



PUBLIC NOTICE

PUBLIC CONSULTATION/INVITATION OF COMMENTS AND FEEDBACK ON THE PROPOSED PUBLIC PROCUREMENT CAPACITY BUILDING LEVY

Globally, public procurement is estimated to account for about 13% to 20% of the Gross Domestic Product (GDP). In Kenya, when using estimates of use of goods and services and development spending, it is estimated to account for between 10% to 13% of GDP.

This demonstrates that a greater portion of the annual general government expenditure is processed through public procurement. As such, levels of efficiency, effectiveness, integrity, economy and accountability must be strengthened to ensure that this expenditure delivers the required services at the desired quality. Apart from services, public procurement should also deliver fiscal savings that increases public sector productivity and creates fiscal space, allowing shifting of the gains to other priority projects.

Public procurement has been faced with a number of challenges including corrupt and unethical practices, weak contract management, weak procurement planning, inadequate capacity of persons participating in the system, long turnaround time to conclude procurement processes, delays in payment of performed contracts, weak records management and oversighting a highly decentralized public procurement system, following implementation of the devolved system of governance.

These challenges, based on the results of regulatory operations undertaken by the Public Procurement Regulatory Authority (the Authority), have been noted to emanate from persistent capacity gaps (in terms of human capital, organizational and legal framework) amongst persons participating in the public procurement and asset disposal system. These gaps have diminished realization of public procurement principles as provided for under Article 227(1) of the Constitution of Kenya, 2010.

Interventions to address these capacity gaps have been fragmented amongst different stakeholders leading to lack of coordination, sustainability,

consistency and even disseminating conflicting information on various matters of public procurement practice. This has been exacerbated by inadequate budgetary provision to facilitate sustainable capacity development and mentoring of persons involved in public procurement and asset disposal system.

As the Authority in charge of regulation of the public procurement and asset disposal system in Kenya, we recognise the importance and value that a well-functioning public procurement system can create to both the citizens in terms of enjoyment of quality services and to the private sector through growth and creation of employment opportunities.

The Authority, while taking into account the strategic role of public procurement, intends to achieve this through provision of sustainable capacity development programmes, technical support and mentoring of persons participating in the public procurement and asset disposal system. This is to ensure that procuring entities, private sector participants and other stakeholders clearly understand the requirements of the public procurement legal and regulatory framework while undertaking procurement operations and related activities.

To ensure sustainability of the capacity development programme, the Authority has proposed to operationalise the Capacity Building Levy (to be known as **the Public Procurement Capacity Building Levy**), provided for under Section 24(5)(d) of the Public Procurement and Asset Disposal Act, 2015. The proposed Levy will be collected at the rate of **0.03%** of every contract signed by the procuring entities at the point of payment of the contract prices and transmitted to the Authority within a framework to be prescribed.

The purpose of the proposed Levy is to provide adequate funds to facilitate provision of sustainable capacity development, technical support and mentoring of all persons participating in the public procurement and asset disposal system, facilitate realisation of value for money, fiscal savings and ensure quality service delivery.

Specifically, the proposed Levy has been earmarked to support capacity development under three areas:

- a) **Human capacity:** this aims at developing and strengthening individual skills, competencies, attitudes, tooling and retooling to enable the

persons better perform their duties related to public procurement and asset disposal process.

- b) **Organizational capacity:** this involves developing organizational capacity to deliver public procurement and asset disposal processes by enhancing coordination and cooperation amongst different functional areas. This will entail a detailed review of the organization's internal structures, processes, systems, staffing and strategic positioning of the procurement function within the organisation.
- c) **Legal framework Strengthening:** this involves a review of the existing policy, legal and regulatory frameworks on public procurement and asset disposal system to determine their adequacy and soundness in facilitating public procurement operations in the country. It is aimed at determining the gaps and corrective measures to be addressed through amendments.

To ensure that the funds generated from the proposed Levy achieve the intended outcome, the Authority, in liaison with key stakeholders, will develop a national public procurement capacity development framework. The framework will guide in assessing capacity needs, designing and sequencing of appropriate interventions and determining and documenting the outcomes of the interventions. In addition, the framework will ensure uniform distribution of capacity development services to the public and private sectors for enhanced delivery of services to the citizens.

In accordance with Article 10 of the Constitution of Kenya on National Values and Principles of Governance, the Authority hereby invites comments from members of the public, public entities, suppliers, professional bodies/ associations, non-state actors, development partners and all interested stakeholders to submit comments and feedback on the proposed Levy Order to operationalize **The Public Procurement Capacity Building Levy**.

The draft Levy Order can be accessed from the National Treasury' and Economic Planning's website: www.treasury.go.ke, and the Authority's website: www.ppra.go.ke.

Feedback and Comments Submission Form attached herein should be filled out in the prescribed format and sent electronically to info@ppra.go.ke, and either through post or hand delivered to the address indicated below on or before close of business on **31st August, 2023**.

The Authority will convene a virtual stakeholders forum on **Tuesday, 5th September 2023 from 10.00 am** to discuss the comments and feedback; to facilitate validation of the final Levy Order. We believe that your presence and input during the virtual forum will be valuable and we encourage you to attend. The meeting link can be accessed through the link below:

[Capacity Building Levy Stakeholders Forum Zoom Link](#)

Your participation and feedback will help in shaping this policy decision and create a public procurement and asset disposal system that generates value to the private sector and enhances productivity of the public sector.

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P.O. Box 58535-00200
NAIROBI



COMMENTS/FEEDBACK FORM
ON THE PROPOSED PUBLIC PROCUREMENT CAPACITY BUILDING LEVY
ORDER

Deadline for Submission of Comments: 31st August 2023

Ref. No. in the Levy Order	Comment(s)/ Proposed Recommendation(s)	Justification(s)/ Rationale
1		
2		
3		
4		
Any other Comments that would enrich finalization of the policy document		