliament as to whether county governments shall receive RMLF funding in FY 2024/25 for maintenance of county roads. In the event otherwise, the ceilings to KeRRA shall be revised upwards as shown below:

Table 2: KRBF Allocation to KeRRA FY 2024/25 (Option 2)

ALLOCATION DESCRIPTION	PROJECTED ESTIMATES (Kshs)	
	FY 2024/25	FY 2025/26
22% Constituency Roads Allocation	16,576,899,394.90	17,296,254,496.94
10% Critical links Roads Allocation	7,534,954,270.41	7,861,933,862.25
Total KeRRA Allocation	24,111,853,665.31	25,158,188,359.18
<i>Allocated as follows:</i>		
(a) Admin & Operations (5.5% of RMLF)		
22% Constituency Roads	2,810,289,082.57	2,931,556,513.76
10% Critical links Roads	1,273,997,717.43	1,328,972,286.24
Total Admin & Operations	4,084,286,800.00	4,260,528,800.00
(b) Roadworks		
22% Constituency Roads	13,766,610,312.33	14,364,697,983.18
10% Critical links Roads	6,260,956,552.98	6,532,961,576.01
KeRRA Total Road Works	20,027,566,865.31	20,897,659,559.18
(c) Roadworks Allocation per Constituency		
22% Constituency Roads	47,471,070.04	49,533,441.32

ALLOCATION DESCRIPTION	PROJECTED ESTIMATES (Kshs)	
	FY 2024/25	FY 2025/26
10% Critical links Roads	21,589,505.36	22,527,453.71
Total Allocation per Constituency	69,060,575.40	72,060,895.03

The Board issued conservative ceilings to KeRRA and KURA for FY 2024/2025 in light of the developments noted above. If the ceilings were issued based on Table 2, then KeRRA and KURA may incur pending bills in the event that county governments become beneficiaries of RMLF, noting that procurement for works commences based on the issued ceilings.

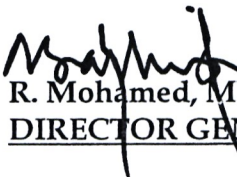
3.0 CONCLUSION

The lower ceilings issued to KeRRA were made under caution, to safeguard the Authority from early procurement of works and the resulting pending bills that may arise in the event that county governments are funded.

Kenya Roads Board shall be guided appropriately by the National Assembly on this matter.

Submitted for your information and further guidance.

Yours *Sincerely,*


R. Mohamed, MBS
DIRECTOR GENERAL

Cc: Eng. Joseph M. Mbugua
Principal Secretary, State Department of Roads
Ministry of Roads and Transport
P O Box 30260-00100,
NAIROBI.

**Annexure 6: Submission by the Kenya Rural
Roads Authority (KeRRA)**



DD ch...
8/9/23

KENYA RURAL ROADS AUTHORITY

Tel: 020-7807600/01-05,
Mobile No. 0711-851-103
Director General: dg@kerra.go.ke
Website: www.kerra.go.ke

Barabara Plaza Block B,
Mazao Road,
Off airport south road, JKIA
P.O. Box 48151-00100
Nairobi, KENYA

Ref: KeRRA/05/1/VOL. II/(673)

Date: 5th September, 2023

Mr. Samuel Njoroge
Clerk of the National Assembly
Main Parliament Buildings
P. O. Box 41842-00100
NAIROBI

*Tracy chebet
to facilitate
8/9/23*

Dear Sir,

RE: MEETING WITH DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE REGARDING THE REDUCTION IN PROJECTED FUNDING CEILINGS FIR THE KENYA RURAL ROADS AUTHORITY FOR THE FINANCIAL YEAR 2024/2025 AND 2025/2026

Reference is made to your letter Ref. NA/DDC/TI/2023/072 dated 28th August, 2023 on the captioned subject.

We regret to inform you that due to unavoidable circumstances, KeRRA will not be able to attend the meeting with the National Assembly Departmental Committee on Transport & Infrastructure scheduled for 6th September, 2023. However, we are available to discuss this issue and any other matter of interest at any other time at the convenience of the Committee.

Taking note that the source of the projected ceilings is the KRB we wish to concur with their response through their letter Ref. KRB/DRCR/1/Vol.1A (267) dated 30th August, 2023 (copy attached).

Yours faithfully,

Adhe

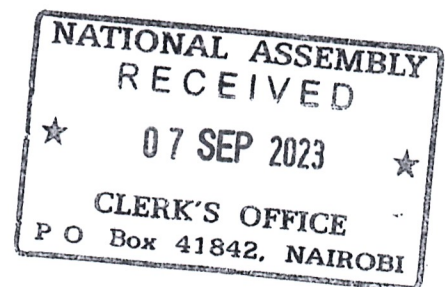
Eng. Philemon K. Kandie, MBS
DIRECTOR GENERAL.

Encl

Copy to:-

Eng. Joseph M. Mbugua
Principal Secretary
State Department for Roads
Ministry of Roads & Transport
P.O. Box 30260-00100
NAIROBI

CPA Rashid Mohamed, MBS
Director General
Kenya Roads Board,
P. O. Box 73718-00200
NAIROBI





KENYA ROADS BOARD

3rd Floor, Kenya Re Towers, off Ragati Road, Upper Hill

P.O. Box 73718 - 00200, Nairobi, Kenya

ISDN Tel: +254 20 498 0000, 020 272 3185, 020 272 2865

Cell: +254 722 203 418, 0733 334 422

Email: info@krb.go.ke | Website: www.krb.go.ke

ISO 9001:2015 Certified

KRB/DRCR/1/VOL I A (267)

30th August, 2023

Mr. Samwel Njoroge
Clerk of the National Assembly
Main Parliament Buildings
P.O. Box 41842 -00100
NAIROBI

Dear *Mr. Njoroge,*

MEETING WITH THE DEPARTMENTAL COMMITTEE ON TRANSPORT AND INFRASTRUCTURE REGARDING THE REDUCTION IN PROJECTED FUNDING CEILINGS FOR THE KENYA RURAL ROADS AUTHORITY FOR THE FINANCIAL YEARS 2024/25 AND 2025/26

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1 | Page

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Yours *Sincerely,*


R. Mohamed, MBS
DIRECTOR GENERAL

Cc: Eng. Joseph M. Mbugua
Principal Secretary, State Department of Roads
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