

A POLICY PAPER ON PHASE III OF THE
COURT USER COMMITTEES (CUC) GRANT
JUNE 2018

Judicial Performance Improvement Project in
Collaboration with Nation Council on the
Administration of Justice

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LIST OF ABBREVIATIONS

CUCs – Court User Committees

DCRT – Daily Court Returns Template

IFMIS – Integrated Financial Management Information System

JPIP – Judicial Performance Improvement Project

Ksh. – Kenya Shillings

M – Millions

M&E – Monitoring and Evaluation

NCAJ – National Council on the Administration of Justice

PMMU – Performance Management and Measurement Understandings

SJT – Sustaining Judiciary Transformation

Executive Summary

The World Bank Group is supporting the Judiciary through the Judicial Performance Improvement Project (JPIP) (2012-2018). The Project's objective is to improve the performance of the Judiciary to provide its services in the Project areas, in a more effective and accountable manner. JPIP has four components namely; **Increased access to courts and legal information; Improved timeliness of Judicial services; Enhanced performance and quality of decision making and Project Management**. Each component has its own objectives and contains various activities.

The small grants program is an activity within the Increased access to courts and legal information component aimed at improving links to court users through supporting implementation of Court User Committees' (CUCs) work plans on activities that will in the long run enable the realisation of the objectives and aspirations of transformation within the Judiciary.

Currently in its second phase, the total amount earmarked for the grant was Ksh. 100M. Each CUC is entitled to a grant of up to Ksh. 500,000 per application; after having met the minimum set requirements. The first phase saw 78 CUCs receive about Ksh. 31.8M to implement their workplans. The CUCs were required to have met at least once in every quarter to qualify for the grant. CUCs reported great successes as they were able to achieve some of their goals as highlighted in the CUC guidelines¹.

In the second phase, all CUCs funded in Phase I were required to have fully accounted for the funds for them to qualify for funding. CUCs that did not receive funds in Phase I were also considered for funding. This saw Ksh. 42.3M disbursed to 105 CUCs.

An assessment of funding shows about Kshs. 80 million will be utilised by the end of phase II. This implies that only Ksh. 20 million of the grant is available. There is therefore need to make the grant more competitive in phase III. We propose that Phase III be focused on pushing the agenda of national priorities on a 3-tier process. All CUCs funded in phase II are required to have fully accounted for the funds by June 30th, 2018; having met all the surrender conditions set for Phase II grant. The proposals should be supported by an analysis of DCRT data with an actual number indicated to identify the gaps and be submitted by July 30th, 2018; to allow for enough time for them to be processed in Q1 of financial year 2018/19.

In line with The Judiciary's policy priorities, the grant will support activities aimed at clearing case backlog and championing the Alternative Dispute Resolution program. The 3rd area of focus will be improving environmental sustainability of the courts through providing sustainable energy and adequate water supply.

¹ CUC Guidelines note book

Changes in CUC Grant Scheme between Phases

	Phase 1	Phase 2	Phase 3
Minimum condition(s) to apply for a grant	<ul style="list-style-type: none"> Quarterly CUC Meetings 	<ul style="list-style-type: none"> Phase 1 grant surrendered by accounts (if received one) 	<ul style="list-style-type: none"> Phase 2 grant cleared by accounts (if received one). Surrendered by June 30th. Proposals received by 30 July Proposals supported by minutes of a CUC/ Sub Committee meeting Proposals supported by DCRT data with actual numbers generated from DCRT for activities aimed at clearing case backlog and championing the Alternative Dispute Resolution.
Eligible grant activities	<ul style="list-style-type: none"> Anything CUC proposed (other than negative list) 	<ul style="list-style-type: none"> Same as Phase 1 	<ul style="list-style-type: none"> Backlog ADR Sustainable development (Environmental impact consideration) <p>(negative list still applies)</p>
Grant amount	<ul style="list-style-type: none"> Based on proposal budget (up to max. Ksh 500,000) 	<ul style="list-style-type: none"> Same as Phase 1 	<ul style="list-style-type: none"> Different from Phase 1 & II
Eligibility	<ul style="list-style-type: none"> All who met minimum conditions 	<ul style="list-style-type: none"> Same as Phase 1 	<ul style="list-style-type: none"> Having Met the minimum requirements. (Should the call for proposals be oversubscribed then those CUC's that have performed well based on compliance to submitting NCAJ reporting Templates (using a ranking criteria) will be given priority

Introduction and Background

The Judiciary has for a long time faced a myriad of challenges that hampered optimal service delivery. It has however made efforts to address the challenges and thereby made significant progress in the delivery of services to the public. This is happening through the various policies, institutional, and structural reforms. These are articulated in the SJT blue print which builds on the reforms and progress of the JTF. The key strategic areas highlighted in the SJT are: enhancing access to justice; clearance of case backlog; enhancing integrity; improving institutional mechanisms; automation/digitisation; and enhancing leadership and governance. Under the later strategic area, CUCs play a significant role in supporting leadership and governance within the court system. The operations of the CUCs are coordinated by the National Council on the Administration of Justice (NCAJ) which occupies a unique and strategic place in the administration of justice in Kenya.

The World Bank, through the JPIP support has played a significant role in driving the reforms forward. CUC support is one of the key areas under its agenda. This is because of the huge role CUCs play in interlinking the justice sector institutions and its progressive growth. The grant of Kshs. 100 million supplemented the GOK allocation of about Kshs. 120,000 to each CUC per annum.

The NCAJ primarily facilitated the CUC meetings through their AIE's to court stations as well as other CUC activities on a need basis subject to budgetary allocation. This criterion of funding meant that there was a gap on funding for other activities. This was successfully filled through JPIP for the year Financial Year 2016/17 and now FY 17/18. The CUCs begun their engagements through quarterly meetings as guided by the CUC guidelines². The meetings discuss issues and challenges affecting access to justice. These included and not limited to:

- Lack of basic facilities for Court Users such as toilets, waiting areas, ramps for persons with disability and water
- Insufficient funding to bond witnesses to court thus causing unnecessary backlog
- Lack of fuel and vehicles to transport prisoners to court
- Lack of holding facilities separating women and children
- Lack of information for instance on matters coming to court and processes
- Long wait in confirming title deeds issued for bond
- Long distance to access courts by litigants
- Lack of coordination between police and Prosecutors
- Lack of information on succession and land laws and processes by Chiefs and assistant chiefs
- Lack coordination among CUC members
- Inconsistency in the participation of stakeholders,

² Guidelines reference in the NCAJ Strategic Plan

Phase I of the grant saw some of these challenges addressed, a number of access to justice outputs were implemented as shown in the table below;

	Phase I Summary Statistics (Thematic Activities)	Count	% (Activities)	% (CUCs)
1	Judiciary Open Days	40	17%	49%
2	Sensitization of chiefs and other local administrators through workshops	29	12%	36%
3	Visiting prisons, remand & children homes and schools	27	11%	33%
4	CUC Trainings and Inductions	21	9%	26%
5	Outreach programmes and public barazas	20	8%	25%
6	CUC Meetings	20	8%	25%
7	Furniture including desks, benches	13	6%	16%
8	ICT Equipment i.e. photocopying machines, computers and projectors	13	6%	16%
9	Capacity building through seminars and conferences	8	3%	10%
10	Printing, publication and photocopying services	7	3%	9%
11	Construction e.g. cells, waiting bays, shed, structures upgrade, fences	15	6%	19%
12	Legal Aid Clinics	4	2%	5%
13	Signage	5	2%	6%
14	Witness statement expenses	5	2%	6%
15	Feedback mechanism tools	2	1%	2%
16	Crime prevention initiatives	1	0%	1%
17	Civic education	1	0%	1%
18	Softwares i.e. case management system and SMS enquiry module	1	0%	1%
19	IEC Materials	1	0%	1%
20	Solar and electrical installations	2	1%	2%
21	Water storage tank	1	0%	1%
	TOTAL	236		
	Total Activities approved	236		
	Total CUC proposals funded	78		
	Total number of CUCs	124		
	Total amount disbursed	31,893,000		
	Allocated budget	40,000,000		
	Average grant per CUC	421,892		
	% Achieved (CUC)	63%		
	% Achieved (Budget)	80%		

As per the NCAJ guidelines, CUCs that were funded were required to submit their reports on activities undertaken, highlighting the successes and challenges of the programme.

Following the success of phase I funding, the grant was rolled out for Phase II, albeit with stringent measures as advised by the challenges faced in Phase I. Each CUC that was funded in the first phase was required to have accounted for all the money spent and be cleared by the Accounts Department for them to qualify for Phase II of funding. The following conditions also apply for all the amounts disbursed;

1. The funds must strictly be used for the intended purpose as stated in the proposal submitted and approved. In case of need to change the activity, the station must first seek approval from JPIP before implementing it
2. Government procurement methods and procedures must be used in all procurement of goods, works and services
3. All funds must be used and surrendered/accounted for before close of the financial year
4. All grant recipients will be required to provide the following;
 - a. Final report/ minutes of the activity implemented
 - b. Original receipts for services rendered and goods procured or certified copies where the station works with District Treasury
 - c. Signed list of attendance where applicable
 - d. Copies of procurement documents e.g. Quotations, Bills of Quantities (BQs) as applicable
 - e. Evaluation committee minutes in accordance to procurement procedures
 - f. Delivery notes and S13 for store items
 - g. Original invoices, payment vouchers and imprest warrants
 - h. Attach work ticket for fuel consumption
 - i. Where VAT/ Withholding tax is payable, account for it
 - j. All witness expenses to be supported by duly signed list
 - k. All unspent money to be surrendered to Judicial Performance Improvement Project

Activities being funded in Phase II are;

	Phase II Summary Statistics (Thematic)	Count of ACTIVITY	% of Activities	% of Budget	%CUCs
1	CUC Meetings	88	22%	17%	75%
2	ICT Equipment including computers for registry and customer care desks, photocopying machines, etc.	64	16%	18%	55%
3	Training of chiefs, IO, CO, CUC members etc. on various acts through workshops	56	14%	15%	48%
4	Works including partitioning, rehabilitations, construction	45	11%	21%	38%
5	Furniture including chairs, workstations, filing cabinets, benches etc.	32	8%	10%	27%
6	Purchase and installation of Water tank	21	5%	6%	18%
7	Witness expenses	21	5%	2%	18%
8	Visits to prisons/Remand homes/Schools	19	5%	2%	16%
9	Stationery and office supplies including printing papers, toners, cartridges	11	3%	1%	9%
10	Purchase and installation of Solar panels	10	3%	4%	9%
11	Legal aid clinics, service week and RRI	6	2%	2%	5%
12	Signage	5	1%	1%	4%
13	PA System and Bulk SMS system	4	1%	1%	3%
14	CSO project	3	1%	0%	3%
15	Service charter and Grey Books	3	1%	0%	3%
16	Interpreter expenses	2	1%	0%	2%
17	Canvas tent to be used as makeshift courts	1	0%	1%	1%
18	Electrical works	1	0%	0%	1%
19	Metal detectors	1	0%	0%	1%
20	Radio talk shows	1	0%	1%	1%
	Grand Total	394	100%	100%	
	Total Activities approved	394			
	Total number of CUCs	125			
	Total amount approved	48,303,184.7			
	Allocated budget	50,000,000.00			
	Average grant per CUC	405,909.12			
	% Achieved (CUC)	95%			
	% Achieved (Budget)	97%			

Analysis

In order to be able to fully realise the objectives of the grant on completion, further prioritization of activities is necessary. There is need to make the grant more competitive to encourage high impact on access to justice projects.; proof of meetings for Phase I and proof of surrender regardless of when it is done for Phase II were the requirements for receiving the grant.

Monitoring and evaluation on the implementation of phase I activities highlighted a number of issues, and recommendations were made. Some of the issues noted included: capacity of some CUCs to perform their functions effectively is still quite low; knowledge of some CUCs in identifying and thereby aligning their activities with the SJT objectives is somewhat low; most of the activities submitted for funding were based on perception and not evidence based; there was low capacity within the CUCs to manage procurement and to apply financial regulations effectively; CUC membership is diverse and in some areas members are required to travel far distances to attend meetings this raised the issues of transport; withdrawal of the GOK component of the funding affected implementation of activities with sub-activities not catered for within the World Bank funding regulations.

It is therefore important that CUCs have projects that would be sustainable without the grant; with the need for better management of resources by CUCs.

Policy Options and Recommendations

Each phase of the JPIP grant has had notable best practices that CUCs would be encouraged to adopt. As Kenya moves forward to sustainable development and better management of resources, the Judiciary is in the forefront in ensuring that it is not left behind. Through the CUCs small grant programme there is evidence of efficient and effective service delivery and improved dispensation of justice. Justice Sector players have taken an active role in implementing activities that will not only bring justice closer to the people but also enable better access to court and legal information.

It is therefore proposed that Phase III grant issuance be pegged on elements like timeliness in disbursement, effectively managed CUCs, and key on long term benefit. These elements are aligned to the NCAJ's strategic plan (2012-2016) and (SJT) 2017- 2021) that focus on service delivery.

To ensure objectivity, proposals will be screened based on the following criteria;

- CUCS that fully account for funds received before close of financial year, i.e. by 30th June, 2018 having met all the surrender conditions highlighted in introduction section

- Proposals received by 31st July, 2018 and evidenced by minutes as proof of CUC/ Sub Committee meeting to agree on the proposal. This is so as to ensure ownership of the projects by key stakeholders
- Proposals supported by analysis of DCRT data to identify the gaps evidenced by an actual number from DCRT. This is to encourage stations to interrogate the data for data-based decision making.

Proposals that meet the set minimum conditions above will be assessed and approved based on their alignment to the six key strategic areas of the SJT in particular:

- I. Activities aimed at clearing case backlog occasioned by unexecuted warrants, uncollected revenues etc.;
- II. Activities that promote the application of Alternative Dispute Resolution mechanisms in accordance with the provisions of Article 159 of the Constitution which is also among the key high service activities for NCAJ
- III. Improvement of the Environmental sustainability of Courts by providing sustainable energy, i.e. Purchase and Installation Solar panels, that will also mitigate against the unreliable power supply and Purchase and Installation of Water Tanks for courts with inadequate water supply.

Non-Eligible Activities

- I. Team Building, bonding sessions, retreats
- II. Facilitators pay/ allowance
- III. CUC or Judicial Staff / Officers allowances
- IV. Corporate Social Responsibility (CSR)
- V. Any reimbursement i.e. transport, lunch etc.
- VI. Any construction/ works on non-Judiciary premises e.g., police, prisons etc.
- VII. Benchmarking activities
- VIII. Open days

Scenario analysis

The reality is we cannot clearly tell how many proposals will meet our minimum requirements, thus the need to base our proposal on possible outcomes and best-case predictions about the CUCs given the experience we have had in Phase I & II and the CUC Outreach programs we have held.

The CUCs will be selected based on their compliance to the NCAJ Reporting Template, where priority will be given to the best performing CUCs using the ranking criteria applied on the NCAJ Templates Analysis.

Fig 1. Decision Tree

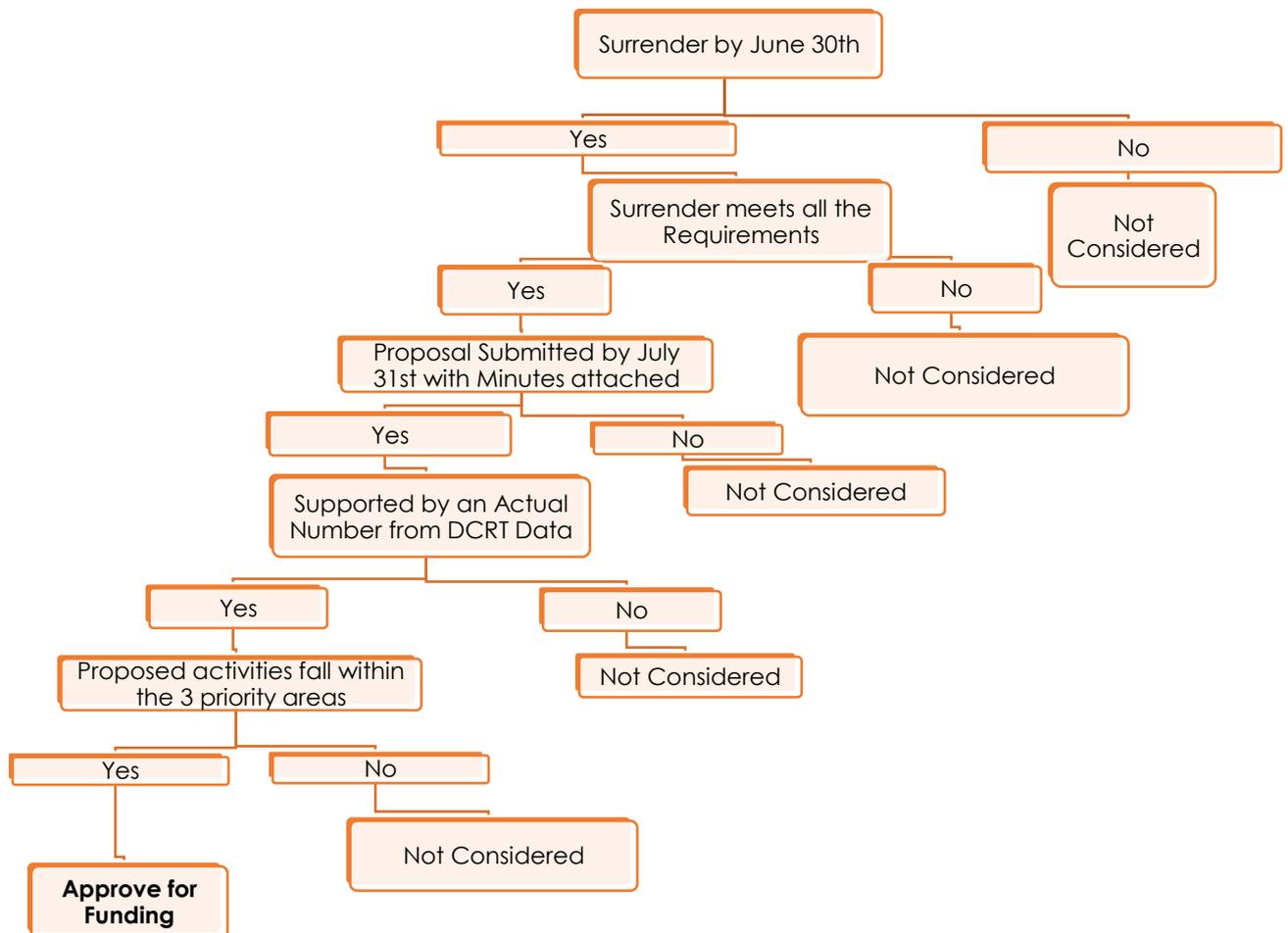
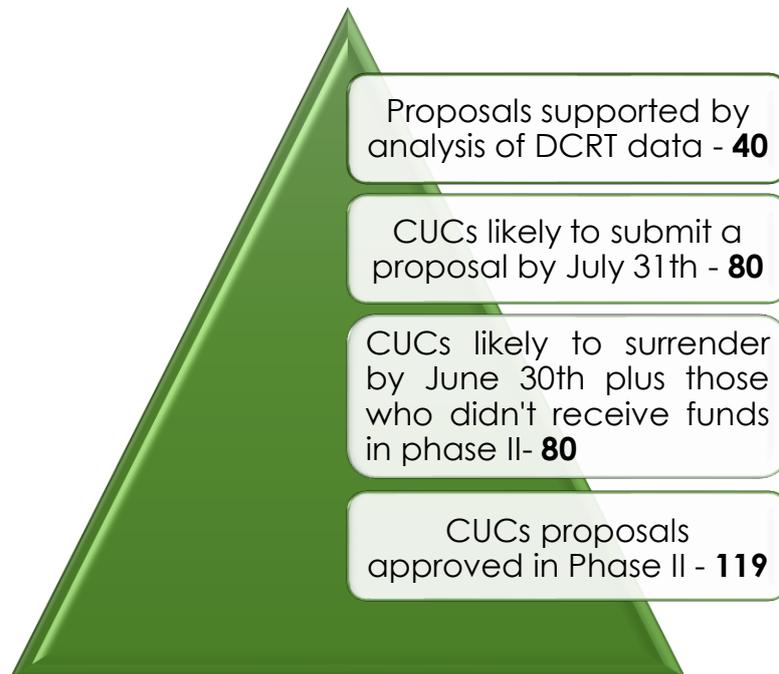


Fig. 2. Number of CUCs likely to qualify for Phase III funding



This therefore implies that 40 CUCs are likely to be funded in Phase III. It is important to note that this is an estimate, the actual numbers could slightly vary. Also, some of the CUCs might not apply for the full amount. After the first application and disbursement, we will do an analysis of the total grant expended, and if funds will still be available, NCAJ/JPIP can be able to pilot ado capacity building for dire CUCs or allow CUCs who are able to spend the funds received and account for them to submit another proposal.

Gaps

From the scenario analysis, it is unlikely that we can be able to have a separate kitty for capacity building and monitoring and evaluation (M&E). Currently, the M&E and capacity building has been riding on the overall M&E budget for JPIP, this is done by incorporating monitoring of implementation of CUC activities in the overall monitoring of other project activities like construction. The downside is we are only able to reach a few Courts as the stations. We have however used other forums available like Head of Courts stations forum, training of procurement officers' forum to disseminate this information. The upcoming Biennial CUC conference will also be an avenue for dissemination of key information.

Justification for proposed funding areas

The proposed 3-fold parameters are advised by:

1. The need to foster the culture of accountability and better management of Public Resources
2. The need to champion and drive the SJT agenda
3. The importance of having a rewards system for good performance that will enhance better access to Justice.
4. The need to enhance data-based decision making by encouraging courts to interrogate data available at courts e.g. DCRT data
5. The need to improve environmental sustainability of Courts
6. The need for (NCAJ/JPIP) to respond to challenges through recommended practices and find a basis for future fundraising avenues.

Additionally, as part of facilitating and enhancing CUCs operations, we make the following recommendations;

1. There is need to build capacity for CUCs to prioritise their activities and ensure all proposals are evidence based. Capacity building on procurement especially around CUC grant should be done. This is driven by both NCAJ and JPIP and have so far been utilising available forums like trainings for procurement officers to disseminate the information.
2. Gok funding component to CUCs to be reinstated to ensure CUCs meet and perform their basic tasks, as only a few CUCs will be funded under the grant.
3. There is need for enhanced monitoring of the implementation of the CUC grant by both JPIP and NCAJ.

Implementation and Next Steps

Phase III of the grant should be rolled out in Quarter one of Financial Year (FY 18/19). This should be done promptly, at the beginning of the financial year to allow for enough time to implement the activities.

Conclusion

This is a continuation of the journey of growth and transformation. The CUCs are the vehicles that breathe life to transformation through their formal interactions in the justice sector. They are a solution that the Constitution encourages through its pronouncements in ensuring public participation and expeditious delivery of justice. Notably the SJT is high on ensuring enhanced access to justice. It is on this basis that JPIP and NCAJ have an opportunity to explore and contribute to the growth and transformation as envisaged. As was aptly put by **Benjamin Franklin** “without continual growth and progress, such words as improvement, achievement and success have no meaning”.