

PUBLIC NOTICE ON PBOs ACT, 2013

Hon. Sophia Abdi

CHAIRPERSON OF THE PBOs TASKFORCE

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The PBOs Taskforce's attention has been drawn to reports carried in sections of the media concerning the commencement of the PBOs Act 2013. As the Chairperson of the PBOs Taskforce, I wish to state as follows:

1. While serving as an MP in the 10th parliament, I drafted, sponsored, and moved the PBOs Bill in Parliament.
2. Following the passing of the Bill by Parliament and signing into law by the former President, His Excellency Hon. Mwai Kibaki, I, as the private member who drafted and sponsored the Bill in parliament noted numerous inconsistencies that in my view required consensus and amendments before the law could be commenced.
3. The debates that followed the signing of the PBOs Act, 2013 into law by both sector stakeholders and members of Parliament only served to reinforce my conviction that the Act required amendments before commencement.
4. In constituting the PBOs Task Force, the Cabinet Secretary, Ministry of Devolution and Planning ensured that the Civil Society Organizations were adequately represented. The members of the Task Force are:
 - a. Hon. Sophia Abdi Noor -Chairperson
 - b. Fazul Mahamed -Vice Chairman
 - c. Kipsang Kipkazi -Chairman (NGOs Council)
 - d. Stephanie Muchai -CSOs Reference Group

- e. Dr. Francis Kuria -CEO Interreligious Council of Kenya
- f. Dr. Gerald Macharia-Clinton Health Access Initiative
- g. Jennifer Shamalla -Advocate of the High Court and Council Member of LSK
- h. Juliana Otieno Akinyi -NGOs Co-ordination Board
- i. Sarah Muhoya - CEO, Kenya League of Women Voters
- j. Eddyson Nyale -Interior & Co-ordination of National GVT
- k. Lilian Mbogo -CEO, NEPAD Kenya
- l. Lindon Otieno - Secretariat

5. The Task Force held public hearings across the Country and collected views from the public and stakeholders, including civil society groups, beneficiaries, development partners, and diplomatic missions.
6. That while handing over its report to the Cabinet Secretary, signed by all the members to signify consensus and unity, the Task Force categorized the views received from the public and stakeholders, including civil society groups, beneficiaries, development partners, and diplomatic missions to ten (10) key recommendations that should inform amending of the PBOs Act, 2013 as follows:
 - a. As currently crafted the PBO Act does not provide for a concrete definition of what a PBO is; such definition is important.
 - b. PBOs should be registered under one legal regime bearing in mind that such harmonization requires broader consideration as it has implications on other legislation. Commencement of the PBOs Act should be done pursuant to article 116 of the Constitution of Kenya, 2010 on the coming into force of laws.
 - c. Appointments to the Authority should be subject to the State Corporation Act

- d. The Authority be sufficiently empowered to effectively discharge its mandate and enhance information disclosure by PBOs for public accountability through appropriate rules and regulations.
 - e. Transparency, accountability and monitoring of donors, stakeholders and beneficiaries in accordance with international financial reporting standards (IFRS) and more specifically on disclosure of sources and application of funds.
 - f. A percentage of donations received by PBOs be given to the Authority to ensure effective regulation
 - g. National interests and National security be addressed during registration and post registration of PBOs. Further, PBOs must uphold the security, cultural and religious values of Kenyans, the PBO Act be amended to prohibit registration of any public benefit organisation that is involved in promotion and advocacy of indecent acts as provided for in the Penal Code under Section 162-165 or is involved in promotion of the national interest of another state or is involved in recruitment, training and incitement of persons to undertake terrorist activities.
 - h. A representative from the Ministry in charge of National Security be a member of the Board of the Authority.
 - i. All proposed amendments should safeguard and ensure an enabling environment to enhance complementarity between state and none state actors.
 - j. Strengthen collaboration between National Government, County Government and PBOs.
7. In conclusion, I wish to state that it is the same report that has been forwarded to the Attorney General and the Clerk of the National Assembly to inform the debate on amendments of the PBOs Act, 2013. As the sponsor of the Act, through a private members bill in the 10th Parliament, I am acutely aware that unless the PBOs Act, 2013 is amend-

ed, all the gains achieved by the sector over the years will be eroded and the Act will not serve its intended purpose.

8. In its report that was forwarded to the Attorney General and parliament for legislative action, the Task force was clear that the Act requires amendments before commencement.
9. I wish to advise members of the public and indeed all the stakeholders that the PBOs Task Force report is a public document that can be accessed by anyone. Copies are available from myself as the chair of the Taskforce (can be requested through my email: sophia.abdi@gmail.com), and the Ministry of Devolution & Planning.
10. I wish to urge the public, the sector and stakeholders to allow the legislative process take place. I further wish to reassure stakeholders and the public that should the proposed amendments published in the Miscellaneous Amendment Bill, 2015 be contrary to the Task Force recommendations I will be the first to raise concerns.

HON.SOPHIA ABDI NOOR
CHAIRPERSON
PBOs TASK FORCE