MAPS | Methodology for Assessing Procurement Systems

ASSESSMENT OF KENYA'S PUBLIC PROCUREMENT SYSTEM

2026

MAPS APPROVED

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Republic of Kenya

Assessment of the Public Procurement System 2024

VOLUME I - REPORT

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Abbreviations

CSO: Civil Society Organisation

EACC: Ethics and Anti-Corruption Commission

GESIP: Green Economy Strategy and Implementation Plan 2016-2030

GPA: Agreement on Government Procurement (under the WTO)

ICT: Information and Communication Technology

IDA: International Development Association

IEA: Institute of Economic Affairs

KEPSA: Kenya Private Sector Alliance

KIPPRA: Kenya Institute for Public Policy Research and Analysis

KNBS: Kenya National Bureau of Statistics

KRA: Kenya Revenue Authority

MAPS: Methodology for Assessing Procurement Systems

NGAAF: National Government Affirmative Action Fund

NGCDF: National Government Constituencies Development Fund

NGO: Non-Governmental Organisation

NPPADP: National Public Procurement and Asset Disposal Policy 2020

OCDS: Open Contracting Data Standard

OGP: Open Government Partnership

PPADA: Public Procurement Regulatory and Asset Disposal Act 2015

PPADR: Public Procurement and Asset Disposal Regulations 2020

PPARB: Public Procurement Administrative Review Board

PPD: Public Procurement Department of the National Treasury

PPIP: Public Procurement Information Portal

PPOA: Public Procurement Oversight Authority

PPP: Public-private partnership

PPPA: Public-Private Partnership Act

PPRA: Public Procurement Regulatory Authority

PSC: Public Service Commission

SAGA: Semi-Autonomous Government Agency

SPMA: Supplies Practitioners Management Act

SPP: Sustainable public procurement

TI: Transparency International

UNCITRAL: United Nations Commission on International Trade Law

WTO: World Trade Organization

Executive summary

Background, scope and context

Preparatory steps

The Government of Kenya decided to carry out an assessment of public procurement, using MAPS, the Methodology for Assessing Procurement Systems (see https://www.mapsinitiative.org/methodology/).

To finance the cost of this assessment, the Government agreed with the International Development Association (IDA) to use part of the credit obtained from the IDA toward the cost of the Horn of Africa Gateway Development Project. The assessment services were provided by a team of consultants engaged for the purpose under contracts with the Kenya Revenue Authority (KRA). The Public Procurement Regulatory Authority (PPRA), established under the Public Procurement and Asset Disposal Act of 2015, is in charge of, among other functions, monitoring, assessing and reviewing the public procurement system and was therefore designated as the beneficiary of the MAPS assessment project and to be in charge of its day-to-day management.

Concept Note

Preparation of the Concept Note, based on the template prescribed for the purpose by the MAPS Secretariat, started in 2022. It included the initial identification of stakeholders and consultations with them in order to secure their commitment and support, as well as the creation of the Steering Committee, the Technical Committee and the Secretariat. The Concept Note was approved by the MAPS Secretariat in September 2023 (Annex 1).

Scope and contents of the assessment

The MAPS assessment has covered all aspects of public procurement, grouped under the four main pillars of the methodology:

- Pillar I – Legal, regulatory and policy framework
- Pillar II – Institutional framework and management capacity
- Pillar III – Public procurement operations and market practices
- Pillar IV – Accountability, integrity and transparency of the public procurement system

The pillars contain a total number of 14 main indicators covering the full range of public procurement principles, policies and practices, in turn subdivided into sub-indicators, each one composed by a number of assessment criteria which represent internationally accepted principles and practices of good public procurement. The assessment has reviewed the actual situation, compared it with the assessment criteria and described it accordingly, identified any gaps, examined the underlying reasons for them and, on that basis, prepared recommendations for the further development of the public procurement system.

In the course of the work, the assessment team has collected documentary evidence, visited 63 procuring entities and interviewed their heads of procurement, reviewed 630 contract files, interviewed numerous other stakeholders, launched two surveys of public and private sector practitioners, and compiled and analysed quantitative data. The field work was mainly done in the second half of 2024 and the first half of 2025, followed by report drafting and review of successive drafts by the Technical Committee and a validation workshop early 2026. Although the work has been spread out over time, efforts have been made to update the contents of the report to reflect the few significant developments that have taken place during the assessment (e-procurement, sustainable procurement), and the observations made would therefore remain relevant at the time of publication.

Context of the assessment

Public procurement is an important element of Kenya’s economy. Kenya's GDP for 2024 is estimated to be around $120-121 billion USD, with a real GDP growth of 4.7%. This represents a slowdown from 2023 growth, attributed to factors like a tighter macroeconomic policy, decreased business confidence, and the impact of the April 2024 floods. Despite the slower growth, the nominal GDP increased from the previous year and inflation eased to a five-year low of 4.5%. The national government’s total expenditure for FY 2024/25[1] amounted to KES 4.03 trillion, representing 94% of the national government’s revised gross estimates of KES 4.37 trillion compared to KES 3.89 trillion (88%) recorded in a similar FY 2023/24 period. This expenditure comprises ministerial development expenditure of KES 545.80 billion, an absorption rate of 89%, recurrent ministerial expenditure at KES 1.67 trillion, an absorption rate of 94% and CFS expenditure at KES 1.82 trillion, an absorption rate of 91%. During the fiscal year 2023/2024, a total of 34,224 contracts worth KES 262,762,297,840.29 were reported to the PPRA and published in the Portal (PPIP). It should be noted that reporting is incomplete, meaning that the actual value is higher. However, the figure mentioned represents the bulk of public procurement, as most of the larger procuring entities have met their reporting obligations.

Several challenges affecting public procurement remain to be met. According to Transparency International's 2024 Corruption Perceptions Index, Kenya ranked 121st out of 180 countries, scoring 32 out of 100. This score represents a slight improvement from 31 in 2023 but is still below the Sub-Saharan African and global averages. Kenya's Public Expenditure and Financial Accountability (PEFA) ranking shows slight improvements in public financial management performance, with an increase in "A" scores from 3 in 2017 to 4 in 2022. While specific overall rankings aren't provided, the PEFA 2022 assessment indicates a shift towards higher scores, with more "B" and "C+" scores, and fewer "B+" and "D+" scores compared to 2017. Kenya is ranked 98th globally out of 120 countries according to the 2025 Chandler Good Government Index (CGGI), and 14th in Africa. The index cited weak leadership, poor institutional capacity, and challenges in service delivery as areas needing improvement.

Public procurement reform is gaining speed. The Government is working on revising the public procurement law and related regulations. A draft framework for sustainable procurement has been issued. A quite comprehensive e-procurement system has been prepared and is being introduced. These initiatives will be further enhanced by the findings and recommendations of the current MAPS assessment. Education and training in public procurement is highly advanced but is not yet enough to meet fully the skill needs of all current procuring entities. Other issues also remain to be addressed, such as the resource challenges facing the very large number of small procuring entities, the numerous and complex procedures to be followed, a reliance on purchase price, rather than quality , performance and life cycle cost, as the main award criterion, late payments to suppliers, and the lack until now of complete information on all procurement transactions as evidence base for reforms. Reservation and preference

[1] See https://cob.go.ke/reports/national-government-budget-implementation-review-reports/#

schemes for disadvantaged groups are in place, but their application is limited and their effectiveness is not clearly demonstrated.

Overview of main issues and corresponding recommendations

Presented indicator by indicator, the broad findings and the corresponding, main recommendations from the assessment can be summarised as follows.

Form and contents of the legal framework (Indicator 1):

The public procurement legal framework in Kenya is largely comprehensive, and well structured in line with internationally established practices. However, it has some gaps and overlaps and goes into quite some detail on many procedural matters. The large number of procurement methods and approaches means that it is complicated to select the right one and apply it properly. A few 'housekeeping' measures would somewhat simplify the legislation and help apply it more easily, consistently, effectively and efficiently.

Main recommendations: restructure, update and harmonise the legal framework, and make the procurement procedures simpler and easier to use.

Implementing regulations and tools (Indicator 2):

Implementing regulations are comprehensive and readily readily accessible. They include a set of standard documents and instructions for their use when applying the prescribed procedures. They go into great procedural detail, making them difficult and time consuming to apply and creating a risk that otherwise acceptable tenders have to be rejected for formal reasons. As a result, the underlying principles and purposes become less prominent, and practitioners become inclined to focus on formal details more than on economy, efficiency and transparency. The manuals complementing the instructions to tenderers in the standard documents refer to earlier legislation and need updating.

Main recommendations: Revise and complement the Public Procurement and Asset Disposal Regulations (PPADR) to align with the Public Procurement and Asset Disposal Act (PPADA), incorporate the latest developments in e-procurement and sustainable procurement, revise the standard documents and update the manuals.

Sustainable development and international obligations (Indicator 3):

Sustainable public procurement (SPP) is little developed in laws and regulations, except for provisions on preferences and reservations. Implementation is uncoordinated and SPP is little practised by procuring entities. To remedy this shortcoming, work is ongoing on preparing an SPP policy with accompanying support materials, and a comprehensive, draft sustainable public procurement and asset disposal framework has been prepared and revised, and is now awaiting adoption.

Article 2(5) & (6) of the Constitution provides for general rules of international law and any treaty or convention ratified by the Country to form part of the law of the Country under the Constitution. In the general case, multilateral agreements between Government and any other foreign government, agency, entity or multilateral agency as well as obligations under any treaty or international agreement supersede the provisions in the Public Procurement and Asset Disposal Act and the Regulations. Apart from this, public procurement related obligations deriving from binding international agreements do not appear to have been positively and specifically identified and explicitly reflected in the legal framework on public procurement.

Main recommendation: develop sustainable public procurement, along the lines set out in the draft framework.

Procurement planning and preparation, and integration with the public financial management system (Indicator 4):

Public procurement is formally integrated with the public financial management system through the Integrated Financial Management Information System (IFMIS)[2]. However, IFMIS is mainly used by the ministries, the counties and the constitutional commissions and independent offices; many other procuring entities are not using it. Procuring entities are obliged to prepare and publish their procurement plans, which have to be aligned to approved budgets, and to have funds secured before carrying out procurement. Multi-year procurements must be aligned to the medium-term expenditure framework. However, these obligations are not always met. Lack of funds and late payments remain a persistent problem for procuring entities and suppliers alike.

Main recommendation: ensure that procurement plans are properly prepared, aligned with the budget and duly published, and make the use of funds simpler, more flexible and more effective to facilitate prompt payments to suppliers.

Institution in charge of the normative/regulatory function (Indicator 5):

The legal framework specifies the key functions in the central management of public procurement, assigns them to the appropriate authorities and gives them the necessary powers and resources to function effectively. With a few exceptions, functions and responsibilities are clearly assigned to the respective entities, without creating unnecessary gaps or overlaps. The exceptions concern training and capacity building, amendment of the legal framework, monitoring, evaluation and information, and development and management of e-procurement.

Main recommendation: revise the legal framework to ensure clarity and non-duplication of roles, particularly with respect to the exceptions mentioned above, improve the provision of guidelines, manuals and training materials, and strengthen the monitoring and evaluation functions of the PPRA.

Procuring entities and their mandates (Indicator 6):

Procuring entities are defined with reference to their status (State organs or public entities), with the PPADA listing a large number of entities to be included in the notion of 'public entities'. Their responsibilities and formal powers are clearly indicated. However, the wide definition means that many

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[2] See https://www.ifmis.go.ke/

procuring entities, such as primary and secondary schools, are very small and do not have the resources to fully exercise their rights and obligations. This makes it difficult for them to apply good practice and to submit required reports.

The legal framework allows and regulates the creation of centralised procurement bodies (CPBs). A number of such bodies exist but the potential of centralised purchasing may not yet have been fully attained. The legal framework also allows consortium buying (joint procurement) by several procuring entities and sets out some general rules for the purpose, but this can only be done for a specific procurement.

Main recommendation: redefine, restructure and strengthen the procuring entities and improve the possibilities for joint and centralised procurement.

Information systems for public procurement (Indicator 7):

There are systems in place for receiving, compiling and publishing information from procuring entities and for facilitating the management of public funds in the context of public procurement. Data collected is presented on a central website and used for reporting on the apparent state of affairs. Work on developing and bolstering e-procurement is ongoing, and a comprehensive system is being introduced but many functions are not yet in place. However, low compliance with reporting obligations means that data is not complete and not all existing data is readily accessible. The information system is therefore not yet quite accurate and comprehensive enough to help procuring entities to do their work and to fully meet the needs for monitoring how the public procurement system actually works, whether in the individual or the general case, nor can it serve as a reliable basis for policy making.

Main recommendations: strive to reach the full potential of e-procurement to improve administrative efficiency, including through tools for small value procurement, and use the e-GP system to raise transparency and facilitate access to information.

The public procurement system's capacity to develop and improve (Indicator 8):

Strategies and programmes are in place to develop the capacity of supply chain management staff and other key actors involved in public procurement. Procurement is recognised as a profession. Professional education is delivered by a number of training institutions, following curricula that comprehensively cover most aspects of public procurement. However, the number of certified professionals is not enough to meet the needs. At central level, systems and approaches are in place to evaluate operations and continuously improve public procurement. However, the supporting data is incomplete and ex-post evaluations at procuring entity level are not systematic.

Main recommendation: expand capacity building and harmonise working conditions for public procurement officers.

Public procurement operations and their outcomes (Indicator 9):

Public procurement rules are quite prescriptive and go into considerable detail on tendering, evaluation and award as well as for reporting thereon. There is less emphasis on needs identification, market analysis, planning and preparation and on contract management and evaluation of the outcomes. This is reflected in the actual, current practices. Needs analysis and market research are deficient, procurement plans are not always well prepared and published and sometimes not followed. Sustainability criteria are little used and procedural requirements seem to be given greater attention than fitness for purpose and value for money. Reporting and publication are not complete, reducing transparency, limiting accountability and weakening the basis for well-informed policy making. Times for payment are long and often exceeded, creating disincentives for participation and problems for contractors to deliver and stay in business. Many of the shortcomings observed reflect a lack of skills and capacity of the procuring entities, especially the many smaller ones.

Main recommendations: make the procurement procedures simpler and easier to use, improve the provision of guidelines, manuals and training material, expand capacity building, use the full potential of e-procurement to improve administrative efficiency, and make the use of funds simpler, more flexible and more effective.

Status and functions of the public procurement market (Indicator 10):

A well organised and relatively diverse set of established enterprises create a good potential for economy and effectiveness in public procurement. However, several systemic constraints limit participation. Preference and reservations schemes are in place but are not fully applied and their adequacy is difficult to evaluate. The status of the supply market, its interaction with public procurement demand and the links of the two with general economic development policies and outcomes are little studied and incompletely reflected in policy development and implementation.

Main recommendations: maintain and expand the dialogue with business community stakeholders, analyse the opportunities for improved synergies between the demand and the supply sides of the public procurement market, simplify, restructure or replace the preference and reservations schemes, reduce procedural and other constraints to participation and eliminate delays in the payment of invoices for items procured.

Transparency and civil society engagement (Indicator 11):

The legal framework clearly mandates publication of procurement plans, invitations to tender and tender documents, as well as contract awards, while obligations to publish contract implementation details are less clear, if covered at all. At the same time, the actual disclosure of information does not meet the requirements. This lack of transparency reduces effective participation and competition and makes it difficult to monitor economy, effectiveness and efficiency in public procurement, both in the general and in the individual case.

Direct engagement of civil society through participation, monitoring and oversight is little regulated and little practised.

Main recommendations: maintain and expand the dialogue with civil society stakeholders and use the e-GP system to raise transparency and make it easy to for all interested parties to access and analyse information.

Control and audit system (Indicator 12):

Laws and institutions create a comprehensive control framework in Kenya, covering internal controls, internal audits, external audits and the work of oversight bodies. Legal provisions applying to public administration in general are complemented by regulations specific to public procurement as well as by corresponding procedures and manuals and by requirements for qualifications and training of staff and their engagement and promotion. However, they all have various minor gaps, and their application is not fully consistent and transparent.

The PPRA publishes its reports on procurement audits, and the Office of the Auditor General also publishes audit reports. However, there is only weak evidence that audit findings and recommendations and the like are duly acted on in a timely and effective manner.

Main recommendation: make oversight more efficient and effective.

Procurement appeals mechanisms (Indicator 13):

A comprehensive, well-regulated complaints review system is in place. High fees discourage complaints, reducing the contribution of the work of the review board to the improvement of the compliance environment and the integrity of the public procurement system in the country. Thoroughly motivated decisions are taken on time and published, but their implementation is not transparent. The review body's set-up, staffing and resources are sufficient for the current, extremely low number of complaints but limit the scope for expanding its activities. The lack of a case management system with a searchable data base of past decisions creates a risk of incoherent decision making and limits the possibilities to refer to and apply the case law established by the review body's decisions.

Main recommendations: make the review system more user friendly, reduce the cost of lodging complaints, strengthen the review body and ensure that its decisions are implemented.

Ethics and anti-corruption measures (Indicator 14):

A number of legal instruments, institutions and mechanisms are in place to combat fraud and corruption, including in the field of public procurement. However, there are gaps and overlaps in their coverage and their application does not appear to be complete and uniform, but the lack of comprehensive, open, reliable data makes it difficult to evaluate the actual situation, both in the general and in the individual case. There is written guidance on identification and mitigation of risks with respect to fraud and corruption but no details relative to the particular risks in public procurement.

It is mandatory for public officials to report possible cases of fraud and corruption but there are limited means for doing so and whistle-blower protection is still limited, so reporting tends to be incomplete. Likewise, declarations of income, assets and liabilities and of beneficial ownership have to be submitted, but the law seems to require that they may be obtained only by the competent authorities upon their request, their verification is ineffective and there is little transparency concerning the measures possibly taken in case of missing, incomplete or incorrect declarations or if any illicit enrichment has been identified. There is also little evidence whether reports of fraud, corruption, etc., are systematically and effectively followed up, and if effective, consistent sanctions are meted out.

Kenya has made commitments to use open contracting data standards and to make beneficial ownership more transparent; however, these commitments have not yet become effective. Incomplete data and difficulties of access therefore still limit the scope for both the competent authorities and the civil society organisations to support the strengthening of integrity in public procurement.

Main recommendations: make oversight more efficient and effective; raise transparency and completeness of data, including on conflicts of interest, assets and beneficial ownership and on fraud and corruption, as well as by using OCDS, and improve the protection of whistle-blowers.

Overview of compliance

The following table provides an overview of the findings of the assessment on the level of sub-indicators. Each sub-indicator is identified depending on the findings (full compliance / gaps identified / substantive gaps identified). This table also shows the red flags identified. the conditions for raising a red flag, which both have to be met, are that the gap:

(i) can significantly impede achieving the objectives sought through public procurement (thus, high risk)
(ii) cannot be immediately mitigated through actions in the public procurement system

PILLAR I		Full compliance	Only minor gaps identified	Substantive gaps identified	Red flags
1. The public procurement legal framework achieves the agreed principles and complies with applicable obligations.	1(a) – Scope of application and coverage of the legal and regulatory framework		X		
	1(b) – Procurement methods			X	
	1(c) – Advertising rules and time limits			X	
	1(d) – Rules on participation			X	
	1(e) – Procurement documentation and technical specifications		X		
	1(f) – Evaluation and award criteria		X		
	1(g) – Submission, receipt, and opening of tenders	X			
	1(h) – Right to challenge and appeal		X		
	1(i) – Contract management			X	
	1(j) – Electronic Procurement (e-Procurement)	X			
	1(k) – Norms for safekeeping of records, documents and electronic data.		X		
	1(l) – Public procurement principles in specialized legislation	X			
2. Implementing regulations and tools support the legal framework.	2(a) – Implementing regulations to define processes and procedures		X		
	2(b) – Model procurement documents for goods, works, and services	X			
	2(c) – Standard contract conditions	X			
	2(d) – User's guide or manual for procuring entities		X		
3. The legal framework reflects the country's secondary policy objectives and international obligations	3(a) – Sustainable Public Procurement (SPP)			X	
	3(b) – Obligations deriving from international agreements		X		

PILLAR II		Full compliance	Only Minor Gaps identified	Substantive gaps identified	Red flags
4. The public procurement system is mainstreamed and well integrated with the public financial management system.	4(a) – Procurement planning and the budget cycle			X	
	4(b) – Financial procedures and the procurement cycle			X	
5. The country has an institution in charge of the normative/regulatory function.	5(a) – Status and legal basis of the normative/regulatory function		X		
	5(b) – Responsibilities of the normative/regulatory function			X	
	5(c) – Organisation, funding, staffing, and level of independence and authority		X		
	5(d) – Avoiding conflict of interest	X			
6. Procuring entities and their mandates are clearly defined.	6(a) – Definition, responsibilities and formal powers of procuring entities			X	
	6(b) – Centralised procurement body		X		
7. Public procurement is embedded in an effective information system.	7(a) – Publication of public procurement information supported by information technology			X	
	7(b) – Use of e-Procurement			X	
	7(c) – Strategies to manage procurement data			X	
8. The public procurement system has a strong capacity to develop and improve	8(a) – Training, advice and assistance			X	X
	8(b) – Recognition of procurement as a profession			X	
	8(c) – Monitoring performance to improve the system		X		

PILLAR III		Full compliance	Only Minor Gaps identified	Substantive gaps identified	Red flags
9. Public procurement practices achieve stated objectives.	9(a) – Planning			X	
	9(b) – Selection and contracting			X	
	9(c) – Contract management in practice			X	X
10. The public procurement	10(a) – Dialogue and partnerships between public and private sector			X	

PILLAR III		Full compliance	Only Minor Gaps identified	Substantive gaps identified	Red flags
market is fully functional.	10(b) – Private sector's organisation and access to the public procurement market			X	X
	10(c) – Key sectors and sector strategies			X	X

PILLAR IV		Full compliance	Only Minor Gaps identified	Substantive gaps identified	Red flags
11. Transparency and civil society engagement strengthen integrity in public procurement.	11(a) – An enabling environment for public consultation and monitoring		X		
	11(b) – Adequate and timely access to information by the public			X	
	11(c) – Direct engagement of civil society			X	
12. The country has effective control and audit systems.	12(a) – Legal framework, organisation and procedures of the control system			X	X
	12(b) – Co-ordination of controls and audits of public procurement			X	
	12(c) – Enforcement and follow-up on findings and recommendations			X	X
	12(d) – Qualification and training to conduct procurement audits			X	X
13. Procurement appeals mechanisms are effective and efficient.	13(a) – Process for challenges and appeals		X		
	13(b) – Independence and capacity of the appeals body			X	
	13(c) – Decisions of the appeals body		X		
14. The country has ethics and anti-corruption measures in place.	14(a) – Legal definition of prohibited practices, conflicts of interest, and associated responsibilities, accountabilities and penalties	X			
	14(b) – Provisions on prohibited practices in procurement documents			X	
	14(c) – Effective sanctions and enforcement systems			X	X
	14(d) – Anti-corruption framework and integrity training			X	
	14(e) – Stakeholder support to strengthen integrity in procurement			X	

PILLAR IV		Full compliance	Only Minor Gaps identified	Substantive gaps identified	Red flags
	14(f) – Secure mechanisms for reporting prohibited practices or unethical behaviour			X	
	14(g) – Codes of conduct/codes of ethics and financial disclosure rules			X	X

Key issues and actions to address them, in order of priority

As evident from the overview of the situation indicator by indicator and the table of compliance, a number of key issues to address can be identified. The following list presents these issues and the actions proposed to be taken in order of priority, by importance and urgence, as further covered in Chapters 4 and 5 of the report:

- The regulatory framework has gaps and overlaps, with key documents out of sequence (law issued well before regulations, with policy coming at the end, and current manuals based on previous legislation) and therefore with inconsistencies.

  Restructure, update and harmonise the legal framework, with a clear hierarchy of principles, policies, procedures and practices and with key documents prepared and issued in the right sequence.

- The public procurement information systems still require separate handling of submission and publication of notices and reports, and of procurement procedures. The new e-GP system does not yet include a full range of functionalities and therefore cannot provide procedural support for all steps in the public procurement cycle, nor allow full transparency of all procurement transactions. Its roll-out to the many procuring entities and the even more numerous suppliers, contractors and service providers is taking time.

  Use the full potential of the e-GP system to improve administrative efficiency, by speeding up development and introduction of the still missing functions and providing enhanced information and training for both public and private sector users.

- Many procuring entities now rarely have the means to make full and profitable use of their rights or to fully meet their many procedural obligations and organisational requirements; they thus lack the necessary capacity to properly apply the full range of procurement procedures and to comply with all recording and reporting requirements, and the provisions for joint or centralised procurement are incomplete and restrictive and therefore of little help.

  Redefine, restructure and strengthen the procuring entities and take complementary measures for helping smaller procuring entities meet their obligations.

- Numerous, detailed and prescriptive procedural requirements apply for tendering, evaluation and award, making it difficult and costly for procuring entities and tenderers to comply and to pay sufficient attention to fitness for purpose and value for money. Guidance on planning and preparation and on contract management has much room for improvement.

  Provide further guidance on planning and preparation and on contract management, make the award procedures simpler and easier to use, reduce their number and introduce a competitive procedure for small value contracts, enhance guidance for choosing the right procedure, and lengthen the minimum timelines.

- Tenderers have to meet eligibility requirements for participating and may also have to demonstrate that they are capable of carrying out their obligations under the contract to be concluded. Excessive or insufficient requirements or failure to set them distort competition and put procuring entities at risk. Current regulations are incomplete and not well applied.

Ensure that eligibility and qualification requirements for participants better match the needs and that they can be *clearly and easily demonstrated and verified.*

- Sustainability considerations are not yet well reflected in public procurement regulations and even less applied. The recently prepared framework for sustainable procurement is an important step forward but has to be transposed into regulations, guidance and training materials and practices. The current preference and reservations schemes are intended to contribute to economic and social sustainability but are difficult and time consuming to apply, little used and possibly not effective and efficient.

  Develop sustainable public procurement approaches and procedures by transposing and applying the framework prepared, and review and revise the preference and reservations schemes to make them workable and effective.

- The current Regulations, including the instructions to tenderers in the standard documents, focus very much on procedural details, with limited flexibility for procuring entities to adjust and apply them according to the specific needs of the procurement at hand, and would benefit from a much wider set of good practice examples with explanations. The corresponding manuals contain valuable advice but are outdated.

  Improve the provision of guidelines, manuals and training materials, incorporating guidance notes also into the respective parts of the e-GP system, for easy on-line reference when carrying out procurement.

- The number of certified public procurement professionals, members of KISM, is more than 11 times smaller than the number of procuring entities, despite their obligation to have a procurement function led and staffed by professionals. The public procurement education and training currently offered is of good quality but does not provide the number of knowledgeable and skilled professionals needed, while there is no single, unified, prescribed scheme of service for procurement professionals.

  Expand capacity building and harmonise working conditions for officials in charge of public procurement.

- Until now, procuring entities have been obliged to report to the PPRA on a large number of elements of the procurement process. However, mainly because of time and capacity constraints, compliance has been very low, and some key information has not been required to be submitted or published. Much procurement information remains inaccessible and not searchable also for technical reasons.

  Use the e-GP system and other means to raise transparency and facilitate access to information.

- In practice, public procurement comes in at a late stage of the planning and budget cycle, and budget regulations delay procurement at the beginning of the fiscal year and create a rush to procure towards its end. Procuring entities suffer from uncertainty about the availability of funds and often do not manage to pay suppliers, contractors and service providers on time.

Make the use of funds simpler, more flexible and more effective, integrating public procurement into development planning and medium term expenditure frameworks and taking steps to ensure that procuring entities are able to promptly pay contractors.

- While the legislation includes provisions on consultations with stakeholders, the responsibilities are spread out among several central institutions, and the private sector finds that it does not get enough opportunity to regularly and effectively engage in the development of public procurement. The needs and the benefits of public procurement are not yet effectively harmonised with development policies in other fields.

  Maintain and expand the dialogue with stakeholders, including civil society, and set public procurement

- The system for review of complaints against actions and decisions of procuring entities is well regulated, motivated decisions are issued on time, and complainants have the right to judicial review. However, lack of trust and high costs appear to discourage aggrieved tenderers from lodging complaints and certain issues, such as a procuring entity's choice of procedure, cannot be appealed against. The lack of a case management system and a searchable data base of past decisions limits the coherence of the decisions and the possibilities to learn from the case law established by the review board.

  Put the complaints review system to better use, lowering the cost of lodging complaints and raising the transparency of the decisions.

- Internal and external audit and other forms of oversight of public procurement are quite comprehensively regulated but not fully effective: the coverage of public procurement operations is incomplete, recommendations may be given but are often not acted upon and monitored, and failure to abide by them is rarely investigated and sanctioned.

  Make oversight of public procurement more efficient and effective, harmonising the roles and approaches of the authorities involved and giving them adequate resources, raising the transparency of their work and ensuring the systematic enforcement of their recommendations.

- Certain ethics and anti-corruption measures are in place, including obligations to register beneficial ownership and for officials to announce conflicts of interest and submit asset declarations, as well as to report cases of possible fraud and corruption. However, their application is incomplete, there is little or no verification of the completeness and correctness of the submissions and most of the documents remain confined to the authority where the official is employed. Correspondingly, few cases are fully investigated and sanctioned, while civil society and other parties concerned have little possibility to observe the extent to which the applicable regulations are implemented, whether in the general or the individual case.

  Enhance the fight against fraud and corruption, protect whistle-blowers, and follow due process, enforcing current obligations for declarations of beneficial ownership, conflicts of interest and assets, and make data and processes transparent in line with Kenya's engagements under the Open Government Partnership.

1. Introduction

1.1 Assessment background

The Republic of Kenya continues its efforts towards implementing a healthy and sustainable public procurement policy. However, the public procurement system still requires improvements that can offer better value for money and address the global emerging priorities as well as reflect best international procurement policy practices. To this end, the Government of Kenya decided to carry out an assessment of public procurement, using the Methodology for Assessing Procurement Systems (MAPS) as set out in https://www.mapsinitiative.org/methodology/.

To finance the cost of this assessment, the Government agreed with the International Development Association (IDA) to use part of the credit obtained from the IDA toward the cost of the Horn of Africa Gateway Development Project. The Kenya Revenue Authority (KRA) is one of the implementing agencies of the project mentioned and was therefore designated as the client for the assessment services to be provided by a team of consultants who have been engaged for the purpose under contracts with the KRA. The Public Procurement Regulatory Authority (PPRA), established under the Public Procurement and Asset Disposal Act of 2015, is in charge of, among other functions, monitoring, assessing and reviewing the public procurement system and was therefore designated as the beneficiary of the MAPS assessment project and to be in charge of its day-to-day management.

An important step in the preparations for the MAPS assessment was the drafting of the Concept Note, based on the template prescribed for the purpose by the MAPS Secretariat. For the current MAPS assessment in Kenya, preparation of the Concept Note started in 2022. It included the initial identification of stakeholders and consultations with them in order to secure their commitment and support, as well as the creation of the Steering Committee, the Technical Committee and the Secretariat. A set of 63 major procuring entities were identified with a view to obtain detailed data for the qualitative and quantitative indicators in the assessment, covering a range of sectors at national and county level, including state owned entities. The draft Concept Note was reviewed by the MAPS Secretariat. After revisions by the project team in place at the time, the Concept Note was approved by the MAPS Secretariat in September 2023 (Annex 1).

The Concept Note sets out the main parameters of the assessment process and thereby provides detailed guidance for how the assessment must be carried out. To this end, critical elements of its contents, in particular the sections on the objectives, the scope and the conduct of the assessment, have been repeated in the terms of reference for the consultants engaged to carry out the work.

1.2. Objectives and their reflection in the methodology

The Government's objectives for the assessment, as set out in the Concept Note (Annex 1) and reflected in the terms of reference for the assessment team, are to:

a) assess the overall functioning of the public procurement and asset disposal system in Kenya, identifying strengths and best practices, weaknesses and gaps, lessons learnt, and emerging issues across all public procurement processes and procedures;

b) assess the implementation of preference and reservation schemes including application of local content requirements/allocations;
c) review the extent of professionalisation of the public procurement and asset disposal system, in terms of academic and professional qualifications and opportunities for continuous professional development;
d) assess challenges faced in preparation and management of public procurement and asset disposal contracts; and
e) outline recommendations and actions for implementation aimed at bridging the identified weaknesses, gaps and risks.

Objective a) aligns closely with the overarching goals and contents of the MAPS. To achieve this objective, a comprehensive approach will be employed, utilizing the full spectrum of analytical tools and techniques outlined in the MAPS methodology document. This will involve systematically gathering and analysing data from a variety of sources, as recommended in the methodology. Additionally, the specific types of data and sources identified in the Concept Note (Section 2.1.) will be leveraged to ensure a thorough and accurate assessment of procurement systems.

Objective b) focuses on promoting the protection and advancement of regions, individuals, categories of persons, or groups that have historically been disadvantaged due to unfair competition or discrimination. It also aims to support locally manufactured products through the implementation of preference and reservation schemes. Achieving this objective will involve a detailed examination of how these schemes are applied by procuring entities. This will be done by collecting data from these entities and gathering evidence from other stakeholders who are either involved in or affected by these schemes. The analysis will determine the extent, effectiveness, and impact of these schemes in practice, providing valuable insights into their real-world application.

Objective c) is specifically addressed within the MAPS framework, particularly through Sub-indicator 5(b) and Indicator 8, which outline the necessary criteria and required information. To meet this objective, data will be collected from procuring entities and other stakeholders, such as those involved in the education, training, and examination of public procurement officials. This data will be used to assess whether the set criteria are being met and to identify any areas needing improvement. The analysis will provide a clear understanding of how these aspects of public procurement are functioning and offer recommendations for enhancing the capacity and performance of procurement professionals.

Objective d) is comprehensively covered by various sub-indicators within the MAPS framework, including Sub-indicators 1(i), 1(k), 2(c), 4(a), 7(a), and 9(c). These sub-indicators specify the types of information required and the sources from which this information can be obtained, primarily from procuring entities. The objective will be met by reviewing individual contract files and other relevant documentation, ensuring a detailed and accurate assessment by the end of the evaluation process. This thorough review will allow for a precise determination of how well procurement practices align with the established criteria, and it will highlight areas for improvement.

Like Objective a), Objective e) is a fundamental component of the MAPS approach. The focus here is on assessing the current situation and identifying gaps in relation to the criteria set out in the MAPS methodology. Based on this assessment, detailed recommendations will be developed, validated, compiled, and prioritized. These recommendations will then form the basis of a strategic outline for the development of public procurement systems. The final MAPS report will include these recommendations along with specific actions and timelines to ensure effective and timely implementation, thereby driving the continuous improvement of public procurement practices.

1.3. Scope and methodology

The assessment covers all aspects of public procurement, grouped under the four main pillars of the methodology:

- Pillar I – Legal, regulatory and policy framework
- Pillar II – Institutional framework and management capacity
- Pillar III – Public procurement operations and market practices
- Pillar IV – Accountability, integrity and transparency of the public procurement system

The pillars contain a total number of 14 main indicators covering the full range of public procurement principles, policies and practices, in turn subdivided into sub-indicators, each one composed by a number of assessment criteria which represent internationally accepted principles and practices of good public procurement. The assessment reviews the actual situation, compares it with the assessment criteria and describes it accordingly, identifies any gaps, examines the underlying reasons for them and, on that basis, prepares recommendations for the further development of the public procurement system.

Likewise, the assessment considers the situation and the needs of all parties involved, including the authorities in charge of the central functions of public procurement, the procuring entities, the economic operators providing goods, works and services, the other entities and institutions engaged in the public procurement, and the citizens as the beneficiaries and, ultimately, the financiers of public procurement.

While applying the MAPS methodology, the assessment team has covered the entire public procurement and asset disposal processes and procedures as detailed in the laws, regulations, procedures and practices governing public procurement, in accordance with the objectives of the assessment.

The main work stages necessary for the MAPS assessment to meet the objectives set are the following:

a) Finalisation of the work planning and establishment of the governance structure to coordinate the assessment
b) Engagement of the assessment team
c) Conducting the assessment using the MAPS analytical framework and indicators
d) Draft report preparation
e) Quality assurance and dissemination of the validated report

The collection, compilation and analysis of the information needed for the assessment has been carried out in three main steps, covering the indicators, sub-indicators and assessment criteria set out in the methodology:

Steps	Assessment activity
Step 1	• Review of the system applying assessment criteria expressed in qualitative terms. • Preparation of a narrative report providing detailed information related to this comparison (actual situation vs. assessment criteria) and on changes underway.

Steps	Assessment activity
Step 2	• Review of the system applying a defined set of quantitative indicators (applying at least the minimum set of quantitative indicators defined). • Preparation of a narrative report detailing the findings of this quantitative analysis.
Step 3	• Analysis and determination of substantive or material gaps (gap analysis). • Sub-indicators that exhibit a "substantive gap" need to be clearly marked to illustrate the need for developing adequate actions to improve the quality and performance of the system. • In case of identified reasons that are likely to prevent adequate actions to improve the system, "red flags" need to be assigned. Red flags are to highlight any element that significantly impedes the achievement of the main considerations of public procurement and that cannot be mitigated directly or indirectly through the system, irrespective of whether the corresponding gap is substantive or not.

1.4. Assessment management and team of consultants

To provide strategic leadership and direction while overseeing the assessment processes to their logical conclusion, a Steering Committee was established as follows:

1. Principal Secretary, The National Treasury – Chair
2. Director, Public Procurement Department, The National Treasury – Member
3. Office of the Attorney General – Member
4. Director General, Public Procurement Regulatory Authority – Secretary
5. Chair, Public Procurement Administrative Review Board – Member
6. Chair, Kenya Institute of Supplies Management – Member
7. Principal Secretary, State Department for Infrastructure – Member
8. The World Bank Group – Member
9. African Development Bank – Member
10. Chief Executive Officer, Council of Governors – Member
11. Chief Executive Officer, Kenya Private Sector Alliance – Member
12. Executive Director, Transparency International Kenya – Member

The Steering Committee has been supported by a Technical Committee and a Secretariat, established as follows:

1. Director, Research, Innovation and Business Systems, PPRA – Chair
2. Representatives (2) of the Public Procurement Directorate, The National Treasury – Members
3. Representative of the Office of the Attorney General – Member
4. Representative of the State Department for Infrastructure – Member
5. Representative of Kenya Institute of Supply Management – Member
6. Representative of Kenya National Highways Authority – Member
7. Representative of Project Management Office, Horn of Africa Gateway Development Project – Member

8. Representatives of PPRA (7, including Secretariat) – Members
9. Representative of the Public Procurement Administrative Review Board Secretariat – Member
10. Representatives (2) of the Kenya Revenue Authority – Member

The Technical Committee has been responsible for the day-to-day monitoring of the assessment and prepare monthly reports for consideration by the Steering Committee. Annex 2 presents the members of the Steering Committee and the Technical Committee as well as their respective terms of reference.

For carrying out the MAPS assessment, a consultant with international public procurement policy development experience was engaged, together with a strong team of highly qualified local experts, as follows:

Lead consultant: Daniel Ivarsson

> The lead consultant, with support from the other consultants, was responsible for conducting the assessment in accordance with the MAPS methodology, project management, quality assurance of the data analysis and recommendations, writing the report and presentation of the report, as required.

Assessors: Prof. Zachary Awino, Mr Charles Kamande, Mr Aura Lawy, and Mr Allan Muturi

> These local consultants, with great experience in public procurement operations, have led the exercise of collecting and organizing data in accordance with the MAPS methodology. They have worked closely with the lead consultant and relevant stakeholders to ensure that the assessment was conducted in accordance with the MAPS methodology.

Legal expert: Dr Wilfred Mutubwa (in 2024), Mr George Karuthui Kamau (in 2025)

> The legal expert has supported and guided the team on issues related to the public procurement legal framework and related indicators, as well as on their application in other parts of the assessment and on legal issues in the various recommendations to be made.

Data analysis expert: Mr Enos Omondi

> The data analysis expert has supported the rest of the assessment team with the development of the data capture tools, data analysis and interpretation of the findings, in particular for data to be collected from the sample of procuring entities and from surveys, among other tasks related to the quantitative indicators.

Management consultant: Ms Faith Waigwa

> The primary task of the management consultant has been to provide management services for the implementation of the MAPS assessment, thereby reducing the administrative workload of the PPRA staff members involved.

None of the local experts mentioned has been in a situation of conflict of interest with respect to the assessment. Designated PPRA staff members have completed the assessment team. The PPRA has also provided office facilities and administrative support for the assessment team.

The composition and the terms of reference of the Steering Committee and of the Technical Committee as well as the members of the assessment team are listed in Annex 2.

1.5. Assessment process and timing

With the intention to ensure timely access to data, the PPRA sent out advance requests for information to a sample of 63 major procuring entities, listed in Annex 5, with the text of the letter of invitation in Annex 6. The requests explained the purpose of the assessment and the need for data and asked the procuring entities to compile an overview of the contracts concluded during fiscal years 2021/2022 and 2022/2023, together with supporting documentation of the procedures carried out. The lists of contracts then allowed the assessment team to randomly select ten contracts from each of the 63 procuring entities, in order to create a statistically relevant sample for detailed review while limiting the amount of work necessary for the analysis. The contracts selected thus covered a good mix of procurement of goods, works, services (consulting and non-consulting)

The MAPS assessment was officially launched at an event held at the PPRA premises on 19 June 2024. The purpose of the launch was to create a common understanding of the assessment amongst the stakeholders, the 63 sampled procuring entities, the team of consultants and the committees managing the assignment. The launch was also meant to present the timelines for the assessment, the responsibilities of the key stakeholders and the nature of the inputs and support required from them for the effective conclusion of the assignment. Some 200 participants attended the event, representing a wide range of stakeholders and other interested parties.

On 21 June 2024, shortly after the launch event, the lead consultant held an introductory meeting for the local consultants present, going through the MAPS report template and the indicator matrix and explaining the work to be done and the approach to follow. Further details of the approach to be followed were presented and discussed in subsequent working meetings with the assessment team, held in the form of video conferences set up by the PPRA. The national consultants then received their contracts in the second half of July 2024, with an official commencement date of 1 July 2024, with the exception of the management consultant, who became engaged only at the end of 2024.

Following the mobilisation of the assessment team, its members worked on the identification of sources and the collection of documentary information for the qualitative indicators in MAPS, as well as on preparations for the visits to the 63 major procuring entities for meeting the heads of procurement and reviewing the contract files. The team, including the data analysis expert, jointly prepared data collection tools for the purpose.

The field work, shared out between the four assessors and guided by the lead consultant, started on 12 September 2024 and continued until late February 2025. In most of the visits to the 63 major procuring entities, the assessors were accompanied by PPRA staff members. In parallel, the lead consultant held meetings with other major stakeholders, both on site in their offices and by videoconference. As a result, the assessment team was able to prepare and submit the qualitative elements of the indicator matrix to the Technical Committee on 13 April 2025. It was accepted by the Technical Committee on 15 May 2025.

The data collection tools had the shape of Excel sheets with questions for the heads of procurement and for the review and analysis of the contracts to be reviewed. This format allowed the data from each procuring entity visited to be entered by the assessors and transmitted to the data analysis expert, who compiled and analysed it in order to provide an overview of the observations made and to calculate the values for the quantitative indicators in MAPS. For reference, the contents of the data collection tools are found in MS Word format in Annex 7. The data collected are summarised and presented in Annex 8 (data from the contract file reviews) and Annex 9 (data from the interviews with the heads of procurement). Once the final quantitative elements had been prepared, the full indicator matrix was submitted to the Technical Committee on 18 July 2025 and accepted by the Technical Committee on 21 August 2025.

Two stakeholder consultation questionnaires, one targeting procuring entities outside the sampled 63 major ones and the other targeting the private sector business community, were disseminated early 2025, with data collection concluding in March 2025. As was the case also with the information from the contract reviews and the interviews with the heads of procurement, the data has since been analysed and incorporated into the Indicator Matrix (Annex 3). The questionnaires and the data from the surveys are found in Annexes 9-13.

Sadly, the legal expert initially engaged, Dr Wilfred Mutubwa, passed away late November 2024, after having provided valuable, initial contributions to the assessment. His remaining tasks were taken over by Mr George Karuthui Kamau, whose contract was issued early May 2025 and who provided his contributions to the MAPS assessment in several instalments during the following months.

The draft assessment report was prepared by the assessment team and sent to the PPRA for transmission to the Technical Committee for its review and comments on 17 September 2025. The Technical Committee held a workshop 6-12 October 2025 in order to thoroughly go through the indicator matrix and the draft report line by line. The Technical Committee's observations and suggestions were incorporated by the assessment team into a redraft of the report, which was sent to the PPRA, for submission to the Steering Committee in view of its intended meeting on 17 October 2025.

During the assessment, the Steering Committee held a meeting on 4 March 2025, during which progress was reviewed and actions to fast-track completion were agreed upon. However, the subsequent Steering Committee meeting planned for 17 October did not take place. The Steering Committee met again on 15 January 2026 in order to review progress of the assessment and to discuss the draft assessment report, which was approved for dissemination to stakeholders in preparation for the validation workshop scheduled for 27 January 2026 (see further Chapter 6).

As implied above, time overruns arose from the extensive efforts and additional time required to analyse and synthesise data from the 630 contracts reviewed, as well as from the interviews and surveys, and to reflect these accurately in the Indicator Matrix and the MAPS assessment report. Likewise, stakeholder unavailability and frequent rescheduling of interviews, despite adequate notice, which delayed completion of key informant interviews. Annex 4 lists the formal meetings held with external stakeholders.

2. Analysis of Country Context

2.1. Political, economic and geostrategic situation of the country

Geographical and political situation

The Republic of Kenya is located in the East Africa region. It covers a land mass of 580,876.3 km^2 and had an estimated population of 47.6 million in 2019[3] and a projected population of 53,331,000 in 2025[4]. Kenya operates under a devolved system of governance comprising of the National Government and 47 County Governments, following the promulgation of the Constitution of Kenya in 2010. The two levels of government are distinct but inter-dependent with constitutionally assigned and protected functions and powers as defined in the Fourth Schedule of the Constitution. The National Government comprises the National Executive, Parliament and the Judiciary; while the County Government comprises of the County Executive and County Assembly. The two levels of government are required to conduct their mutual relations on the basis of consultation and co-operation.

Economic situation

Kenya's nominal GDP for 2024 was KES 15,034 billion, with a real GDP growth of 4.7%. This represents a slowdown from 2023 growth, attributed to factors like a tighter macroeconomic policy, decreased business confidence, and the impact of the April 2024 floods. Despite the slower growth, the nominal GDP increased from the previous year, and inflation eased to a five-year low of 4.5%, mainly due to lower food prices. The national government's total expenditure for FY 2024/25[5] amounted to KES 4.03 trillion, representing 94% of the national government's revised gross estimates of KES 4.37 trillion compared to KES 3.89 trillion (88%) recorded in a similar FY 2023/24 period. This expenditure comprises ministerial development expenditure of KES 545.80 billion, an absorption rate of 89%, recurrent ministerial expenditure at KES 1.67 trillion, an absorption rate of 94% and CFS expenditure at KES 1.82 trillion, an absorption rate of 91%.

The central bank rate[6] was lowered to 11.25% in December 2024, down from 12.5% a year earlier, as part of the measures to support economic activity. Overall interest rates for commercial banks increased to 16.89%. In 2024, credit advanced by commercial banks to the Government grew by 13.9% while credit advanced by microfinance banks to the private sector declined by 15.8%. This illustrates the problems for participants in public procurement to cover the costs of procurement and to ensure that suppliers have

[3] Kenya National Bureau of Statistics (KNBS): 2019 Kenya Population and Housing Census, Volume I

[4] KNBS. (2022). 2019 Kenya Population and Housing Census: Analytical report on population projections (Vol. XVI, p. 25)

[5] See https://cob.go.ke/reports/national-government-budget-implementation-review-reports/#

[6] Kenya Economic Survey, 2025, p. 3 f., see https://www.knbs.or.ke/wp-content/uploads/2025/05/2025-Economic-Survey.pdf

access to the working capital needed for delivering the items procured and to stay in business, despite delays in getting paid.

For fiscal year 2024/25, the national government revenue is expected to grow to KES 3,116 billion, while expenditure is expected to increase to KES 3,978 billion, out of which interest payments on debt of KES 996 billion, for a deficit of KES 863 billion. The balance of trade deficit in 2024 decreased to KES 1,594 billion, while the current account deficit decreased to KES 209 billion, mainly due to increased inflows from services, remittances and interest receipts as well as increased multilateral disbursements.

Kenya's economy is projected to have remained resilient and stable in 2025. The projected growth is expected to be driven by a strong services sector and enhanced agricultural productivity, the latter supported by favourable weather and distribution of subsidised fertiliser and seeds by the Government.

Particular factors affecting public procurement

For the purpose of addressing some of the socio-economic issues described above, the Government, being the largest buyer, has the potential of achieving targeted socioeconomic goals through creation of opportunities for participation of disadvantaged and marginalised groups and local industries in public procurement. In consideration of the provisions of the Constitution under Article 227, the Public Procurement and Asset Disposal Act, 2015 (PPADA), the Public Procurement and Asset Disposal Regulations, 2020 (PPADR), and socio-economic development factors, the Government has continued to implement affirmative action programmes, and preference and reservation schemes; to facilitate participation of disadvantaged groups and of local contractors, and to promote consumption of locally manufactured products through public procurement and asset disposal.

Specifically, Part XII of the Act and of the Regulations detail different kinds of preferences and reservations which procuring entities are required to apply while undertaking public procurement operations. However, the administrative costs of fully complying with them are high and many procuring entities fail to do so. The preferences and reservations include requirements to accord preferential treatment to disadvantaged groups, to manufactured articles, materials or supplies wholly mined and produced in Kenya; to firms where Kenyans are shareholders; the facilities offered by the set-up; and an obligation for foreign tenderers to source at least 40% of procurement supplies, including technology, from the local contractors/citizens.

These preferences and reservations have been under implementation since 2013. Since then, Kenya has achieved several milestones, including setting up of the Access to Government Procurement Opportunities (AGPO)7 scheme that oversees registration and certification of the disadvantaged groups; reengineering and automation of the AGPO registration to allow for electronic generation of AGPO certificates; continued award of contracts to the disadvantaged groups; and sensitisation of the groups on the preference and reservation schemes.

On the other hand, a number of issues have emerged in the course of implementation of the preference and reservation schemes to include; delayed payment to the disadvantaged groups for performed contracts, lack of clarity on some of the preferences and their extent of application, for example, the local content requirements and those pertaining to application of preferences to donor funded projects, and

[7] See https://agpo.go.ke/

overall, on competition in public procurement. Currently, monitoring and reporting of compliance is limited to the requirement for no less than 30% of public procurement to be reserved for women, youth and persons with disabilities. There is no monitoring and reporting on the effects of any of the preferences and reservations prescribed in the PPADA and the PPADR.

There are considerable disparities in regional development which are very relevant for the design and application of the preference and reservations schemes discussed above and strongly affect public procurement also in other ways.

While the national language of the Republic of Kenya is Kiswahili and English and Kiswahili are the two official languages, there are well over 60 other languages spoken in the country. The Constitution, Section 7 (3) requires the State to promote promote and protect the diversity of language of the people of Kenya and to promote the development and use of indigenous languages. However, the legal framework on public procurement, including standard tender documents, is only published in English and the new e-GP system is only in available in English at present. As a result, a number of citizens may find it difficult to understand how public procurement should work and to monitor whether and to what extent procuring entities properly carry out their work.

Also the level of economic and social development varies between different parts of the country and within counties. Rapid urban development, particularly in cities such as Nairobi and in several regional centres, reflect an economic transformation that, however, remains unevenly distributed. Marginalised regions, especially in northern Kenya[8], remain economically isolated, underdeveloped, and frequently overlooked in national development plans. The less developed regions typically have smaller populations and lower population densities than the others, meaning that their needs for public services and public infrastructure and the costs for providing them are higher, per capita. The local supply of goods, works and services is lower, because of both the smaller number, the smaller size and the lower diversity of local enterprises, and the typically higher share of small, informal businesses.

Procuring entities in those regions are thus facing higher costs of items to be procured and a correspondingly higher insufficiency of funding. County level procuring entities have an obligation for to give preference to local suppliers. However, many of those are unable or unwilling to take on the cost and the efforts of complying with the formal requirements for participation and therefore do not benefit from the preferences mentioned. The small numbers and the limited resources of those who actually participate lead to lower competition, including higher risk of collusion among them, while creating greater risk that the items procured are not provided in the right quality and quantity and on time.

The use of public procurement as a means to promote economic and social development in the regions therefore requires harmonisation with other policies and practices with the same objective.

[8] See e.g. https://documents.worldbank.org/en/publication/documents-reports/documentdetail/556501519751114134

2.2. The public procurement system and its links with the public finance management and public governance systems

Nature and scope of public procurement

Public procurement transactions account for, on average, 13% to 20% of Gross Domestic Product (GDP); with the global expenditure in procurement being estimated at over USD 9.5 trillion[9]. With a GDP of USD 95.505 billion[10] in 2019, public procurement value in Kenya could be estimated to account for USD 15.758 billion. More recently, during the fiscal year 2023/2024, a total of 34,224 contracts worth KES 262.8 were reported to the PPRA and published in the Portal (PPIP).[11] It should be noted that reporting is incomplete, meaning that the actual value is higher. However, the figure mentioned represents the bulk of public procurement, as most of the larger procuring entities have met their reporting obligations.

In terms of procurement methods, the value of procurements acquired by open tender was almost 79% of all procurement during the year, while the least competitive method, direct procurement accounted for 7% by value. However, also here, the figures are based on reports submitted by the procuring entities. The low level of compliance with reporting obligations means that the shares, by value, of the different procurement methods are difficult, if not impossible, to determine in a comprehensive and reliable way.

To remedy this problem, the PPRA has institutionalised measures aimed strengthening publication of contract awards by all procuring entities. This has included a directive to ensure that no physical reports are submitted to the PPRA. Enforcement measures have also been planned to ensure that the directives are compiled within the prescribed timelines. The PPRA is committed to enhancing the principles of open contracting and transparency in public procurement in Kenya and the current introduction of the e-GP system should help make reporting more comprehensive and reliable.

Regulatory framework

The Constitution of Kenya, adopted in 2010, requires under Article 227 that public procurements should be undertaken in accordance with a system that is fair, transparent equitable, competitive and cost effective. The PPADA was enacted in December 2015 to give effect to these requirements. The PPADA became effective on 7 January 2016, repealing the Public Procurement and Disposal Act, 2005. However, the Public Procurement and Disposal Regulations, 2006, remained in force until 2 July 2020 when the PPADR were gazetted. Over that transition period, the repealed regulations were being applied hand in hand with the Act, in accordance with the guidance issued by the National Treasury through the Treasury Circular No. 2/2016[12] of 29 March 2016. In, Kenya, public procurement at both levels of government is governed by the PPADA and the PPADR.

[9] Global Public Procurement Database by World Bank Group
[10] World Bank National Accounts Data
[11] PPRA Annual Report 2023-2024, pp. 32 and 33
[12] Title: Operationalization of the New Public Procurement and Asset Disposal Act, 2015

Institutional framework

Public procurement in Kenya is highly decentralized at the level of procuring entities (Ministries and State Departments, State Agencies, County Departments and Agencies and other public entities), as defined in the PPADA, Section 2. The framework of public sector institutions overseeing the public procurement and asset disposal system in Kenya is depicted by the figure below.

Figure 1: Institutional framework of public procurement

Public sector entities involved in public procurement and their roles

As presented in Chapter 3 of the 2020 Public Procurement and Asset Disposal Policy, the main public entities involved in one way or another in the management and supervision of public procurement and their respective responsibilities are as follows:

1. The Parliament/County Assemblies:

a) Enact and amend procurement and asset disposal laws and regulations in line with the Constitution;
b) Provide oversight in the implementation of the procurement and asset disposal laws and regulations through review of statutory reports;
c) Approve and appropriate budgets to facilitate procurement of goods, works and services;

2. The Cabinet:

a) Approve public procurement and asset disposal policy;
b) Set government strategic priorities in public procurement and asset disposal;
c) Approve public procurement and asset disposal legislative proposals before submission to parliament;
d) Approve budget proposals before submission to parliament;

3. The National Treasury:

a) Public procurement and asset disposal policy formulation;
b) Design and prescribe an efficient procurement and asset disposal management system for both national and county governments;
c) Budget formulation;
d) Training and capacity building for procurement and supply chain management at the national level and support at the county level.

4. The Cabinet Secretary Responsible for Finance:

a) Prescribe regulations and guidelines on implementation of public procurement and asset disposal policies in accordance with procurement law;
b) Submit proposed budget estimates to parliament for approval;
c) Regular briefing to cabinet and parliament on implementation of public procurement and asset disposal policies, rules and procedures.

5. Cabinet Secretaries:

a) Oversee implementation of public procurement and asset disposal policies to facilitate delivery of their mandates.

6. Accounting Officers:

a) Implementation of public procurement and asset disposal policies, rules and procedures;
b) Capacity building of supply chain management officers in their respective procuring entities.

7. Public Procurement Administrative Review Board:

a) Review, hear and determine public procurement and asset disposal disputes at both levels of government.

8. Public Procurement Regulatory Authority:

a) Regulate the public procurement and asset disposal system, monitor and report on its functioning;
b) Enforce compliance with the public procurement and asset disposal law and provide technical support to procuring entities.

9. Kenya Institute of Supplies Management:

a) Establish, monitor, improve and publish the professional standards for supplies practitioners;
b) Register procurement professionals and take such disciplinary measures as may be necessary to maintain proper standard of conduct among such persons;
c) Oversee professional examination standards and certification.

10. The Attorney-General and, as applicable, the County Attorneys:

a) Provide legal advice to public entities on public procurement and asset disposal matters;
b) Drafting of legislation pertaining to public procurement and asset disposal;
c) Represent procuring entities in judicial proceedings involving public procurement and asset disposal matters.

11. County Treasuries:

a) Implement the Public Procurement and Asset Disposal Policy, laws and regulations at county level;
b) Formulate the county budgets.

12. County Executive Member Responsible for Finance:

a) Oversee the implementation of public procurement and asset disposal policy in the county government;
b) Submit proposed budget estimates to county assembly;
c) Regular briefing to county executive committee and county assembly on implementation of public procurement and asset disposal policies, rules and procedures.

13. The Judiciary:

a) Review, hear and determine public procurement and asset disposal disputes.

14. The Office of the Auditor-General:

a) Audit and report on the use and management of public resources by public entities;
b) Verify and confirm whether public money has been applied lawfully and in an effective way.

15. The Competition Authority of Kenya:

a) Enhance the welfare of the people of Kenya by promoting and protecting effective competition in markets and preventing misleading market conduct;
b) Control mergers and acquisitions, deter anti-competitive conduct, enforce consumers' rights, sanction abuse of buyer power.

16. The Ethics and Anti-Corruption Commission:

a) To combat and prevent corruption, economic crime and unethical conduct

17. The Public Service Commission:

a) Ensure the effective management and development of the public service
b) Establish offices, appoint and discipline public servants, promote key values and principles for service efficiency

18. Procuring Entities:

The institutional framework for public procurement comprises a large number of procuring entities. They can be grouped as follows, with indication of the estimated number of entities in each group:

Table 2: Categories of procuring entities and estimated numbers

No.	National Government Entities	Estimated Number
1.	State Corporations and SAGAs	300
2.	Ministries and State Departments	44
3.	Constitutional Commissions and Independent Offices	17
4.	The Judiciary and the Courts	1
5.	Parliamentary Service Commission	1
6.	Public Colleges and Polytechnics	37
7.	Technical and Vocational Training Institutes	672
8.	Public Universities and University Colleges	38
9.	NGCDF Committees	290
10.	NGAAF Committees	47
11.	County Service Delivery Coordination Units	47
12.	Diplomatic Missions	56
13.	Public Primary Schools	23,650
	Secondary Schools	9,150
14.	Pension Funds for Public Entities	0
Sub-total		**34,350**
	County Government Entities	
15.	County Executives	47
16.	County Assemblies	47
17.	Public Water Utility Companies	92
18.	County Corporations	3
19.	City Boards and other Urban Areas	1
Sub-total		**190**
Total		**Est. 34,540**

Private sector entities involved in public procurement

The main private sector entities involved in public procurement are the following.

1. Corporate sector associations

Most medium and large providers of goods, works and services for the needs of Kenya's procuring entities are members of one or the other professional association. While their main task is to represent the interests of their members, some of the associations mentioned below have statutory responsibilities to act as quasi-public bodies. They share a common interest to facilitate participation in public procurement by their members on fair and equitable conditions and to ensure that they are well informed about procurement opportunities. Several of them participate actively in the dialogue between the private sector and the authorities in charge of public procurement policy on matters of policy and practice, reviewing and commenting on draft regulations and identifying and discussing problems to be resolved.

During the MAPS assessment, the team have been in contact with a number of them as follows: the Association of Consulting Engineers of Kenya, the Association of Construction Managers of Kenya, the Association of Public Sector General Suppliers, the Institute of Quantity Surveyors of Kenya, the Institution of Engineers of Kenya, the Kenya Association of Building and Civil Engineering Contractors, the Kenya Association of Manufacturers, the Kenya Federation of Master Builders, the Kenya National Chamber of Commerce and Industry, the Kenya Private Sector Alliance, and the Law Society of Kenya.

2. Other civil society organisations

As regulated by the Non-Governmental Organizations Co-Ordination Act [13] and regulated in the corresponding Non-Governmental Organizations Co-Ordination Regulations[14], all NGOs in Kenya have to be registered with the Non-Governmental Organizations Co-ordination Board, a State Corporation with the responsibility of regulating and enabling the NGO sector in Kenya. In parallel, the National Council of NGOs is the umbrella body that brings together all registered NGOs in Kenya, with the mission to provide proactive leadership in policy and national issues and work with government for enabling legislation and good governance.

Only a few are more specifically active in the field of public procurement, although several pay attention to the general problem of fraud and corruption at national, regional and local level. While efforts were made to consult with a wide range of NGOs, the assessment team had more detailed discussions with the National Tax Payers Association and the Kenya chapter of Transparency International, in the first place.

3. Education and research institutions

A number of institutions of higher education, research and development are among the procuring entities which have been visited during the assessment. Apart from their role as procuring entities, they have the potential to provide valuable support with studying what happens in public procurement and contributing to the development of good practices. The MAPS assessment has identified a number of aspects where the lack of information has prevented thorough analysis of the situation and preparation of commensurate, detailed recommendations, as variously indicated in the body of the report (Chapter 3) and in the indicator matrix (Annex 3).

In these cases, the recommendation has been to further investigate and assess the situation and identify and evaluate possible means to improve it. This is where the institutions mentioned could provide

[13] See https://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/Non-GovernmentalOrganizationsCo-ordinationAct__No19of1990_.pdf
[14] See https://new.kenyalaw.org/akn/ke/act/ln/1992/152/eng@2022-12-31/source

valuable assistance to the PPRA and the National Treasury by encouraging students and their professors to carry out such analyses as an integrating part of their higher education and research programmes.

The Public Procurement Information Portal and the e-procurement system

As a complement to the other roles and responsibilities of the Public Procurement Regulatory Authority and to those of the various other public entities involved, the Public Procurement Information Portal (PPIP, https://tenders.go.ke) still constitutes the central system for collection and dissemination of public procurement data and information to stakeholders, including for advertisement of public procurement opportunities as well as for publication of details of all contracts signed by procuring entities. Beneficial ownership Information is also intended to be captured and disclosed through the PPIP. The Portal has been collecting data on tender advertisements and details of the resultant contracts, for information to the public.

Procuring entities have been required to use the Integrated Financial Management Information System (IFMIS), a comprehensive automated platform managed by the National Treasury and designed to streamline financial operations within both the National and County Governments of Kenya. However, this mainly applies to financial transactions, including those in public procurement, and IFMIS cannot be considered as an e-procurement system by itself. Also, IFMIS is mainly used by the ministries, the counties and the constitutional commissions and independent offices; many other procuring entities are not using it.

From 1 July 2025 onwards, the PPIP is being complemented and may be gradually superseded by the new e-procurement system (the two still remain distinct but are supposed to be interfaced), accessible at egpkenya.go.ke, which is intended to provide a comprehensive set of functions for carrying out public procurement throughout the procurement cycle.

2.3. National policy objectives and sustainable development goals

Chapter 4 of the Constitution (The Bill of Rights) sets out a number of rights of the citizens of Kenya. Among these, the economic and social rights set out in Article 43 drive much of the work of procuring entities to ensure that citizens have access to health services, housing and sanitation, food and water, education, and social security. Principles and policies guiding public procurement are set out in Article 227.

To meet the requirements of the Constitution, the Government has designed and continues to implement national blueprints including the Kenya Vision 2030, the Medium-Term Plans and the Bottom-Up Economic Transformation Agenda (BETA), aimed at enhancing the livelihoods and the socio-economic situation of Kenyans and securing inclusive growth.

Public procurement has been and remains a key facilitator in realisation of these aspirations. This has been evident in the continued investment in rural electrification, supply of water, supply of commodities in the health sector, expansion of road networks in the rural communities, and improvement of education infrastructure. Enhancing efficiency and effectiveness of public procurement processes, is therefore a necessity to realise value for money and deliver quality services to the public.

Government transparency is an important means for building trust between citizens and the state and for improving economy, efficiency and accountability in public administration. With this in mind, Kenya joined the Open Government Partnership at its inception in 2011. The current, fifth action plan for 2023-2027[15] includes specific commitments, with corresponding action plans, to improve the quality and availability of data for development, raise the level of beneficial ownership transparency, and implement open contracting data standards. Other commitments complement and support those mentioned.

Sustainable development is one of the key values and principles of governance set out in Article 10 of the Constitution. Some specific sustainability issues are also covered in the Constitution. Part 2 of Chapter 5 as well as Article 60 explicitly call for environmental sustainability and for sustainability of the use of land and national resources. Social sustainability is more implicitly addressed, mainly in the parts of the Constitution covering rights and fundamental freedoms (Part 2 of Chapter 5) and their specific application in certain cases (Part 3 of Chapter 5). Economic sustainability is covered in broad terms in Article 201, which requires that "the burdens and benefits of the use of resources and public borrowing shall be shared equitably between present and future generations" and that "public money shall be used in a prudent and responsible way". Sustainable development and protection of the environment is also one of the guiding principles for public procurement set out Section 3 of the PPADA. The Sustainable Public Procurement and Asset Disposal Framework in Kenya, issued in draft in the middle of 2025, is a strategic initiative designed to integrate sustainability principles into public procurement practices. This framework aligns with national development priorities, including Kenya's Vision 2030, and global sustainability objectives such as the United Nations Sustainable Development Goals (SDGs). In addition, the framework aligns with Kenya's human rights obligations, the United Nations Guiding Principles on Business and Human Rights, the Kenyan National Action Plan on Business and Human Rights and Kenya's commitment to ensure business respect for human rights.

SDG 12.7 aims to "Promote public procurement practices that are sustainable, in accordance with national policies and priorities." However, while Kenya has adopted this goal, the National Treasury's third voluntary review on the implementation of the SDGs, issued in June 2024[16], does not contain any specifics about its implementation, nor does the statistical annex to the report, issued by the Kenya National Bureau of Statistics[17].

2.4. Public Procurement Reform

Public procurement reform is part of the ongoing public finance management reforms in Kenya. All stakeholders are encouraged to play their part to make the public procurement system better, together building an efficient and effective public procurement system better capable to serve the needs of the country.

The PPADA and the PPADR were developed in line with international best practices, with the aim of enhancing accountability, openness, transparency and value for money in public procurement. These principles were further underscored in the President's Executive Order No. 2 of 2018[18] with the aim of

[15] https://www.opengovpartnership.org/wp-content/uploads/2024/01/Kenya_Action-Plan_2023-2027_December.pdf
[16] See https://www.planning.go.ke/wp-content/uploads/2024/07/2024-VNR-REPORT.pdf
[17] See https://www.knbs.or.ke/wp-content/uploads/2024/06/Kenya-SDG-Statistical-Annex-2024.pdf
[18] Procurement of Public Goods, Works and Services by Public Entities, issued by the Executive Office of the President under ref. OP/CAB 39/1A on 28 June 2018

enhancing openness, accountability and transparency in Kenya. This Executive Order led to the upgrading of the Tender Portal into the Public Procurement Information Portal (PPIP) which is accessible through https://tenders.go.ke.

The Public Procurement and Disposal Act, 2005, constituted an important step forward in the development of public procurement in Kenya. In the course of its implementation, the need for further reform became evident and work started on drafting the new PPADA adopted in 2015. However, the complementary secondary legislation in the form of the PPADR was not adopted until 2020, albeit with a few gaps and overlaps with respect to the requirements of the PPADA.

In parallel, the National Public Procurement and Asset Disposal Policy (NPPADP) was prepared by a multi-agency taskforce, drawn from the National Treasury, the Public Procurement Regulatory Authority, the Kenya Institute of Supplies Management, the Office of the Attorney General and Department of Justice, the Kenya Private Sector Alliance and the Council of Governors. Adopted in 2020, it outlines government policies, strategies and objectives, including a clear intent to support groups previously marginalised from mainstream public procurement.

Consequently, to date, neither the PPADA nor the PPADR fully reflect the NPPADP, which was adopted after the PPADA and the PPADR. This state of affairs was an important reason for launching the MAPS assessment. Its findings and recommendations will now allow the NPPADP to be updated and the PPADA and the PPADR to be amended in order to fully be aligned with the overarching policies.

In addition, a presidential decree calling for the revision of the PPPADA was issued shortly after the launch of the MAPS assessment.

The lessons learned from these reform efforts point to the importance of observing a proper hierarchy of principles, policies, procedures and practices, typically as represented by, respectively, the Constitution, Acts, Regulations, and various guidance notes and tools, in particular the e-procurement system. Likewise, the order of preparation of these elements of the regulatory framework should match the hierarchy mentioned. At the same time, proper application of the provisions in a higher level legal instrument, such as an Act, requires that, once adopted, there must be enough time until its entry into force to finalise and issue implementing regulations, to prepare corresponding guidance notes and training materials, to develop or adjust the necessary tools, and to inform and train all parties concerned.

Some public procurement reforms are being made for the purpose of addressing certain specific issues, as set out in the following sections.

Sustainable public procurement

Sustainable public procurement (SPP) is concisely mentioned in a single paragraph[19] in the 2020 Public Procurement and Asset Disposal Policy, requiring public entities to "adopt sustainable procurement to meet their needs for goods, works and services to achieve value for money on a whole life cycle basis in terms of generating benefits not only to the organization but also to the society and the economy whilst minimizing damage to the environment." In order to help meet this requirement, the Government has launched a programme for developing regulations and guidelines on sustainable procurement.

[19] Section 2.10, p. 17

The draft Sustainable Public Procurement and Asset Disposal Framework was issued for public consultation in April 2024[20]. Following inputs from the public[21], a revised version was presented for validation on 26 June 2026. It is now awaiting formal adoption.

The draft framework is designed to ensure that public procurement decisions go beyond traditional cost and quality considerations by integrating sustainability criteria. It aligns with Kenya's Vision 2030 and the United Nations Sustainable Development Goals, reinforcing the country's commitment to a greener, more inclusive, and resilient economy. Through this framework, public entities will be guided in adopting best practices that enhance social, economic and environmental sustainability, minimise environmental and social impact, support local industries, promote fair labour practices, and ensure responsible resource utilisation. Prioritising eco-friendly products, energy-efficient solutions, sustainable resource use and favourable social impacts, the framework is intended to significantly contribute to environmental conservation and climate change mitigation, and to address risks of labour code violations and of discrimination in supply chains. Additionally, inclusive procurement policies seek to empower marginalised groups, foster social equity, and promote economic opportunities for SMEs.

The framework covers a comprehensive set of procurement related aspects:

- the legal framework, including international agreements and standards;
- mechanisms for integrating sustainability in the process of preparing and carrying out public procurement;
- co-ordination, monitoring, evaluation and reporting of sustainable public procurement;
- implementation of the framework, including an action plan and analytical tools.

Once adopted, the intention is for the PPRA to work out corresponding elements of the PPADR, in particular guidance for applying sustainability aspects in the various phases of the procurement cycle; these would then be reflected in the standard tender documents and in the templates and workflows in the e-GP system. The PPADA would also benefit from being updated in order to achieve full alignment between the law and the new SPP framework.

An important lesson from the work carried out so far is that, to ensure the successful implementation of this framework, capacity building for procurement professionals is a key priority. Strengthening their knowledge and skills is necessary to enhance the adoption of sustainable procurement practices across public institutions. Moreover, robust monitoring, evaluation, and reporting mechanisms have to be established to track progress, ensure accountability, and continuously improve sustainable outcomes of public procurement.

Sustainability issues behind the provisions on preferences and reservation schemes are presented in section 2.1. above.

[20] See https://www.treasury.go.ke/wp-content/uploads/2025/04/Public-Notice-memoranda.pdf
[21] See https://www.treasury.go.ke/wp-content/uploads/2025/06/CONSOLIDATED-MATRIX-OF-COMMENTS-For-Validation-on-26-6-25.pdf

E-government and e-procurement initiatives

In an effort to automate public procurement and asset disposal processes, the Government implemented the Procure-to-Pay module in the Integrated Financial Information Management System (IFMIS)[22]. The module is used to undertake procurement transactions electronically including preparation of procurement plans and linkage with the line items in the budget, tendering through request for quotation and open tender, and the use of an inbuilt item master/catalogue for common user items. The system is currently being used at both the National and County Government procuring entities. A review of the efficiency and effectiveness of the existing Procure to Pay module was undertaken in 2017[23], with the aim of identifying weaknesses that required improvement. The review report, submitted in draft in March 2018, noted that the Procure-to-Pay module was not aligned to the PPADA and the PPADR and recommended that the Government implement a standalone, end to end, well-functioning e-Government Procurement system.

To this end, the e-Government Procurement system Strategy was developed and approved, paving way for acquisition of the standalone system. The roll-out of the e-Government Procurement System is a major deliverable of the Program for Results aimed at strengthening Governance for Enabling Service Delivery and Public Investment in Kenya (GESDek), under the Public Financial Management Reforms Strategy, 2018-20237[24].

It is envisaged that full implementation of the e-GP System will reduce the challenges that have been experienced in the public procurement system, in particular in the workings of the PPIP and IFMIS. These include:

- cases of weak compliance with public procurement procedures;
- poor development of specifications;
- weak data and information management; poor contract management;
- poor records management;
- delays in payment for delivered contracts; and
- high turnover and transfers of procurement professionals.

The new system will also strengthen public procurement principles of integrity, efficiency, competition, economy, accountability, and value for money.

By the middle of 2025, work had progressed enough for the first phase of the system to be rolled out. Intended to be an end-to-end system that incorporates all procurement process in line with the PPADA and its attendant PPADR, it is compulsory for all public procuring entities to use it from 1 July, 2025. The following Phase I modules are supposed to be available from this date:

- Registration (Supplier and Procuring Entity),
- Annual Procurement and Disposal Plan,
- e-requisition,

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[22] Current version described at https://www.ifmis.go.ke/procure-pay-p2p

[23] See further the overview at https://www.pfmr.go.ke/wp-content/uploads/2024/02/Development-of-the-Electronic-Procurement-System-E-GP-14.pdf

[24] See http://npfmr.treasury.go.ke/public-financial-management-reforms-strategy-2018-2023/

- e-tender preparation,
- e-tender submission & evaluation,
- e-tender award,
- e-framework agreement,
- e-bid security and guarantee management module,
- e-contract management,
- e-Procurement Management Information System,
- Workflow management.

Phase II modules will be introduced at a later date. They include:

- e-Complaints;
- e-Compliance,
- e-Appeals,
- e-Debarment,
- Performance management,
- Store Management,
- e-Auctions,
- e-Catalogues & Marketplace,
- e-Reverse Auction.

A first announcement of the intention to introduce e-GP had been made through a Treasury circular issued on 10 July 2024, directing all accounting officers of procuring entities to prepare for a seamless transition to the use of the e-GP system. Pilot operation of the registration and annual planning modules started in November 2024 and continued with the remaining modules of Phase I, starting in December 2024, in parallel with the finalisation of these modules and initial training of trainers and of staff members in selected procuring entities and suppliers[25]. Subsequent developments are indicated further down in the text.

The introduction of e-procurement has been guided by circulars issued by the Executive Office of the President, the Treasury and the PPRA. Although Section 7 (c) of the PPADA provides for the Cabinet Secretary to prescribe a system to be used, the currently published obligation to to carry out procurement only through the e-GP system from 1 July 2025 appears has been contested as having no legal basis, in that it seems to be in contradiction with the provisions in the PPADA and the PPADR allowing procurement to be carried out manually (on paper) or by electronic means. This has led the e-GP to be challenged in court and the High Court issuing conservatory orders of its implementation until the substantive matter is heard and determined. A proper legal basis for the e-GP system in the form of (draft) amendments to the legislation has been reported to be in the works but no details have been made public.

Procuring entities who had not participated in the pilot operations were reminded by the Treasury of the coming obligation to use the e-GP system through a circular dated 26 March 2025[26]. A public notice to all suppliers, contractors and consultants was about the roll-out of the e-GP system was published by the

[25] Message from the Treasury to PPRA of 20 September, 2024, ref. NT/PPD/1/3/14TY (68) (not published)

[26] Treasury circular ref. no. NT/PPD 1/3/14 Vol. VI

Treasury on 10 April 2025[27], inviting them to self-register on the e-GP portal. A reminder about the need for procuring entities to register was issued by the Treasury on 30 May 2025[28], followed by an invitation, dated 26 June 2025[29], to procuring entities to participate in an e-GP system registration drive taking place at the "Kenya International Conference Centre" 1 – 4 July 2025. Further guidance on the use of the e-GP system was published by the Treasury on 23 July 2025[30], including a reminder that from 1 July 2025, only procurement undertaken through the e-GP Kenya will be sanctioned and paid for.

In the meantime, the PPRA issued a circular on integration of the PPIP and the e-GP system on 17 June 2025[31]. Procuring entities were informed that they would no longer need to upload information to the PPIP after 1 July 2025, as the information would be generated in the e-GP system, but that relevant information would continue to be published on the PPIP for meeting the information needs of the general public. Procuring entities were further informed that the procuring responsibility of procuring entities not duly registered would be transferred by the PPRA to other compliant entities.

Both procuring entities and (prospective) tenderers have thus to be registered in order to carry out and participate in public procurement using the e-GP system. The registration requests made by using the registration module of the system have to be processed by the Treasury before registration becomes effective. In addition, the Treasury circular of 26 June 2025 required the procuring entities participating in the registration drive to submit their registration documents not simply on line (through the e-GP system) but also by e-mail, in hard copy(!) and soft copy, in addition to bringing these documents along at the event.

On 4 August 2025, only 1286 procuring entities had been duly registered as users of the e-GP system, and it was reported that some 10,000 suppliers were awaiting registration.

As provided in the PPADA, Sections 56, 57 and 71, each individual procuring entity must create a register of its own suppliers, which is a prerequisite for them to be invited to participate in procurement carried out using requests for quotations. However, this kind of registration is not possible in the e-GP system and will therefore have to be done by other means. Nevertheless, when doing so, suppliers have to indicate their registration number in the e-GP system.

[27] See https://www.mygov.go.ke/sites/default/files/2025-04/Public%20Notice%20On%20the%20Rollout%20of%20the%20Electronic%20Government%20Procurement%20System.pdf
[28] Treasury circular ref. no. NT/PPD/1/3/14 Vol. VI (46)
[29] Treasury circular ref. no. NT/PPD 1/3/14 TY IV
[30] Treasury circular ref. no. NT/PPD/1/3/14 TY.3 (68)
[31] PPRA Circular no. 02/2025

3. Assessment

3.1. Pillar I - Legal, Regulatory and Policy Framework

- Pillar I assesses the existing legal, regulatory and policy framework for public procurement. It identifies the formal rules and procedures governing public procurement and evaluates how they compare to international standards. The practical implementation and operation of this framework is the subject of Pillars II and III. The indicators within Pillar I embrace recent developments and innovations that have been increasingly employed to make public procurement more efficient. Pillar I also consider international obligations and national policy objectives to ensure that public procurement lives up to its important strategic role and contributes to sustainability.

Indicator 1. The public procurement legal framework achieves the agreed principles and complies with applicable obligations

The indicator covers the different legal and regulatory instruments established at varying levels, from the highest level (national law, act, regulation, decree, etc.) to detailed regulations, procedures and bidding documents formally in use, including standard bidding documents and how they complement the legal framework.

- **Synthesis of the indicator**

The public procurement legal framework in Kenya is comprehensive, and well structured in line with internationally established practices. A few 'housekeeping' measures would somewhat simplify the legislation and help apply it more easily, consistently, effectively and efficiently.

- **Findings**

The legal framework for public procurement is organised hierarchically, composed by the Constitution of Kenya, the Public Procurement and Asset Disposal Act 2015 (PPADA), the Public Procurement and Asset Disposal Regulations 2020 (PPADR) and the National Public Procurement and Assets Disposal Policy 2020 (NPPADP), as well as by the Public-Private Partnership Act 2021 (PPPA) regulating PPPs, including concessions. These cover goods, works and services, including consulting services, for all procurement using public funds. They are complemented by legal instruments regulating general aspects of public administration, including public procurement, and by other legal provisions applicable to procurement contracts and other matters not specifically regulated in the legal framework for public procurement. The elements of the legal framework are publicly available at no cost.

The PPADA establishes a wide range of procurement methods and general conditions for their use, which are further detailed in the PPADR and its schedules and include value thresholds to be considered. It is prohibited to split contracts in order to get around these thresholds. The diversity of the procedures included, and the standards set out for them give ample options for matching the nature, complexity and cost of the procedure with those of the items to be procured and for achieving a reasonable level of economy, efficiency and probity.

Procurement plans and invitations to tender are publicly advertised on the Public Procurement Information Portal (PPIP); typically, also on the procuring entity's website and in mass media. In most cases, tenders etc. have to be submitted no less than seven days after the publication of an invitation. The required contents for invitations to tender and other notices are comprehensive enough to allow interested parties to decide whether they may have an interest in participating.

Apart from requirements for local preference and reservations for disadvantaged groups, in particular women, youth, persons with disability and SMEs, the right to participate is based on general eligibility criteria set out in the legislation and on the qualifications required in the individual case, as determined by the procuring entity and clearly indicated in notices and tender documents, which include forms for demonstrating compliance. Rules intended to ensure that state-owned enterprises participate under conditions of fair competition are set out in the instructions to tenderers forming part of tender documents.

The required contents of procurement documents are set out in the legislation, including requirements for using neutral specifications and for recognising equivalent standards. Participants are entitled to request clarifications and procuring entities are required to respond.

To the extent possible, evaluation criteria have to be objective and quantifiable, relevant to the subject matter of the contract, and precisely specified in advance in the procurement documents, and the award decision must be made solely on the basis of the criteria stipulated in the documents. Both price and non-price criteria are allowed to be used. Quality should be a major consideration in evaluating proposals for consulting services. The way evaluation criteria should be weighted and combined is set out in the legislation. No information on the examination and evaluation may be disclosed to participants or to others while the process is ongoing.

Rules for the submission of tenders are set out in the legislation, complemented by instructions to tenderers in the standard tender documents used in each individual case. Tenders have to be kept secure until they are to be opened. Tender opening procedures are set out in the legislation, including requirements for constituting a tender opening committee and for handling tenders submitted electronically as well as those submitted on paper. Tender opening proceedings must be recorded and available for review. The disclosure of specific, sensitive information is prohibited, except in certain, defined cases.

Participants in procurement proceedings have the right to challenge any decisions or actions taken by the procuring entity at the Public Procurement Administrative Review Board, with a small number of exceptions. Time frames for the submission of challenges, reviews and appeals and for issuance of decisions by the institution in charge of the review and the independent appeals body are clearly set out in the PPADA. Administrative review is done by the Public Procurement Administrative Review Board (PPARB), which has the authority to suspend the award decision and grant remedies. A person aggrieved by a decision made by the PPARB may seek judicial review of it by the High Court and a person aggrieved by a judgment of the High Court may appeal it at the Court of Appeal. The right to review according to the PPADA is in addition to any other legal remedy a person may have. Neither the applications for review nor the decisions taken by the PPARB are required to be published. Nevertheless, the decisions of the Review Board are now being published on the PPRA website with only insignificant delays.

General requirements for contract management are set out in the PPADA, with additional details for the management of complex and specialised contracts. Further provisions are given in the corresponding parts of the PPADR. Conditions for amendments or variations to contracts are set out in the PPADA. They limit the changes of quantities and prices to certain percentages of the values in the original contract and require renewed tendering if the contract price increases by more than 25%. As set out in the standard tender documents, disputes during the performance of the contract are recommended to be resolved by arbitration, with its outcome binding on the parties.

The legal framework allows the use of e-procurement solutions. Rules for submission, opening and evaluation set out in the PPADR. Use of e-procurement has to be made clear in the tender documents. There are no provisions restricting access to the e-procurement system other than for the purposes of ensuring security of data and proper authentication of users as well as any otherwise prescribed confidentiality of the proceedings.

The PPADA requires the procuring entity to ensure proper documentation of procurement proceedings and safe custody of all procurement records. It also defines these records and sets out the conditions for accessing them. Procurement records have to be kept for at least six years after the end of the procurement in question. The PPADR, Section 33 (3) (o) requires the procurement function to maintain and archive procurement and asset disposal documents and records for the required period.

With the exception of provisions regulating classified procurement in national security and related areas, there is no specialised legislation or any particular rules or conditions that would apply to procurement by utilities or by entities operating in other specific sectors. Selection and contracting of public-private partnerships (PPPs), including concessions, are regulated separately by the Public-Private Partnership Act, which broadly reflects the principles and approaches set out in the PPADA and clearly assigns responsibilities for developing policies and supporting the implementation of PPPs.

- **Gaps**

There are some minor overlaps between the PPADA and the PPADR, in that certain provisions are presented in both of them with only little or no difference in the wording. One may expect primary legislation on public procurement to focus on principles, policies and the defining characteristics of procedures, with details for their application set out in secondary legislation. In this respect, there is now a slight inconsistency in the way various provisions are distributed between the two legal instruments mentioned. There are also some minor issues about the applicability of the PPADA or the PPPA to some operations, particularly certain forms of concessions.

The PPADA lists and defines a large number of methods and approaches for procuring goods, works and services. However, in international practice, some of them, such as framework agreements and electronic (reverse) auctions, would not be considered as procurement 'procedures', while the use of force account would not even be considered as a case of public procurement but rather as an alternative way of meeting certain needs of a procuring entity. Likewise, the many approaches now offered for procuring consulting services may be considered simply as special cases of restricted tendering or direct procurement. There is thus room for reducing the number of procedures. The large number of procurement methods and selection approaches, combined with the partly overlapping conditions for their use, make it difficult to select the appropriate one in the individual case. There is also no particular, simplified but still competitive, procedure for low value procurement; the current approach to low value procurement is now simply to procure the goods, works or services from a reputable outlet or provider through direct shopping or using credit cards or direct funds transfer to that outlet. The provisions on prequalification and restricted tendering do not appear to allow the selection of a predetermined number of participants to be invited to tender; say, the five participants having received the highest score at the prequalification stage**.**

The minimum time periods set out in the PPADA and the PPADR for submission of tenders or proposals are extremely short by international standards, with no provisions requiring the time to be set according to the nature and complexity of the procurement and with the same time limits for both national and international tenders. The short deadlines for submission create incentives for prospective tenderers to bribe officials in order to get privileged, detailed, advance knowledge of an upcoming procurement and for corrupt officials to leak such information to their preferred tenderers, in both cases allowing the beneficiary of the information to prepare a fully compliant tender while other prospective tenderers may not even find it worthwhile to make an effort to quickly prepare and submit a tender. This being said, procuring entities are at liberty to provide for longer timelines depending on the nature of procurement and the timelines can be amended through later addenda to the tender documents.

In the case of open tendering, the tender documents are supposed to be available on a website immediately after the publication of a notice; however, no such provision is explicitly stated for other methods. Taking the example of restricted tendering, the tender documents are only issued to the suppliers invited to submit their tenders; this limits the possibilities for other suppliers to consider whether they might seek to qualify for and participate in other, similar tenders, to the detriment of wider, future competition and of its potential benefits to any procuring entities concerned.

The provisions for local preferences and reservations for the benefit of disadvantaged groups reflect general provisions in the Constitution. However, the formal requirements for their application add a considerable administrative burden to both procuring entities and participants. There is also little clear evidence of their costs or benefits and, on the whole, whether and to what extent they serve their purpose, already for the simple reason that reporting is incomplete. Consequently, as now regulated and applied, they may constitute a barrier to participation that should be reduced or removed.

Eligibility requirements and their application would merit revision, in particular for making clear how they should be set, demonstrated and applied and for clearly establishing rules that ensure fair competition when state-owned enterprises participate as tenderers.

The provisions on review of complaints by the PPARB are extensive and allow review of any decision by a procuring entity, with a small number of exceptions, including complaints against the choice of the procurement method. Direct procurement is one of the methods defined in the PPADA but if it is inappropriately used instead of any suitable competitive procedure, there is now no right to seek review of this through the PPARB. It remains possible to challenge the choice of procurement procedure through a constitutional petition at the High Court arguing violation of the constitutional procurement principle of competition, but this is not a timely and efficient remedy.

The stand-still period of 14 calendar days is quite long, aligning with international practice (10 working days in the European Union), in contrast to the very short minimum deadline of seven days for submission of tenders, etc. The maximum time of 21 days for the PPARB to issue a decision appears to be sufficient in current practice but allows no exceptions, even in the case of large and complex contracts and when the PPARB may need to seek advice of an external expert on some technical issues. Regulation 217 of the

PPADR provides for an expert to sit in any proceedings in which PPARB feels it lacks the necessary expertise, as long as the opinion of the expert would not be binding on PPARB, but this does not affect the time limit for taking a decision.

The conditions for contract amendments are not entirely complete and consistent, in particular concerning the use of price indices as well as the methods for computing price variations.

The requirement for procurement records to be kept for only six years may negatively affect the possibility to investigate and prosecute cases of long-term fraud and corruption.

- **Recommendations**

Review and revise the legal framework for improving the clarity, completeness and consistency of how public procurement is regulated, in order to close the gaps indicated above.

Summary of substantive gaps and recommendations of Indicator 1

Substantive gap	Risk classification and red flags	Recommendations
1(b)(b): More procedures than necessary but no competitive one for the general case of low value procurement.	No red flag; medium risk of bad choice of procedure	Reduce the number of procedures, folding approaches for consulting into restricted tendering or direct procurement; add competitive procedure for low value procurement
1(c)(b): Time for submission of tenders too short, lacking flexibility	No red flag; high risk of too few or inadequate tenders and of corrupt access to advance information	Lengthen the minimum times for submission, add guidance on extra time for large or complex contracts
1(c)(d): Requirements for eligibility or capability do not have to be published in invitations to tender	No red flag; high risk of prospective tenderers not being able to decide whether to participate or not, and of biased evaluation and award	Add an explicit obligation for invitations to tender etc. to include requirements for eligibility or capability
1(d)(a): No principles for setting capability requirements; no rules how to demonstrate compliance with capability and eligibility requirements, apart from some forms in the standard documents	No red flag; high risk of excessive or inapplicable requirements, or of no requirements even when needed; of unreasonable costs and efforts for showing compliance; of unfair use of capability requirements	Add general principles and requirements concerning the capability of participants to carry out the contract to the PPADA and provide further details and guidance in the PPADR
1(d)(d): Lack of provisions ensuring fair competition by state-owned enterprises	No red flag; medium risk of crowding-out of the private sector and of suboptimal resource allocation	Set rules for SOE participation that promote fair competition and have appropriate legal weight
1(d)(e): Lack of procedures for how to set requirements for eligibility and ability to perform a specific contract and for demonstrating and evaluating compliance, and how to reflect these in the tender documents	No red flag; medium risk of getting unqualified participants or of unduly excluding qualified ones, and of getting problems in contract execution	Set out principles and procedures for how requirements for eligibility and ability to perform should be set, demonstrated and evaluated, and how to reflect this in the tender documents

Substantive gap	Risk classification and red flags	Recommendations
1(h)(c): Lack of possibility to seek review of the choice of procedure by the PPARB	No red flag: high risk of inappropriate use of direct procurement, at higher cost and greater performance risk than with competitive procedures	Allow review by the PPARB of a procuring entity's choice of procedure
1(i)(b): Incomplete rules on contract amendments and price adjustments	No red flag: medium risk of bad economy from inflated tenders and supply failures due to price uncertainties and ineffective cost indexation	Clarify and expand the provisions on indexation of input costs outside the control of the supplier

Indicator 2. Implementing regulations and tools support the legal framework

This indicator verifies the existence, availability and quality of implementing regulations, operational procedures, handbooks, model procurement documentation and standard conditions of contract. Ideally the higher-level legislation provides the framework of principles and policies that govern public procurement. Lower-level regulations and more detailed instruments supplement the law, make it operational and indicate how to apply the law to specific circumstances.

- **Synthesis of the indicator**

A wide range of implementing regulations and tools support the legal framework. They are comprehensive, with only some minor gaps, and consistent, but partly require updating in order to fully align with current legislation.

- **Findings**

The PPADR supplement and detail the provisions in the PPADA, in application of the latter's requirement for the National Treasury and its Cabinet Secretary to make implementing regulations which will take effect after endorsement by Parliament. They are clear, comprehensive and consolidated as a set of regulations readily available in a single document, readily accessible for download from the PPRA website. They include a set of standard documents and instructions for their use when applying the prescribed procedures and are complemented by a set of manuals for procuring entities.

The current standard documents listed in the Eighth Schedule of the PPADR cover a wide range of goods, works and services, including consulting services procured by public entities. They include clauses, forms and templates that reflect the legal framework and help prepare procurement documents and produce required records. The responsibility for their preparation and updating is clearly assigned to the PPRA.

The current standard documents listed in the Eighth Schedule of the PPADR include contract conditions. These are generally well aligned with international, established practice and, in the general case, their use is compulsory. They are an integral part of the standard tender documents, as issued to participants in public procurement proceedings.

The prescribed standard documents contain detailed instructions about the procedures to be followed. In addition, the PPOA (the predecessor of the PPRA) had developed comprehensive procurement manuals covering aspects like procurement planning, tendering, evaluation, contract management, and disposal of assets. Intended to ensure standardised practices across all public procuring entities and to promote transparency and fairness, their contents remain useful and they are still available on the PPRA website. The PPRA is responsible for their maintenance.

- **Gaps**

The PPADR and its schedules contain some matters of principle and policy, e.g., regarding sustainable procurement and SOE participation, that would merit having been outlined in the PPADA to start with. They sometimes go into great procedural detail, making them time consuming to apply and creating a risk that otherwise acceptable tenders have to be rejected for formal reasons. The manuals complementing the instructions to tenderers in the standard documents refer to earlier legislation and need updating in this respect.

- **Recommendations**

Revise and complement the PPADR to align with the PPADA, moving matters of principle and policy to the PPADA, and incorporate the latest developments in e-procurement and sustainable procurement. Revise the standard documents for improved clarity, simplicity and applicability. Update the manuals to make them fully aligned with current legislation, as it may become amended.

Summary of substantive gaps and recommendations of Indicator 2

Substantive gap	Risk classification and red flags	Recommendations
None	N/a	N/a

Indicator 3. The legal and policy frameworks support the sustainable development of the country and the implementation of international obligations

This indicator assesses whether horizontal policy objectives, such as goals aiming at increased sustainability, support for certain groups in society, etc., and obligations deriving from international agreements, are consistently and coherently reflected in the legal framework, i.e. whether the legal framework is coherent with the higher policy objectives of the country.

- **Synthesis of the indicator**

Sustainable public procurement (SPP) is little developed in laws and regulations and even less practised by procuring entities. To remedy this shortcoming, work is ongoing on preparing an SPP policy with accompanying support materials, and a comprehensive, draft sustainable public procurement and asset disposal framework has been prepared and revised, and is now awaiting adoption.

Public procurement related obligations deriving from binding international agreements do not appear to have been positively and specifically identified and correspondingly reflected in the legal framework.

- **Findings**

SPP is briefly mentioned, in very broad terms, in the Green Economy Strategy and Implementation Plan 2016-2030 (GESIP) and the National Public Procurement and Asset Disposal Policy 2020 (NPPADP). The

PPADA mentions sustainable procurement and the provisions on tender evaluation allow the use of sustainability related criteria, as developed in standard tender documents.

A comprehensive, draft sustainable public procurement framework has been prepared by a dedicated working group in the National Treasury. This framework proposes essential approaches for advancing sustainable public procurement and asset disposal in Kenya. It outlines each approach and immediate, medium-term and long-term actions for a fully sustainable procurement system, with the aim to integrate sustainability as a core component of all public procurement, establishing a new norm that aligns with national development objectives. It also outlines measures to be taken for awareness raising, training and capacity building, as well as for reporting, monitoring and evaluation.

The PPD has recognised some international agreements which would have a bearing on public procurement policy, such as

- UN 2030 Agenda for Sustainable Development
- GPA, Article 10
- UNCITRAL Model Law on public procurement
- ISO 20400:2017 Sustainable Procurement
- African Union Agenda 2063
- EAC Vision 2050

- **Gaps**

At present, both the PPADA and the National Public Procurement and Asset Disposal Policy refer to sustainability only very briefly and in general terms, apart from the preferences and reservations for disfavoured groups set out in Part XII of the PPADA. The PPADR do not contain any reference to sustainable procurement or to sustainability, except in the form of provisions on community participation and of some optional contents of the standard tender documents. The draft sustainable public procurement framework seems to reflect a clear and correct understanding of the situation with respect to sustainable public procurement but does not contain or make reference to any corresponding "in-depth assessment" as referred to in the assessment criterion. The approaches set out in the draft sustainable public procurement framework have not yet been reflected in the legal framework and the proposed mechanisms for applying them are not yet in place.

There is no evidence whether any specific, public procurement related obligations deriving from binding international agreements have been positively identified and, correspondingly, whether they have been systematically and consistently adopted in laws and regulations and reflected in procurement policies. To put this issue into perspective, as an example, both the European Union and the Eurasian Economic Union have requirements on public procurement that the member states have to reflect in their legislation, while adherence to the Agreement on Government Procurement under the WTO would require similar measures.

- **Recommendations**

Reflect the approaches in the draft sustainable public procurement and asset disposal framework in future revisions of the PPADA, and take concrete measures for applying them in the PPADR and its standard documents, as well as in guidance and training materials and during the implementation of the Action Plan set out in its Schedule 2.

Review the international agreements to which Kenya is a party for matters related to public procurement, identify any specific obligations derived from them, and reflect those in future revisions of the public procurement legislation.

Summary of substantive gaps and recommendations of Indicator 3

Substantive gap	Risk classification and red flags	Recommendations
3(a)(b): Apparent lack of "in-depth assessment"; delays in implementation of the proposed sustainable public procurement framework; still weak accompanying support for procuring entities	No red flag; high risk of failure to obtain the various benefits of sustainable procurement in a timely manner.	Roll out the framework as proposed and put in place accompanying measures to inform, advice and train procuring entities, provide implementation tools, and monitor application.

3.2. Pillar II - Institutional Framework and Management Capacity

Pillar II assesses how the procurement system defined by the legal and regulatory framework in a country is operating in practice, through the institutions and management systems that make up overall governance in its public sector.

Pillar II evaluates how effective the procurement system is in discharging the obligations prescribed in the law, without gaps or overlaps. It assesses: i) whether it is adequately linked with the country's public finance management system; ii) whether institutions are in place in charge of necessary functions; and iii) whether the managerial and technical capacities are adequate to undertake efficient and transparent public procurement processes.

Indicator 4. The public procurement system is mainstreamed and well-integrated with the public financial management system

This indicator focuses on how well integrated the procurement system is with the public financial management system given the direct interaction between procurement and financial management, from budget preparation to planning treasury operations for payments.

- **Synthesis of the indicator**

Public procurement is formally integrated with the public financial management system through the Integrated Financial Management Information System (IFMIS). Procuring entities are obliged to prepare and publish their procurement plans and to have funds secured before carrying out procurement. However, these obligations are not always met. Lack of funds and late payments remain a persistent problem for procuring entities and suppliers alike.

- **Findings**

The Public Finance Management Act[32] and the corresponding Regulations[33] requires the national government, under Section 30, to undertake procurement operations in accordance with public procurement law. A similar provision for counties is found under Section 121. Further, Sections 35 and 125, respectively, require the national government and the counties to commence the annual budget process with an integrated national development planning.

Procuring entities are required to ensure that procurement plans are prepared in conformity with the medium-term fiscal framework and fiscal policy objectives and that they are duly published. An exception is made for national security organs and other procuring entities that carry out procurement of classified nature. Procurement proceedings must not be commenced until sufficient funds to meet the obligations of the resulting contracts are reflected in the approved budget estimates of the procuring entities. Monthly review and reporting is required on all procurement contracts, with specific contract implementation teams to be set up for complex and specialised contracts. To this end, a comprehensive

[32] See https://new.kenyalaw.org/akn/ke/act/2012/18/eng@2024-04-26

[33] See https://parliament.go.ke/sites/default/files/2022-05/The%20Public%20Finance%20Management%20(Public%20Investment%20Management)%20Regulations,%202022%20Legal%20Notice%20No.%2054.pdf

automated platform designed to streamline financial operations within both the National and County Governments of Kenya is in place, in the form of IFMIS. It is intended to integrate key financial processes such as planning, budgeting, procurement, expenditure management, and reporting.

Procedures for processing of invoices and authorisation of payments are regulated in the legislation. Payment conditions and instructions for invoicing are set out in the tender documents and included among the conditions in the procurement contracts concluded.

- **Gaps**

In practice, as found in the review of contract files and in meetings with the heads of procurement of the 63 major procuring entities sampled, around 20% of contracts are concluded without being included in the annual procurement plans of the procuring entities; this reduces competition and thereby value for money. Multi-year plans are prepared only rarely, even among the major procuring entities. Publication of procurement plans is not complete.

There are no clear provisions in the legislation for making changes to the procurement plans and publishing those changes, nor for national security organs and other procuring entities that deal with procurements of classified nature to distinguish between items subject to open and to classified procurement and disposal and to prepare and publish procurement plans for their open procurement.

The contracts reviewed by the assessment team indicate that IFMIS and related mechanisms are not enough to help ensure proper management of public procurement, including budget execution aspects. Thus, a significant share of the contracts reviewed appears not to have been fully budgeted prior to execution. Similarly, late payment by procuring entities of invoices from suppliers and contractors is found to be common. Procuring entities visited have stated that this sometimes happens because the National Treasury has not made budgeted funds available or has clawed back funds already allocated, though specific evidence to this effect has not been possible to collect in the course of the assessment. Procuring entities frequently fail to submit quarterly payment performance statistics to the National Treasury and the Authority demonstrating compliance with the obligation to pay invoices within sixty days. Such lack of information complicates efforts to understand and remedy the problem of late payments.

- **Recommendations**

Build the capacity of procuring entities to bring proper skills to bear in preparing procurement plans, monitor and enforce their publication and regulate how revisions may be made as a function of changing circumstances. Require national security organs and other procuring entities that deal with procurements of classified nature to prepare and publish procurement plans for their open procurement. Review the reasons behind the relatively low level of compliance with the obligation to secure funds before launching procurement and behind the limited use of multi-year budgets, and prepare corresponding measures. Improve cash management by the Treasury and take other steps to help ensure that procuring entities get greater certainty about the funds that will effectively be available to them for carrying out procurement and paying invoices due. Improve reporting on budget execution, integrating this function into the coming e-procurement system, as appropriate.

Clarify which preparatory measures (needs analysis, market consultations, preparation of tender documents) could or should be carried out already before the obligation to have funds secured becomes effective (normally, when an invitation to tender is ready to be published). Seek ways to monitor and enforce compliance with the obligation to pay invoices within the time prescribed by law, and reduce the latter, say, from 60 to 30 days.

Summary of substantive gaps and recommendations of Indicator 4

Substantive gap	Risk classification and red flags	Recommendations
4(a)(a): Contracts not covered by procurement plans; some plans not published; weak provisions for amending plans; security organs etc. appear not to be obliged to publish plans for open procurement	No red flag; medium risk of prospective tenderers not learning about opportunities	Monitor preparation and publication of plans and enforce compliance; regulate revisions to plans and their publication; require publication all open procurement, also by security organs etc.
4(a)(b), 4(b)(a): Not all contracts duly budgeted before execution; lack of clarity on preparatory actions that can be carried out; funds allocated reported to be taken back by Treasury	No red flag; high risk of late or insufficient payments, and thus of inadequate execution	Monitor and enforce compliance with obligation to secure funds; clarify from which point actions (invitations to tender) must rely on availability of funds; improve cash management by Treasury
4(b)(b): Late payments; long payment deadline (60 days)	Red flag; high risk of suppliers not able to deliver, disincentive to participate in procurement	As above; monitor and enforce obligation to pay on time; reduce deadline for payments to, say, 30 days

Indicator 5. The country has an institution in charge of the normative/ regulatory function

This indicator refers to the normative/regulatory function in the public sector and its proper discharge and co-ordination. The assessment of the indicator focuses on the existence, independence and effectiveness of these functions and the degree of co-ordination between responsible organisations. Depending on the institutional set-up chosen by a country, one institution may be in charge of all normative and regulatory functions. In other contexts, key functions may have been assigned to several agencies, e.g. one institution might be responsible for policy, while another might be in charge of training or statistics. As a general rule, the normative/regulatory function should be clearly assigned, without gaps and overlaps. Too much fragmentation should be avoided, and the function should be performed as a well-co-ordinated joint effort.

- **Synthesis of the indicator**

The legal framework specifies the key functions in the central management of public procurement, assigns them to the appropriate authorities and gives them the necessary powers and resources to function effectively. With a few exceptions, functions and responsibilities are clearly assigned to the respective entities, without creating unnecessary gaps or overlaps. The exceptions concern training and capacity building, amendment of the legal framework, monitoring, evaluation and information, and development and management of e-procurement.

- **Findings**

The regulatory functions and the corresponding entities in charge are clearly described in the PPADA. The responsibility for public procurement and asset disposal policy is assigned to the National Treasury. It is empowered to issue regulations, policies and guidelines for the application of the provisions in the PPADA on various aspects of public procurement procedures and practices as well as on the organisation, staffing and operations of the corresponding services in the procuring entities, including centralised purchasing bodies. The Public Procurement Regulatory Authority (PPRA) is the entity given the responsibility to monitor public procurement and enforce compliance with applicable regulations, prepare and issue standard documents, give advice and technical support, handle complaints that are not subject to administrative review, develop and manage the central public procurement portal and create a central repository for public procurement data, report on the state of affairs in public procurement to Parliament and to other bodies as appropriate, develop a code of ethics and develop and support capacity building. A county treasury is the organ responsible for the implementation of public procurement and asset disposal policy in the county. Complaints against actions by procuring entities until contract signature are dealt with by the Public Procurement Administrative Review Board (PPARB). Complaints are also dealt with by the PPRA. The PPRA and the PPARB have adequate authority, organisation and resources to exercise their duties, with the exception that the enforcement authority of the PPRA is weak and that its corresponding resources are limited.

The National Treasury and the PPRA are in charge of advice and assistance to procuring entities and of collection of information and suggestions for improving public procurement. The National Treasury is in charge of preparing procurement policies. This seems to imply a responsibility for proposing changes and drafting amendments to the legal framework. Based on its monitoring of public procurement, the PPRA would also be well placed to propose changes and prepare suggestions for such amendments.

The PPRA has the duty to monitor the functioning of public procurement and to carry out research on the public procurement and asset disposal system. It is also in charge of managing statistical data bases and providing procurement information, with responsibility to develop and manage the State portal on procurement and asset disposal and ensure that it is available and easily accessible, allowing procuring entities to upload notices, tender documents and reports and other interested parties to retrieve corresponding information. Procuring entities are required to submit reports and upload contract files to the PPRA at various stages of the procurement process. The PPRA compiles and analyses this data and prepares consolidated reports on procurement to Parliament and the relevant county assembly.

The PPADA requires the PPRA to develop, promote and support the training and capacity development of persons involved in procurement and asset disposal. The PPADR states that the National Treasury shall be responsible for training and capacity building for procurement and supply chain management services at the national government level. No such responsibility applies to the county governments. The Supplies Practitioners Management Act provides that the Kenya Institute of Supplies Management (KISM) shall make provision for the training and instruction of persons seeking registration under the Act, as is required in order for procuring entities to meet their obligation to staff their procurement function with fully qualified professionals.

The responsibility to develop and promote electronic procurement strategies and policies now lies with the National Treasury, while that to develop and manage the State portal on procurement and asset disposal lies with the PPRA.

The PPADA includes provisions intended to address conflicts of interest in the work of the PPRA and in procuring entities.

- **Gaps**

There are overlaps as well as partly unclear, incomplete or conflicting distribution of responsibilities in the statutory roles of the National Treasury, the PPRA and the KISM with respect to training and capacity building and in those of the National Treasury and the PPRA with respect to (i) identification of needs and preparation of proposals for amendments to the legal framework; (ii) monitoring, evaluation and information; and (iii) development and management of an integrated e-procurement system.

The provisions and institutional arrangements intended to avoid conflicts of interest do not seem to be fully effective in practice.

- **Recommendations**

For greater clarity and applicability, review and revise the statutory provisions regarding the distribution of responsibilities mentioned above under "Gaps".

Review and revise the mechanisms for ensuring that the provisions addressing conflicts of interest become effective, and monitor compliance.

Summary of substantive gaps and recommendations of Indicator 5

Substantive gap	Risk classification and red flags	Recommendations
5(b)(e): Rights to access information are not clear and the currently accessible information is not complete	No red flag: high risk of failure to allow interested parties to rightfully access relevant information and to generate a comprehensive, reliable base for informed procurement management and reform	Ensure that the e-GP system and the PPIP contain complete, duly accessible public procurement information

Indicator 6. Procuring entities and their mandates are clearly defined

This indicator assesses: i) whether the legal and regulatory framework clearly defines the institutions that have procurement responsibilities and authorities; ii) whether there are provisions for delegating authorities to procurement staff and other government officials to exercise responsibilities in the procurement process, and iii) whether a centralised procuring entity exists.

- **Synthesis of the indicator**

Procuring entities are defined with reference to their status (State organs or public entities), with the PPADA listing a large number of entities to be included in the notion of 'public entities'. Their responsibilities and formal powers are clearly indicated. The legal framework allows and regulates the creation of centralised procurement bodies (CPBs). A number of such bodies exist but the potential of centralised purchasing may not yet have been fully attained. The legal framework also allows consortium buying (joint procurement) by several procuring entities and sets out some general rules for the purpose, but this can only be done for a specific procurement.

- **Findings**

The definition of procuring entities, in the sense of entities using public funds for procurement planning, procurement processing, inventory and asset management, disposal of assets and contract management, includes all State organs and public entities. The latter are defined to include a wide range of entities, including public schools and companies owned by a public entity. As a result, the number of procuring entities is very large, with many of them (all primary and secondary schools, local health service units, etc.) being quite small and having limited resources. Including each and any company owned by a public entity in the definition means that even those operating independently in a competitive market and being subject to bankruptcy are obliged to use public procurement procedures, possibly putting them at a disadvantage in the market and thereby reducing their benefit to their owners.

The responsibilities and competencies of procuring entities are defined in the PPADA and the PPADR. They include the obligation to have a designated public procurement function, headed and staffed by procurement professionals. Decision making authority is clearly allocated to the accounting officer of the entity. In addition to the roles and responsibilities of the accounting officer and of the procurement function, the PPADA requires the creation of separate committees for tender opening, evaluation of tenders, and negotiations as applicable, as well as for disposal of stores, equipment or assets.

The benefits of establishing a centralised procurement function have been considered and corresponding, broad provisions have been introduced in the legislation. Several CPBs exist, such as the Kenya Medical Supplies Authority (KEMSA), the Kenya National Trading Corporation Ltd (KNTC), the Government Advertising Agency (GAA) and the Kenya Procurement and Disposal Agency (KEPDA). Their internal organisation and staffing appear to be sufficient and consistent with their responsibilities. However, it is not clear if and to what extent their status and operations allow the full, potential benefits of centralised purchasing to be reached.

The PPADA allows procuring entities with common interests to enter into consortium buying for the purpose of jointly procuring items that they need. The PPADR sets out rules for how such joint procurement should be organised and carried out.

- **Gaps**

The current definition means that many public entities that are considered as procuring entities now rarely have the means to make full and profitable use of their rights or to meet the full range of obligations under the PPADA, including being unable to fully meet the organisational requirements and lacking the necessary capacity to properly apply the full range of procurement procedures and to comply with all recording and reporting requirements.

Provisions for delegating authority in public procurement, e.g. for senior staff members in the procurement unit or heads of other departments to carry out routine or low value procurement, are not clearly set out in. The compulsory use of several ad-hoc committees for a variety of duties in the procurement process overlaps with much of the formal roles and responsibilities of the procurement function, thereby diluting accountability – it gets much easier to always find someone else to blame if something goes wrong and, in that way, to prevent appropriate sanctions from being meted out or to delay investigations until the statute of limitations kicks in - and raising administrative complexity and costs. In addition, many procuring entities are simply too small to have the range of staff needed for appointing duly competent committee members in required numbers and without conflicts of roles.

CPBs are now regulated only in very general terms in the PPADR. There is a lack of complementary, generally applicable provisions for the establishment, status, functions, organisation and operations of

CPBs and of examples and guidance notes to support the complementary capacity building that is likely to be necessary to allow the full, potential benefits of centralised purchasing to be realised.

Consortium buying can now only be carried out for a specific procurement and the arrangements made lapse at the end of the procurement in question. This makes it difficult to establish regular co-operation between procuring entities in a particular area or with particular characteristics for routine procurement of regularly needed standard specification items.

- **Recommendations**

Seek ways to revise the definition of procuring entities or to take administrative measures that would ensure that each and every procuring entity can be reasonably expected to be able, in terms of organisation, staffing, skills and resources, to fully exercise its rights and meet its obligations under the law. Abolish the separate committees for tender opening, evaluation and negotiations, inspection and acceptance, and disposal of stores, and fully allocate their current roles and responsibilities to the procurement function and the user departments.

Complement the current CPB regulations by more detailed provisions for their establishment, status, functions, organisation and operations and by corresponding capacity building. Review if and to what extent the status and operations of the existing CPBs allow the full, potential benefits of centralised purchasing to be reached.

Allow consortium buying to be carried out over a certain period of time and for certain, defined groups of items, instead of just for one, specific procurement.

Summary of substantive gaps and recommendations of Indicator 6

Substantive gap	Risk classification and red flags	Recommendations
6(a)(c): Many small procuring entities lack the necessary management structure, capacity and capability	No red flag; high risk of failure to get value for money and to meet formal obligations in public procurement	Revise the definition or take administrative measures to ensure that all procuring entities have the necessary capacity
6(a)(e): Current legal and institutional arrangements dilute and obscure accountability and create structural implementation challenges, particularly for smaller procuring entities	No red flag; high risk of failure to comply with current requirements and of ineffective and inefficient operations, especially in small procuring entities	Review whether current rules serve their intended purpose; consider simplifying and clarifying roles and responsibilities, concentrating them to the procurement unit in the procuring entity

Indicator 7. Public procurement is embedded in an effective information system

The objective of this indicator is to assess the extent to which the country or entity has systems to publish procurement information, to efficiently support the different stages of the public procurement process through application of digital technologies, and to manage data that allows for analysis of trends and performance of the entire public procurement system.

- **Synthesis of the indicator**

There are systems in place for receiving, compiling and publishing information from procuring entities and for facilitating the management of public funds in the context of public procurement. Data collected is presented on a central website and used for reporting on the apparent state of affairs. Work on developing and introducing e-procurement is ongoing and a comprehensive system is being introduced. However, low compliance with reporting obligations means that data is not complete and not all existing data is readily accessible. The information system is therefore not yet quite accurate and comprehensive enough to fully meet the needs for monitoring how the public procurement system actually works, whether in the individual or the general case, nor for serving as a reliable basis for policy making.

- **Findings**

A system is in operation for collecting data on the procurement of goods, works and services, including consulting services. The applicable regulations require invitations to tender, to pre-qualify, or to express interest, as well as contract award notices, to set out all relevant information and to be published on the PPIP, the State procurement portal accessible at www.tenders.go.ke. The portal is managed by the PPRA, as required by law. It is designed to contain information on procuring entities, draft tenders, published tenders, published contracts, frameworks, disposal of assets, procurement planning, contract extensions, registered suppliers, compliance modules, capacity building levy, notice of intention to use Restricted Tender Method, generation of reports, as well as to disseminate and ensure accessibility of all public procurement and asset disposal laws, directives, manuals, guidelines, circulars, market price indices, standard tender and asset disposal documents, public procurement and asset disposal formats. Procurement plans have to be published both on the procuring entity's own website as well as on the PPIP. The information published is intended to be freely available in an open and structured, machine-readable format. In the case of each of the individual records actually contained in the system, the level of reliability of the information appears to be high.

The Government has adopted an e-procurement roadmap based on an e-procurement readiness assessment and a dedicated working party has been set up at the National Treasury. Work is progressing on the development and introduction of a comprehensive e-procurement system and pilot operations are being prepared. The achievements so far may be taken to demonstrate the ability of the Government officials concerned to define, plan, develop and manage e-procurement systems. In the meantime, procuring entities may use the Integrated Financial Management Information System (IFMIS), a comprehensive automated platform managed by the National Treasury and designed to streamline financial operations within both the National and County Governments of Kenya. However, this mainly applies to financial transactions, including those in public procurement, and IFMIS cannot be considered as an e-procurement system by itself. Further, at present, IFMIS is only used in Ministries, Counties and Constitutional Commissions and Independent Offices.

The introduction of the e-GP system is intended to address the shortcomings mentioned, with the first phase modules required to be used by all procuring entities from 1 July 2025.

Information provided by the private sector indicates that all large enterprises, most medium ones and many small enterprises have internet access and are using digital technology in their business activities as a matter of routine. This seems to imply that they would become able to make use of a well-conceived e-procurement system, but subject to receiving adequate information and specific training on the use of the system.

The information collected by the PPRA in tenders.go.ke and, as may be applicable, by other means is analysed for the purpose of preparing the annual reports of the PPRA and for submitting other reports to the Treasury, as well as for serving as a basis for proposals for improvements to regulations and practices. The annual reports are published on the PPRA website.

- **Gaps**

As evidenced by the contract reviews and interviews carried out by the assessment team, the requirements to publish procurement plans, notices and contract awards[34] are not fully met. Only some procuring entities have uploaded all or almost all key procurement cycle information while others have uploaded very little or no information. The low level of compliance with reporting obligations by procuring entities means that the information available is not complete and the information collected is partly not accessible.

There are no provisions requiring information on results, outcomes and performance to be made available, meaning that other procuring entities have no means to verify if and to what extent a tenderer has successfully carried out past assignments for other procuring entities and that the general public has no possibility to learn about or, even less, scrutinise whether procurement has been effective and efficient. The portal is also not configured to fully allow data to be extracted and analysed. The low level of compliance with reporting requirements also means that the overall reliability of the information contained in the tenders.go.ke system is low.

The time taken to make progress in the development and introduction of e-procurement indicates an apparent lack of capacity in terms of staff numbers and resources of the working party in place. The introduction of the first phase modules of the new e-GP system is delayed, already since only a small share of the procuring entities and of the suppliers had been able to register themselves as needed for using the system by the beginning of August 2025, over a month after the obligation to carry out all procurement through the system. At the same time, this obligation seems to be in apparent contradiction with the provisions in the PPADA and the PPADR implying that procurement may be carried out either manually (on paper) or by electronic means, even if the PPADA also empowers the National Treasury to "design and prescribe an efficient procurement management system for the national and county governments".

Correspondingly, only about one half of the major procuring entities interviewed by the assessment team consider that staff would have adequate ability to reliably use e-procurement at present. While many larger enterprises already use comparable systems for meeting their own purchasing needs, it is likely that a significant share of small and micro enterprises will have difficulties participating in public procurement using e-procurement facilities, unless considerable efforts are made to raise their knowledge and skills and to ensure that they have access to the system through computers and internet connections necessary for the purpose.

The www.ppra.go.ke and www.tenders.go.ke portals fall short of providing complete and continuously updated information on public procurement. In particular, the low level of compliance with reporting obligations means that the information available is not complete. It can therefore not be reliably used by the Treasury and the PPRA for preparing well founded analyses and corresponding recommendations that would be essential for effective development of policies and practices. At the level of individual procuring

[34] See e.g. the detailed requirements in the President's Executive Order no. 2 of 2018, issued under ref. OP/CAB 39/1A on 28 June 2018

entities, ex-post evaluations should be a critical tool for assessing whether procurement processes deliver intended results and for drawing lessons for the future. However, even in the 63 major procuring entities visited, only about one fifth of the heads of procurement interviewed reported that they consistently conduct such evaluations.

- **Recommendations**

In the context of developing and introducing e-procurement, take steps to ensure that all information now required to be submitted by procuring entities becomes collected without fail as soon as it has been generated and validated by the procuring entity and then published and readily accessible on the PPIP or on the equivalent website of the new e-procurement system. As appropriate, corresponding additions or clarifications should be made in the applicable regulations. Correspondingly, build capacity within procuring entities to generate and submit such information and use it for management and evaluation in the whole procurement cycle.

Add skilled and experienced staff to the working party for the development and introduction of e-procurement and ensure that enough resources are set aside to meet the information, training and monitoring needs both in the current, introductory phase as well as during later operation.

Summary of substantive gaps and recommendations of Indicator 7

Substantive gap	Risk classification and red flags	Recommendations
7(a)(a): Published procurement information is incomplete and not always timely	No red flag; high risk of ill-founded decisions by procuring entities and participants	Facilitate generation, submission, publication and analysis of procurement information in the context of e-procurement development
7(a)(c): Publication requirements are incomplete, in particular on contract implementation	No red flag; high risk of inadequate and ineffective monitoring and of biased conclusions for policy making	Add requirements for information on contract implementation; see further under 7(a)(a) above
7(a)(d): Publication requirements are not fully complied with	No red flag; high risk of inadequate and ineffective monitoring and of biased conclusions for policy making	Set requirements for step-by-step submission of full information throughout the procurement cycle; see further under 7(a)(a)
7(a)(e): Information not effectively open	No red flag; high risk of bad practices not possible to identify and address and of lack of trust in procurement	Use a full range of identifiers and classifications; make data fully accessible and searchable
7(b)(a): E-procurement is not yet fully operational, IFMIS insufficient to meet all public procurement needs, incomplete legal basis for imposing general use of e-GP	No red flag; high risk of uneconomic, ineffective, inefficient procurement with low levels of transparency and accountability	Bring the work on developing and introducing e-procurement to a timely, dependable conclusion; amend the legislation
7(b)(c): Limited knowledge, skills and experience of e-procurement in procuring entities, even major ones	No red flag; high risk of delays, errors and reduced participation when e-procurement is introduced	Make training and information of users a major element of the introduction of e-procurement

Substantive gap	Risk classification and red flags	Recommendations
7(b)(d): Weakness of private sector participation in e-procurement; available data indicate still limited ability and willingness to use e-GP	No red flag; medium risk of effectively excluding participation by SMEs with limited skills and means to use e-GP, leading to failure to raise competition and improve value for money	Ensure collection and analysis of participation data, raise the skills of private sector entities to actively use e-GP, while ensuring that they have the necessary means to do this
7(c)(b): PPIP has limited data set and limited possibilities for extraction and analysis; e-GP not yet fully used and PPIP and e-GP not yet fully interfaced	No red flag; high risk of inadequate monitoring and of ill-founded policy decisions	As under 7(a)(a) above
7(c)(c): Low reliability of data, no evidence of data audits	No red flag; medium risk of inadequate monitoring and of ill-founded policy decisions	Take steps to ensure independent verification of data reliability.
7(c)(d): At central level, incomplete analysis of incomplete data; no systematic ex-post evaluations in procuring entities	No red flag; high risk of inadequate monitoring and of ill-founded policy decisions, both at central level and in individual procuring entities	As under 7(a)(a) above; require procuring entities to embed evaluations into their operations, build their skills to do so

Indicator 8. The public procurement system has a strong capacity to develop and improve

This indicator focuses on the strategies and ability of the public procurement systems to develop and improve. Three aspects should be considered: i) whether strategies and programmes are in place to develop the capacity of procurement staff and other key actors involved in public procurement; ii) whether procurement is recognised as a profession in the country's public service; iii) whether systems have been established and are used to evaluate the outcomes of procurement operations and develop strategic plans to continuously improve the public procurement system.

- **Synthesis of the indicator**

Strategies and programmes are in place to develop the capacity of procurement staff and other key actors involved in public procurement. Procurement is recognised as a profession. Professional education is delivered by the Kenya Institute of Supplies Examination Board (KISEB) and the Chartered Institute of Procurement and Supplies through a number of accredited training institutions, following curricula that comprehensively cover public procurement. However, the number of certified professionals is not enough to meet the needs. At central level, systems and approaches are in place to evaluate operations and continuously improve public procurement. However, the supporting data is incomplete and ex-post evaluations at procuring entity level are not systematic.

- **Findings**

There are several continuous training programmes of suitable quality and content for those who intend to work in the field of public procurement, such as those run by the Kenya Institute of Supplies Management (KISM), the PPRA and the Public Procurement Directorate of the National Treasury, as well as by the institutions accredited by the Kenya Institute of Supplies Examination Board (KISEB) and the Chartered Institute of Procurement and Supplies providing training for obtaining professional qualifications at several levels. In addition, the PPRA and the Treasury organise awareness raising and information events for disseminating information about regulations and good procurement practice to procuring entities and their procurement officials. The training that is delivered includes routine evaluation and periodic adjustment of training programmes based on feedback and need. The professional training offered is set in the wider context of the Supply Chain Management Professional Framework developed by KISEB. In addition, several universities are understood to include some aspects of public procurement in their public administration or financial management curricula.

The PPRA and the National Treasury provide advisory service and help desk functions to resolve questions by procuring entities, suppliers and the public or for reporting malpractice. As an example of the kind of support offered to procuring entities, suppliers and the public, the PPRA provides advisory services on public procurement policies, standards, emerging issues and strategies. The answers to any questions received are sent directly to the interested parties. Those which may have general application are compiled into circulars which are regularly issued by the National Treasury and the PPRA and published on their websites, in addition to being presented in sectoral forums and at other awareness raising and information events. An online list of frequently asked questions and corresponding answers is being prepared.

The Revised Scheme of Service for Supply Chain Management Personnel, applicable from 1 April 2009, recognises public procurement as a specific function, with procurement positions defined at different professional levels and with job descriptions and the requisite qualifications and competencies specified. It is complemented by the National Supply Chain Management Professional Framework of September 2021, developed by the National Treasury and Planning to guide procuring entities in recruitment, training, registration and certification of supply chain management professionals.

The PPADA requires the PPRA and each County Treasury to monitor and evaluate the performance of the public procurement system. The reporting obligations of the procuring entities are intended to serve this purpose. In addition to those reports, questions received by the help desk and feedback from training and awareness raising events also serve as a source of information and create the basis for recommendations to the National Treasury's public procurement department for specific changes to the legal and institutional framework.

The sources mentioned are also used to support strategic policy making. A set of high-level policies and plans are in place, such as

- the National Public Procurement and Asset Disposal Policy of 2020, with guidelines for procurement planning, procurement processing, inventory and asset management, disposal of assets and contract management
- the National Treasury Strategic Plan for 2023-2027, which includes the Strategic Objective 3.3 providing for strengthening public procurement and asset disposal in the public sector
- the PPRA Strategic Plan for 2023-2027, which provides for an implementation and coordination framework, a monitoring, evaluation and reporting framework, and an implementation matrix.

The corresponding responsibilities are clearly regulated, with emphasis on the central role of the National Treasury.

- **Gaps**

All procuring entities are required to employ suitably competent officials in their procurement functions. However, more than 90% of the procuring entities by number, that is, in particular, the many primary and secondary schools, may lack staff with the formal qualifications required; the KISM only has some 3,000 members, while there are more than 34,500 procuring entities. Only 38% of the heads of procurement interviewed by the assessment team rated the quality and content of the training programmes as suitable. For this reason, the current training can hardly be considered to sufficiently meet the needs.

Official advisory services and help desk functions exist, providing their advice upon request. Nevertheless, only a fifth of the heads of procurement interviewed stated that they have full access to such procurement advisory services.

Despite the existence of the National Supply Chain Management Professional Framework, every public service sector is within its right to craft and put in place its own scheme of service for supply chain professionals, thereby potentially leading to conflicting schemes of service.

While clear standards for recruitment and promotion of procurement professionals are set out in the regulatory frameworks, it is not fully clear if or to what extent appointments and promotion are competitive and based on qualifications and professional certification across all procuring entities, already for the simple reason that most of the small procuring entities do not appear to employ any duly qualified procurement professionals at all. Similarly, the requirement for staff performance to be evaluated on a regular and consistent basis and for staff development and adequate training to be provided does not seem to be possible to be met by each and every procuring entity, for the same reason, but it is not fully clear to what extent this may be the case.

The qualification system has been in place for around 15 years, meaning that any person who joined public service more than 15 years ago is likely not to have obtained the required qualification, adding to the need to provide complementary training for such procurement officials. In addition, 19% of the heads of procurement interviewed stated that procurement positions in their entities were not defined through official job descriptions or the like, setting out the tasks and responsibilities and defining the qualifications and competencies required, with another 25% stating that this was only partially the case.

The regular monitoring and evaluation of the performance of the public procurement system is hampered by the low level of compliance by procuring entities with their reporting obligations. Consequently, it is difficult to draw relevant, reliable conclusions on the performance of the public procurement system as a whole.

- **Recommendations**

Expand the provision of public procurement training at all levels, and review, clarify and harmonise the requirements for examination and certification of public procurement officials. Review the actual access to and the use of the existing advisory services, and address any shortcomings identified. Consider accompanying measures that would allow all procuring entities to meet the requirements to employ suitably competent public procurement staff.

Develop a harmonised, cross-cutting supply chain management officers' scheme of service for general application by procuring entities. Review to what extent appointments and promotion are competitive and based on qualifications and professional certification, and seek ways to address any shortcomings. Monitor how and to what extent staff performance is evaluated and how staff development and adequate training is provided. Define and disseminate good practice in these respects.

As applicable for addressing also other shortcomings, take steps to improve the level of compliance with reporting obligations and ensure that the new e-procurement system has adequate functionalities for this purpose.

Review the National Public Procurement and Asset Disposal Policy in line with the findings and recommendations of the MAPS assessment and, subsequently, reflect them in corresponding amendments of the legal and institutional framework.

Summary of substantive gaps and recommendations of Indicator 8

Substantive gap	Risk classification and red flags	Recommendations
8(a)(a): Although satisfactory in quality and contents, permanent training programmes are not sufficient to meet the needs	Red flag; high risk of procurement not carried out professionally; mitigation would require action also by entities outside the public procurement system engaged in training and other capacity building for civil servants, as well as corresponding changes in regulations and practices	Expand the provision of training; review and revise the capacity building set-up
8(b)(b): Appointments, promotions do not lead to the engagement of duly qualified professionals	No red flag; medium risk of officials not engaged for the right reasons	As above; raise the ability of procuring entities to employ qualified staff

3.3. Pillar III - Public Procurement Operations and Market Practices

This Pillar looks at the operational efficiency, transparency and effectiveness of the procurement system at the level of the implementing entity responsible for managing individual procurements (procuring entity). In addition, it looks at the market as one means of judging the quality and effectiveness of the system in putting procurement procedures into practice. This Pillar focuses on how the procurement system in a country operates and performs in practice.

Indicator 9. Public procurement practices achieve stated objectives.

The objective of this indicator is to collect empirical evidence on how procurement principles, rules and procedures formulated in the legal and policy framework are being implemented in practice. It focuses on procurement-related results that in turn influence development outcomes, such as value for money, improved service delivery, trust in government and achievement of horizontal policy objectives.

- **Synthesis of the indicator**

Public procurement rules are quite prescriptive and go into considerable detail on tendering, evaluation and award as well as for reporting thereon. There is less emphasis on needs identification, market analysis, planning and preparation and on contract management and evaluation of the outcomes. This is reflected in the actual, current practices. Needs analysis and market research are deficient, procurement plans are not always well prepared and published and sometimes not followed. Sustainability criteria are little used and procedural requirements seem to be given greater attention than fitness for purpose and value for money. Reporting and publication are not complete, reducing transparency, limiting accountability and weakening the basis for well-informed policy making. Times for payment are long and often exceeded, creating disincentives for participation and problems for contractors to deliver and stay in business. Many of the shortcomings observed reflect a lack of skills and capacity of the procuring entities, especially the many smaller ones.

- **Findings**

The PPADA sets out a general requirement to carry out market surveys in order to inform the placing of orders or decision making on procurement. Procurement plans have to include a detailed breakdown of the goods, works, or services required as well as an estimate of their value. All procurement processes have to clearly define the requirements and desired outcomes of contracts. Technical requirements are required to include, where appropriate, items like life cycle cost, socio-economic impacts and environmental effects, as well as fitness for purpose in terms of design, specification, functionality and performance. Provisions in the standard tender documents are intended to facilitate the use of such requirements and evaluation criteria.

The legislation outlines the methods of procurement and requires documentation and justification for the chosen method, in order to ensure compliance and transparency, and mandates that procuring entities record the reasons for choosing any other procedure than open tendering. It contains requirements for using multi-stage approaches and suitably structured criteria to manage complex procurement processes, including prequalification, usually combined with restricted tendering.

Tender documents have to provide bidders with adequate information, be clear and accessible, and standardised where possible in order to promote transparency and competition. To this end, some 20 standard tender documents for various procurement procedures and for certain types of goods, works and services are available on the PPRA website. They are complemented by a similar number of forms, including contracts.

The legislation contains regulations related to bid submission and receipt. Procedures specific to particular procurement methods are detailed in the corresponding sections of the PPADA and the PPADR, with additional rules for the submission of e-tenders. The instructions to tenderers in the tender documents give further details for application in each individual tender. Likewise, the opening of tenders is clearly regulated. There are no provisions in the regulations specifically allowing civil society to monitor bid submission, receipt and opening other than through the review of corresponding documentation, once prepared and made public. Conversely, it is not outlawed and, in practice, almost two thirds of the heads of procurement interviewed stated that they would allow civil society observers to attend tender openings. However, this is currently being done to only a much lesser extent.

The applicable regulations require maintaining confidentiality during the evaluation of tenders. Tender evaluations have to determine best value for money based on the criteria stated in the procurement documents. In practice, the formal requirements for the selection and award process are usually met by the procuring entities.

Procuring entities must publish contracts awards on its own notice board and website, if any, "within a period as prescribed", and report them to the PPRA, which in turn is required to publish them centrally. Standard conditions of contract are included in the standard tender documents published by the PPRA. However, the standard conditions of contract do not seem to include any clauses with an explicit reference to sustainability, even if the standard tender documents themselves allow the inclusion of some sustainability aspects among the evaluation criteria and in the instructions to tenderers. Contracts include disincentives for poor performance in the form of seizure of the performance security (if issued) or termination of the contract, but the legislation does not foresee the inclusion of incentives for exceeding the required performance. The legislation sets limits to the nature and extent of any amendments and requires separate, new tendering if a variation would exceed 25% of the contract price. It also requires quarterly reporting of all varied or amended contracts to the PPRA.

Contracts normally include a start date and an end date and may contain intermediate milestones or time schedules for the deliverables. The applicable regulations contain further requirements related to the timely implementation of contracts, including an obligation to prepare monthly, internal progress reports. Further regulations cover inspection, quality control, supervision of work and final acceptance of products, including good practice approaches to the topic, with emphasis on the specific needs in the management of complex or specialised contracts.

Delaying payment of contractors beyond contractual period and contractual performance obligations is an offence. Procuring entities are required to make payments within 60 days in the general case and to make prompt payments for all performed contracts including enterprises owned by youth, women or persons with disabilities. Procuring entities have to submit quarterly payment performance statistics to the National Treasury and the PPRA demonstrating compliance with this obligation.

Procurement statistics are prepared and published by the PPRA in its regular reports, based on data submitted by procuring entities. This data is also analysed to serve as an evidence basis for improvements to the public procurement system. As a complement to the collection and analysis of statistical data, the PPRA organises consultations with public procurement participants as a means to measure and improve procurement practices. Individual procuring entities are required to have complete, accurate, and accessible procurement records, ideally maintained in a single file, and meeting requirements concerning their format and contents.

- **Gaps**

References to market surveys are mainly made in the context of establishing market prices. There are no principles or procedures for researching the market in order to ensure that requirements meet the needs and that these can be met by several competing tenderers. Less than half of the contracts concluded by major procuring entities were reported to be preceded by a needs analysis, and less than two thirds were found to have requirements and desired outcomes clearly indicated in the tender documents. The application of economic, environmental and social criteria is not consistent and often not fully understood by practitioners; less than a quarter of the contracts files reviewed had at least some sustainability criteria.

Procuring entities may find it difficult to choose, document and justify the procurement method because of the wide range of possible procedures and a lack of skills in making the appropriate choice. The requirement to document and justify the chosen procurement method is not matched by any obligation to publicly disclose the basis for using a non-competitive procedure. Furthermore, the choice of a procurement method may not be appealed against to the PPARB. Other legal remedies remain available for this purpose, in the form of the right to seek judicial review the High Court; a person aggrieved by a judgment of the High Court may then appeal it at the Court of Appeal, but the matter is unlikely to be resolved to the satisfaction of the complainant in a timely manner, which discourages any aggrieved party from using them. The combination of these conditions means that procuring entities may feel able to use less competitive procedures more freely and without actual need.

The requirement to use multi-stage procedures in certain cases is expressed in general terms and there is no systematic monitoring of the extent to which the regulations are appropriately applied. In the 63 major procuring entities visited, less than half of the contracts in 'complex procurements' were concluded following multi-stage procedures. Restricted tendering is typically done using a list for which pre-qualification has been carried out annually, rather than on a case-by-case basis as foreseen by law.

The tender documents on the PPRA website do not fully match the ones listed in Schedule 8 of the PPADR. In over a quarter of the contract files reviewed by the MAPS assessors, the tender documents were not found to be reasonably clear and proportionate. Also, despite he prescribed use of standard documents and the current, detailed reporting obligations, for around a quarter of the contracts, the procedures for bid submission, receipt and opening were not found to have been clearly described in the documents.

Evaluation and subsequent award are mostly done using the purchase price as the main award criterion, subject to tenders meeting the technical specifications. In turn, in the case of goods and works, these often mainly indicate the physical characteristics and quantities of the items to be procured, rather than their required performance in serving the purpose for which they are procured. Thus, the MAPS assessment team identified a number of cases where there was no or only weak evidence that procuring entities had actively and skilfully aimed to achieve value for money. Likewise, a number of cases were observed where the selection and award process had not been effective for ensuring that the outcome of the procurement matches the needs it was intended to meet.

As a general observation, qualification requirements are often excessive or unrelated to the needs in the individual case or incomplete or missing. Demonstrating compliance with them is cumbersome and procuring entities often lack the skills to apply them. Requirements and specifications for the items to be procured are often unclear, incomplete or biased and not matched by the corresponding evaluation criteria. In turn, these are often incompletely or inappropriately applied. Formal requirements for the contents and presentation of tenders are often applied with excessive zeal, leading to the rejection of otherwise perfectly appropriate tenders.

The process is administratively complicated both in theory, as required by the applicable regulations, and in practice, as carried out by the procuring entities, leading to low efficiency. The procedural complexity makes it difficult to achieve a meaningful level of transparency. Many procuring entities, especially smaller ones, lack the means to be suitably thorough in the planning, preparation and execution of public procurement and to comply with the very wide and detailed recording, reporting and publication requirements, further reducing effectiveness and transparency. At the same time, the lack of comprehensive, reliable reporting by procuring entities makes it very difficult to quantify and analyse these issues.

The PPADR, Regulation 131 (1) (a) and (b) provides for publishing of contracts within 14 days of signing the same and reporting all contracts to the PPRA 14 days after the end of every month. However, no publication date is indicated in the contract award information available to the public on the PPIP website. It allows the contracts published to be identified by amendment status (amended or not) but no details about the nature and extent of the amendments are directly accessible. The review of contracts by the MAPS assessment team has found a number of cases when contract amendments and variations have not been duly justified or not properly reported and when contracts have not been implemented in time.

The availability of procurement statistics and means to measure and improve procurement practices in the general case have room for improvement. The PPIP data set accessible to the occasional, external user is limited. Data is incomplete and skewed because of partial, erroneous, missing or delayed reports from many procuring entities. As a result, the information available is not clearly representative of the actual situation in public procurement. The contract reviews in individual procuring entities by the MAPS assessment team has revealed cases of incomplete, missing, spread out or inaccessible procurement records. Unless and until a well-functioning e-procurement system is in place, the number of records to be prepared and submitted for each transaction create a considerable administrative burden for small procuring entities with limited resources. Even among the 63 major procuring entities visited, only 63% of the heads of procurement interviewed reported maintaining complete contract files, while no more than 70% indicated that procurement records are readily available when needed.

- **Recommendations**

Require procuring entities to carry out needs analyses and market studies. Prepare and issue guidance materials on

- how to carry out needs analyses and market studies and use them for determining optimal procurement strategies, including the choice of the appropriate procedure, and for preparing tender documents that incite effective competition;
- how to ensure consistency between the requirements in the tender documents, the criteria applied in the evaluation of tenders and their clear and complete reflection in the contracts to be signed;
- how to prepare and use sustainability criteria in all phases of the procurement cycle, and provide corresponding capacity building;

and provide corresponding capacity building.

Regarding tender documents,

- prepare and issue any prescribed standard documents that may be missing and make them easily accessible;
- revise their form and contents as appropriate in order to make them compatible with the e-procurement system now being developed, and make the e-procurement system able to handle them;
- ensure that standard documents are regularly updated and complemented by more specific guidance for the preparation of requirements and specifications for a wider range of specific types of goods, works and services and for better reflecting sustainability requirements.

Examine the reasons behind the low share of requests for clarifications and take action according to the findings.

Introduce a legal obligation to publish the basis for using a non-competitive procedure/direct procurement, and allow the choice of procedure to be appealed against to the PPARB.

Monitor and enforce compliance with the obligation to report and to publish contract awards and include the publication date in the information published on the PPIP.

Simplify the procurement procedures, reducing their number; expand capacity building; take steps to further professionalise public procurement; and seek to reorganise procuring entities in ways that allows each of them to have better capacity of staff and more administrative resources; in combination with measures taken for the development and introduction of comprehensive means for e-procurement.

In order to prevent or minimise delays in contract implementation,

- revise the regulatory provisions for inspection, quality control, supervision of work and final acceptance of products in order to make them more universally applicable
- provide further capacity building for procuring entities with focus on
    - setting requirements and specifications that can reasonably be met by any of several competing tenderers
    - making realistic assumptions about the time needed for production and delivery
    - setting delivery timetables or milestones for all contracts where delivery is not made in one go
    - monitoring deliveries and taking immediate action in case of shortages or delays

- ensure that the procuring entity has the means to meet make payments and meet its other obligations on time

Reduce the time limit for payments to no more than 30 days and oblige procuring entities to demonstrate compliance with the obligation to pay within 30 days or the time limit set out in the contract, whichever is shorter. Monitor the obligation, analyse the excessive payment delays likely to be observed, and take action to address their causes.

Revise the regulations covering contract amendments and variations for greater consistency and completeness. Require the nature and extent of any amendments as well as the reasons behind them to be published.

Review, revise and complement the regulations on record keeping and reporting. Ensure that the further introduction of e-procurement is used to make record keeping and reporting simpler, easier and more reliable, while facilitating identification of and access to relevant records for various purposes. Review the precision, validity and reliability of the procurement statistics available and seek to take measures for compensating any deficiencies, in order for the evidence basis for reforms to become more solid. Use alternative means for collecting information, analyse any inconsistencies between the different means used, and revise the approaches for data collection and analysis accordingly.

Summary of substantive gaps and recommendations of Indicator 9

Substantive gap	Risk classification and red flags	Recommendations
9(a)(a): In practice, needs analysis and market research are deficient	No red flag; high risk of inadequate requirements and criteria reducing competition and failing to give value for money	Require needs analyses and market consultations to be made, give guidance, build capacity, monitor application
9(a)(b): In practice, requirements and desired outcomes too often not adequately reflected in contracts concluded	No red flag; high risk of wrong or incomplete deliveries and inadequate outcomes, and of difficulties to enforce contractual obligations	Facilitate the transposition from tender document to contract of requirements and desired outcomes, and provide matching guidance and training
9(a)(c): Little use of sustainability criteria	No red flag; medium risk of failure to get value for money in the longer term and to meet other policy objectives	Give guidance, build capacity, monitor application
9(b)(a): Multi-stage procedures are little used, with few instances of case-specific prequalification, and monitoring is lacking	No red flag; high risk of inefficient and ineffective procurement, with insufficient vetting of suppliers, leading to failure to get value for money and to secure performance	Clarify conditions for using multi-stage procedures, provide guidance materials and training for using them, and monitor compliance
9(b)(f): Simplistic, short-term focus on purchase price	No red flag; high risk of failure to get value for money in the longer term	Give guidance on setting, applying suitable evaluation criteria, build capacity, monitor application
9(b)(g): Failure to properly publish contract awards; no set time limit	No red flag; high risk of bad practices getting hidden away	Set time limit for publication; indicate the publication date, monitor compliance
9(b)(h): Lack of sustainability considerations in standard contract clauses	No red flag; medium risk of reduced ability to enforce compliance with sustainability requirements	Draft model clauses and guidance notes to help include sustainability in the conditions of contract

Substantive gap	Risk classification and red flags	Recommendations
9(b)(j): Cases of low effectiveness, efficiency and transparency in selection and award; lack of data	No red flag; high risk of failure to get value for money and to identify and address bad practices	Simplify procedures, build capacity, reorganise procuring entities; use e-procurement
9(c)(a): Contracts not implemented on time	No red flag; high risk of failure to get intended benefits when needed and thus to get value for money	Build capacity to plan and prepare procurement, manage contract implementation, pay on time
9(c)(b): Contract management is deficient; many procuring entities fail to systematically perform inspection, quality assurance and acceptance procedures and to evaluate procurement outcomes	No red flag; high risk of failure to obtain items of required quality in the right quantity and ensure proper performance	Strengthen institutional capacity, mandatory procedures, better record keeping and systematic performance monitoring across all procuring entities
9(c)(c): Late payments and long-time limits	No red flag; high risk of reduced participation, failure of contractor to deliver and to stay in business	Reduce time limit to 30 days; help procuring entities maintain liquidity as needed; monitor compliance
9(c)(d): Contract amendments not fully justified and reported; no data that would allow systematic monitoring and analysis	Red flag: high risk of unjustified amendments and of inappropriate amendments not being spotted and addressed; mitigation would require action also with respect to the wording and application of relevant commercial law	Revise regulations for consistency, clarity and completeness; ensure that contract amendments are duly reported, published and monitored
9(c)(e): Procurement statistics not comprehensive, not complete, 9likely skewed, little accessible	No red flag; high risk of misjudgement in policy making and of failure to identify bad practices	Improve data collection, make data more accessible; include generation of statistics in e-procurement design
9(c)(f): No clear opportunities for stakeholder involvement; general provisions for citizen participation do not adequately cover public procurement	No red flag; medium risk of low transparency, accountability and responsiveness which are central to effective public procurement	Analyse possible ways and means for citizen participation and their likely effects; revise and clarify legal provisions on rights and limitations accordingly
9(c)(g): Records in procuring entities are not complete	Red flag; high risk of bad practices being hidden and of failure to learn from past and current practice; mitigation would need to be harmonised with general provisions for record keeping in the public sector	Review and revise record keeping regulations; simplify and facilitate record keeping by e-procurement

Indicator 10. The public procurement market is fully functional

The objective of this indicator is primarily to assess the market response to public procurement solicitations. This response may be influenced by many factors, such as the general economic climate, policies to support the private sector and a good business environment, strong financial institutions, the attractiveness of the public system as a good, reliable client, the kind of goods or services being demanded, etc.

- **Synthesis of the indicator**

A well organised and relatively diverse set of established enterprises create a good potential for economy and effectiveness in public procurement. However, several systemic constraints limit participation. Preference and reservations schemes are in place but are not fully applied and their adequacy is difficult to evaluate. The status of the supply market, its interaction with public procurement demand and the links of the two with general economic development policies and outcomes are little studied and incompletely reflected in policy development and implementation.

- **Findings**

The National Treasury is required to convene consultations with external stakeholders at least once a year. The PPRA organises regular meetings for heads of procurement and sets up ad-hoc meetings with other interested parties. In addition, training events are used to collect information from participants. The general provisions on public consultations about changes to laws and regulations are applied also to public procurement. Market participants are engaged in support of procurement policy objectives within the context of the regular and ad-hoc consultations with the private sector organised by the PPRA, as well as through inputs from trade associations and the like during public consultations on new or amended laws and regulations.

As part of a broader effort to ensure that all businesses have the necessary skills and knowledge to participate effectively in public procurement, the Kenyan government has initiated various programs to build capacity among private companies, especially small and medium enterprises. The KISM provides public procurement related information and training to both the public and the private sector. Support for participation in public procurement by small and micro enterprises and by citizen contractors, women, youth, persons with disabilities, minorities and other disadvantaged groups now comes in the form of preference and reservations schemes. The legal requirement for women, youth and persons with disabilities to access 30% of Government procurement opportunities is being implemented with the support of the Access to Government Procurement Opportunities (AGPO) scheme.

The part of the private sector composed by established enterprises is well organised, with a number of associations representing the interests of their members. Compared with neighbouring countries, the economy is relatively diversified, offering a potential to meet many public procurement needs from domestic sources.

Several systemic constraints, such as bureaucratic inefficiencies, administratively demanding procedures and lack of transparency, inhibit private sector access to the public procurement market, creating disincentives to private sector participation. The challenges particularly affect SMEs and new entrants into the market, limiting their access to public procurement opportunities. Persistent delays in payments from procuring entities remain a major constraint, affecting the cash flow of suppliers, particularly SMEs, thereby reducing their competitiveness, sometimes even threatening their existence, discouraging them from participating in public procurement, and creating incentives for fraud and corruption in the form of facilitation payments for fast-tracking payment of invoices. Limited access to affordable financing options for SMEs constrains their ability to participate in large-scale tenders.

It is not clear whether any other national policy or report or the like has specifically identified and analysed the sectors associated with the public procurement market. While key sectors are identified in terms of general objectives for economic development, there is sometimes inconsistency in prioritisation across different government agencies and regions. There is also a lack of clear evidence of government level assessments or policies where public procurement related considerations of risks and opportunities are fully integrated with other policy considerations regarding the status and the development options for different sectors of the economy. This results in fragmented efforts that do not fully leverage the potential of public procurement as a tool for national development.

Risk management strategies and approaches in public procurement are regulated with respect to the situation of individual contracts, rather than to the general situation of any particular sector. Corruption remains a significant challenge, with limited success in curbing it despite various initiatives. This affects the overall efficiency and integrity of the procurement process.

- **Gaps**

Capacity building among private companies in order to help them participate in public procurement is less developed than corresponding measures for procuring entities and their staff.

There is little evidence whether the preference and reservations schemes meet their objectives and whether the benefits outweigh the costs. The AGPO is only in charge of registration, prequalification and certification and there is no dedicated entity in place for providing the other services of the "Preference and Reservations Secretariat" that the PPADA requires to be set up (training and capacity building; providing technical and advisory assistance to procuring entities; and monitoring and evaluating the implementation of the preferences and reservations). These are now dealt with by a unit in the Public Procurement Department of the National Treasury.

The preferential share of 30% of procurement for women, youth and persons with disabilities is not fully achieved in practice, not even by the very small number of procuring entities that do submit the required semi-annual reports. Kenyan suppliers benefit from certain preferences which are given to foreign companies only under certain conditions. However, corresponding public procurement data is not readily available.

Because of the lack of complete, reliable data, it is difficult to analyse to what extent and for what reasons the private sector is competitive as well as willing and able to participate in public procurement. Already an elementary measure like the level of participation, expressed as the number of tenders received per procurement operation, is difficult to determine with any level of certainty. The informal sector remains a quite important part of the national economy, particularly in rural areas. Here, the possibilities to effectively participate in the formal procedures of public procurement remain very limited.

The major procuring entities visited are not fully satisfied with the supply market. No more than two thirds of the heads of procurement interviewed considered competition to be sufficient for obtaining value for money, and over a quarter indicated either partial or no satisfaction with market offerings, hinting at unmet needs. Conversely, less than half of the respondents to the private sector survey considered that conditions in the public procurement market were appropriate.

Among the same respondents, 35% stated that none of the expected enabling conditions are met. Several barriers were cited, including non-transparent tender evaluation processes, unresolved contract disputes, systemic payment delays (cf. the analysis under sub-indicator 4(b)), and contractual terms that disproportionately expose suppliers to risk. These challenges not only deter participation but also increase the cost of doing business with procuring entities, reducing supplier motivation to engage repeatedly in public procurement.

The National Public Procurement and Asset Disposal Policy of 2020 hardly mentions the public procurement markets, neither on the demand side (needs of procuring entities) nor on the supply side (sectors of the economy offering goods, works and services to meet those needs). The engagement with sector market participants is often superficial, with consultations and forums sometimes not translating into actionable outcomes. There is also a tendency to focus on large, established companies, with SMEs often being left out, despite their potential to contribute to innovation and economic diversity.

Risk management strategies and approaches in public procurement are regulated with respect to the situation of individual contracts, rather than to the general situation of any particular sector. Assessments of risks associated with certain sectors and opportunities to influence sector markets appear to be missing and the level of engagement of sector market participants in support of procurement policy objectives has room for improvement. Although some general, systemic risks are identified, the implementation of effective risk mitigation strategies is often weak.

- **Recommendations**

Revise approaches and contents of public procurement training to make it more useful also for private sector entities, and encourage their participation. Complement such public procurement related capacity building by making procedures and related formal requirements simpler and more understandable and easier to comply with. Ensure that business opportunities in public procurement are duly reflected in more general schemes of, e.g., SME support and industrial and regional development aimed at improving enterprise competitiveness and raising the level of participation of individuals and firms in the economy.

Determine ways to collect and analyse data that would make it possible to assess the level of competition and the willingness and ability of the private sector to participate in public procurement; carry out such assessments; and design and carry out actions on the basis of the findings. Incorporate public procurement related considerations in efforts to structure the informal sector and raise its competitiveness. Expand co-operation between the public procurement authorities and the trade associations in order to raise enterprises' awareness of the public procurement market and facilitate their access to it, as well as to raise contracting entities' knowledge and understanding of the opportunities and the limitations for the private sector to participate in public procurement in ways that benefit all parties concerned.

Evaluate whether, to what extent and for what reasons the various preference and reservations schemes meet their ultimate objectives and why many procuring entities fail to award corresponding contracts; based on the evidence so collected, consider restructuring or replacing the schemes or facilitating their application, as may be appropriate.

Eliminate delays in the payment of invoices from suppliers and contractors by ensuring that procuring entities can fully dispose of their duly budgeted and approved funds. Other systemic constraints within the public procurement system would need to be addressed by simplifying and clarifying procedures, carrying out information and training, and making the procurement process more transparent through the expansion of e-procurement functions.

Complement the national public procurement policy by an overview of both the demand and the supply sides of the public procurement market and an analysis of how and in what ways public procurement may be dovetailed with, contribute to and benefit from development policies in other fields. Include assessments of risks associated with certain sectors and opportunities to influence sector markets in the policy review and revision just mentioned. Broaden consultations on public procurement between and among private and public sector participants to include related issues in other, related fields, as a means to facilitate policy harmonisation and achieve stronger synergies.

Summary of substantive gaps and recommendations of Indicator 10

Substantive gap	Risk classification and red flags	Recommendations
10(a)(b): Preference & reservations schemes highly complicated and costly to apply; compliance very low; weak effectiveness; no implementing agency in place	No red flag; medium risk of inefficient, ineffective use of scarce administrative resources and of crowding out other measures to meet similar objectives	Examine why the schemes are not fully used and whether they serve their purpose; simplify, restructure or replace them accordingly; to the extent retained, set up the implementing agency; improve reporting and monitoring
10(b)(a): Only two fifths of the heads of procurement interviewed found that competition is adequate and that their needs are met by the market; lack of reliable data limits the possibility to determine which measures to take; quite large informal sector with little or no possibility to participate in public procurement	Red flag: high risk of failure to fully meet procurement objectives and citizens' needs and to get value for money; mitigation would very much depend on and would have to be harmonised with general measures to restructure the informal sector, support enterprise development and raise competitiveness	Assess competition levels and the private sector willingness and ability to participate, as well as the scope for transforming the informal sector; take corresponding measures for raising competitiveness and enabling and encouraging participation in public procurement
10(b)(b): Systemic constraints inhibit private sector access to the public procurement market	Red flag; high risk of low participation and of deficiencies in the supply of goods, works and services; mitigation would also require co-ordinated measures by other authorities and institutions to improve the business environment	Eliminate delays in the payment of invoices; simplify and clarify procedures; build capacity; raise transparency (e-procurement); take complementary actions to improve the general business environment
10(c)(a): Supply market not adequately analysed from a public procurement perspective	Red flag: high risk of failure to harmonise economic development policies with public procurement needs, leading to incomplete and less competitive supply of items in demand; mitigation would require other authorities to incorporate public procurement needs when assessing the state of the economy and the ways to improve it	Review the demand and supply sides of the public procurement market; harmonise economic development policies with those for public procurement
10(c)(b): Absence or weakness of critical functions to improve market performance and to facilitate and promote market engagement as well as of sector risk assessments and of corresponding remedial measures	Red flag: high risk of failure of the supply market to meet public procurement and of inadequate or misdirected measures to address; mitigation would require harmonised efforts by the Treasury and other authorities to assess risks in the markets and their effects on public procurement and to remedy shortcomings	Institutionalise market risk assessment and engagement mechanisms; ensure that general measures to improve market performance also match the needs of the public procurement market

3.4. Pillar IV - Accountability, Integrity and Transparency of the Public Procurement System

Pillar IV includes four indicators that are considered necessary for a system to operate with integrity, that has appropriate controls that support the implementation of the system in accordance with the legal and regulatory framework, and that has appropriate measures in place to address the potential for corruption in the system. It also covers important aspects of the procurement system, which include stakeholders, including civil society, as part of the control system. This Pillar takes aspects of the procurement system and governance environment to ensure they are defined and structured to contribute to integrity and transparency.

Indicator 11. Transparency and civil society engagement strengthen integrity in public procurement

Civil society, in acting as a safeguard against inefficient and ineffective use of public resources, can help to make public procurement more competitive and fairer, improving contract performance and securing results. Governments are increasingly empowering the public to understand and monitor public contracting. This indicator assesses two mechanisms through which civil society can participate in the public procurement process: i) disclosure of information and ii) direct engagement of civil society through participation, monitoring and oversight.

- **Synthesis of the indicator**

The legal framework clearly mandates publication of procurement plans, invitations to tender and tender documents, while obligations to publish contract award and contract implementation details are less clear, if covered at all. At the same time, the actual disclosure of information does not meet the requirements. This lack of transparency reduces effective participation and competition and makes it difficult to monitor economy, effectiveness and efficiency in public procurement, both in the general and in the individual case.

Direct engagement of civil society through participation, monitoring and oversight is little regulated and little practised.

- **Findings**

A transparent and consultative process is followed when formulating changes to the public procurement system. Various stakeholders and the general public are invited to comment on draft amendments to the legislation. County authorities are required to co-ordinate consultations with county stakeholders of the public procurement and asset disposal system in liaison with the National Treasury and the PPRA. As reported by the PPD and the PPRA, questions and suggestions on public procurement topics are regularly received from civil society through various channels, including formal, public consultations on new legislation and other matters. The inputs received are compiled and analysed and used for informing the development of policies, procedures and practices.

There are programmes to build the capacity of public procurement practitioners to understand, monitor and improve public procurement in Kenya, mainly through the PPRA and the KISM as well as through the institutions accredited by the KISEB. In addition, 59% of the heads of procurement interviewed indicate that they conduct meetings, dialogues, or training sessions aimed at engaging businesses in the tendering process.

Participation in public procurement is facilitated by legal requirements for publication of notices and for making procurement documents available for review by the public. As an example, the rules for open tendering require that tender documents be uploaded to the website immediately upon advertisement, implying that they would normally be accessible to anyone consulting the website in question.

The legal framework for public procurement contains no provisions explicitly allowing citizens to participate in any of the main phases of the regular public procurement procedures carried out by a procuring entity. On the other hand, there are also no provisions prohibiting them from doing so, except as may possibly be inferred from the requirement to keep evaluation and award confidential until a contract award has been made. There is little evidence of actual, direct participation of citizens in procurement processes through consultation, observation and monitoring, even if 63% of the heads of procurement interviewed stated that they would allow public participation at tender opening, and 34% would permit public observation during bid evaluations and 25% during contract monitoring.

- **Gaps**

Needs assessments seem to be little used by the bodies mandated to build the capacity of relevant stakeholders in Kenya in order to identify possible gaps in their knowledge and understanding of public procurement.

It is not entirely clear how consultative meetings have been carried out and which observations have been made, as records from past meetings are not easy to find, whether at national or at county level. Civil society representatives consulted indicate that even publicly acknowledged shortcomings in policies and practices often take a long time to be adequately addressed, if at all.

Publication of notices and tender documents remains deficient in practice. Even in the 63 major procuring entities visited by the assessment team, no more than 73% of the heads of procurement stated that they publish tender notices, which is essential for promoting competition and reaching a wide supplier base. Only around 70% confirmed that they upload tender documents online, enabling suppliers to access the necessary specifications and requirements. Likewise, requirements for publication of contract awards are not fully complied with. There is no obligation to publish contract amendments, and no amendments are visible on the PPIP website.

The subject of possible citizen participation in regular public procurement proceedings is not clearly and comprehensively addressed in the existing legal and institutional framework. General provisions enabling citizen engagement are not effective in the public procurement context to the extent that their application is not clear and access to relevant information is limited.

- **Recommendations**

Expand the use of consultations at national and county level, particularly in the context of the proposed updating of the National Public Procurement and Asset Disposal Policy, and publish relevant materials. Study the need for awareness raising and information before preparing events and other outreach, in order to make them more effective. Use the follow-up of the MAPS assessment, in particular any coming consultations on public procurement policy, to seek agreement on pending issues in order to properly reflect these in amendments to the PPADA and applicable regulations and secure broad commitment by those concerned.

Monitor and enforce the obligation to publish procurement plans and tender notices. Require all tender documents to be easily and freely downloadable, e.g. through a link in the procurement notice on the portal. Set a time frame for the publication of contract awards and require amendments and variations to be published in a similar fashion. In the medium term, as part of the development of e-procurement, ensure that all procurement documents are available in a machine-readable format.

Review how participation of civil society organisations or of individual citizens in the public procurement process could be more clearly regulated and, as appropriate, facilitated, promoted and supported, and complemented by more effective access to information. In particular, consider introducing more systematic consultations with citizens when needs are identified and requirements are formulated; making contract implementation more transparent; and facilitating effective access to procurement records. Delete the condition in the PPADA, Section 68 (3): "where such information is aligned to the principle of public interest" – in public procurement, a 'public interest' should always be presumed to exist. This being said, there also needs to be a balance between accountability and fair competition and to safeguard the rights of participants with respect to intellectual property, and to consider Articles 35 and 227 of the Constitution and the provisions in Access to Information Act on limitation of access to information. It may also be considered that procurement records include the basis of determining the price, which in essence would be a price schedule or a bill of quantities, which might stifle competition if published, especially where termination of procurement proceedings has occurred and there is a likelihood of a retender.

Summary of substantive gaps and recommendations of Indicator 11

Substantive gap	Risk classification and red flags	Recommendations
11(b)(a): Many procurement plans and invitations to tender (and contract award notices) are published late or not at all	No red flag; high risk of failure to secure wide participation and adequate competition, and thus to get best value for money	Clarify, monitor and enforce obligations to publish plans, invitations and other notices
11(c)(a): The legal and regulatory framework does not provide for meaningful citizen participation	No red flag; medium risk of failure to fully reap the benefits of public participation: transparency, needs alignment, trust, and performance monitoring	Clearly regulate participation of civil society organisations or individual citizens in the public procurement process, facilitating, promoting and supporting it as appropriate; and improve effective access to information
11(c)(b): Direct citizen participation in consultation, observation and monitoring is currently minimal or non existent	No red flag: medium risk of inadequate transparency, accountability and alignment of procurement with public needs	Delete the condition in PPADA Section 68 (3); systematically consult citizens when identifying needs and requirements; raise transparency of procurement records, including on contract implementation

Indicator 12. The country has effective control and audit systems

The objective of this indicator is to determine the quality, reliability and timeliness of the internal and external controls. Equally, the effectiveness of controls needs to be reviewed. For the purpose of this indicator, "effectiveness" means the expediency and thoroughness of the implementation of auditors' recommendations. The assessors should rely, in addition to their own findings, on the most recent public expenditure and financial accountability assessments (PEFA) and other analyses that may be available.

- **Synthesis of the indicator**

Laws and institutions create a comprehensive control framework in Kenya, covering internal controls, internal audits, external audits and the work of oversight bodies. Legal provisions applying to public administration in general are complemented by regulations specific to public procurement as well as by corresponding procedures and manuals and by requirements for qualifications and training of staff and their engagement and promotion. However, they all have various minor gaps, and their application is not fully consistent and transparent.

In particular, there is only weak evidence that audit findings and recommendations and the like are made public and duly acted on in a timely and effective manner.

- **Findings**

Kenya has laws and institutions that establish a comprehensive control framework, including internal controls, internal audits, external audits and oversight by legal bodies. Several aspects of the application of those policies and procedures in the field of public procurement are regulated by the PPADA, which also contains provisions defining the roles and responsibilities for oversight and administrative review that fall under the PPRA and the PPARB, respectively.

The Public Finance Management Act[35] mandates internal controls that ensure proper risk management in financial operations, including procurement. The internal organisation of procuring entities is regulated in a way that identifies a number of functions and obligations aimed at ensuring appropriate oversight of procurement, including reporting to management on compliance, effectiveness and efficiency of procurement operations. Many of those fall upon the accounting officer of the procuring entity, who has to set up mechanisms, appoint committees and assign tasks to staff in ways that distribute roles and responsibilities and create internal checks and balances covering the whole public procurement cycle. As a complement, the Treasury circular "Internal Audit Function" mandates all public entities to maintain robust internal audit procedures, particularly for public procurement, as a help to ensure that these audits evaluate both compliance and performance metrics. All public entities are required to conduct annual audits of their procurement. The PPRA's Public Procurement and Asset Disposal Compliance Monitoring Manual standardises the process for conducting procurement audits, emphasising written procedures for compliance audits, to ensure adherence to procurement regulations and standards, and for performance audits which evaluate the efficiency, effectiveness and economy of the procurement process. The PPRA also conducts performance audit itself.

There is a well-established institutional framework to undertake external audit in Kenya. The Public Sector Audit Manual includes sections on how procurement audits should be conducted, with a focus on whether

[35] See https://new.kenyalaw.org/akn/ke/act/2012/18/eng@2024-04-26

public entities are adhering to procurement laws, rules, and regulations. It covers standards for assessing whether procurement processes are achieving value for money and delivering results efficiently. However, the current emphasis of external audit seems to be on financial and legal compliance, in the first place.

The Constitution mandates Parliament and county assemblies to review audit reports and take appropriate action on public finance governance in relation to procurement of goods, services and works. In addition, the independent office of the Controller of Budget (CoB) has been established under Article 228 of the Constitution of Kenya with the core mandate to oversee implementation of the budgets of the National and County Governments by authorising the withdrawal from public funds. The Office is also expected to prepare, publish and publicise statutory reports, conduct investigations based on their own initiative or on a complaint made by a member of the public, and conduct alternative dispute resolution mechanisms to resolve disputes. The Office also has a mandate to advise Parliament on issues related to transfers of funds to State organs or to any other public entities.

The Public Audit Act obliges the entity audited and its accounting officer to take steps to implement any recommendations made and to report on how it has addressed recommendations and findings of the previous year’s audit. Non-compliance exposes the accounting officer to sanctions. In addition, where there is a serious material breach or if there are persistent material breaches of the provisions of the Act, the Auditor-General may recommend the withholding of funds to any State Organ or public entity.

The Public Finance Management Act requires that individuals involved in financial management, including auditing, have the necessary qualifications and expertise to carry out their duties effectively. It mandates the establishment of professional qualifications for internal auditors, including procurement auditors. Additionally, ISSAI 5300 emphasises that auditors conducting procurement audits must have the technical knowledge or should seek assistance from experts in procurement when necessary. These standards are adopted by Kenya’s Auditor-General and are supposed to guide the selection and deployment of auditors with adequate knowledge or support. They are complemented by provisions in the Public Audit Act which clearly outline the role of the Auditor-General in selecting auditors through fair and transparent processes and are intended to safeguard the independence of the Auditor-General and the audit teams, to ensure that they are not subject to any form of interference during the audit process.

There are established programmes to train internal and external auditors to ensure that they are qualified to conduct high-quality procurement audits, including performance audits. The Kenya School of Government (KSG), through its training programs for public sector officials, provides courses on procurement and auditing. The Institute of Certified Public Accountants of Kenya (ICPAK) plays a critical role in the training and certification of both internal and external auditors. It offers continuous professional development courses that cover public procurement auditing, including performance audits.

- **Gaps**

While the applicable regulations establish a comprehensive legal framework for public procurement, there are significant areas where the provisions, as well as their implementation and enforcement, need strengthening. This includes better training for internal auditors, more stringent enforcement mechanisms, timely and comprehensive external audits, and enhanced resources and powers for oversight bodies. The regulation of internal and external audit lacks precision regarding aspects which are specific to public procurement and suffers from a focus on legal and short-term financial compliance, to the detriment of aspects like fitness for purpose and value for money. The PPADA lacks specific provisions on ex-post evaluation of public procurement outcomes by the procuring entities themselves, that would complement the general mandate of the PPRA to monitor procurement, before, during and after it is being carried out.

The Internal Audit Guidelines for National Government Entities make a few references to public procurement but refer to outdated legislation, viz. the Public Procurement and Disposal Act, 2005, and Regulations, 2006, even as the Guidelines themselves were issued in March 2016. In practice, among the 63 major procuring entities visited, 79% of the heads of procurement reported having internal audit units that specifically cover procurement activities and conduct performance audits. However, no more than 70% had an internal audit manual that explicitly includes procurement processes, and only 49% found their audit staffing levels sufficient to meet their needs.

The required segregation of roles and responsibilities throughout the procurement cycle has the advantage in principle to create checks and balances but raises the administrative burden and adds time to the process because of the need to transfer files and tasks from one function to the other. It also requires that a significant number of officials in several functions have the necessary procurement related knowledge and skills to properly carry out the duties that are distributed among them, which creates insurmountable difficulties for smaller procuring entities. The distribution of roles between several persons and functions also means that accountability is diluted and that it becomes easier to blame someone else as soon as something inappropriate happens.

Despite a well-established institutional framework to undertake external audit in Kenya, little emphasis has been put on public procurement audits, apart from the audit functions of the PPRA. Most of the internal and external auditors are financial auditors and not procurement auditors. In practice, the independent external audits provided by the Office of the Auditor-General do not seem to ensure appropriate oversight of the procurement function. As an example, the term 'procurement' is not found anywhere in, e.g., the Auditor-General's report on national government 2022/2023, even if the Auditor-General's report "Compliance and Performance Audits in Procurement" details the procedures supposed to be followed when conducting procurement audits. The annual reports of the Office of the Auditor-General frequently mention delays and limited scope in auditing various public entities, which hinders timely identification of issues.

Small procuring entities are not yet systematically audited. In general, there is little evidence to what extent specialised procurement audits are carried out regularly and whether they cover performance, in additional to financial and legal compliance. Statements by the heads of procurement interviewed by the assessment team indicate that annual, external audits are carried out in less than 80% of the major procuring entities concerned and that no audit reports are issued in more than 10% of those cases. Annual internal audits are reported to be carried out in only three quarters of the procuring entities concerned.

The applicable regulations set out the formal requirements for regular reporting. However, it is not clear whether this is sufficient for dealing with urgent issues or with problems that are not captured by the regular reporting. The legal requirements for acting on recommendations and reporting on their implementation do not seem to require immediate action in response to any recommendations made by the auditors, nor to report on those actions as soon as the recommendations have been implemented. The monitoring of the implementation of audit recommendations is weak and the mechanisms for enforcement do not appear to be fully effective. In practice, among the major procuring entities visited, 67% indicated that they implement recommendations from internal audits within designated timelines, while 60% did so for external audits. The actions to be taken by Parliament or county assemblies in response to observations in audit reports are not well defined by the law and are thus left at the discretion of the respective committees.

The Auditor-General is required to "recruit and promote qualified and competent staff" but without any reference to required competences or to training. Accounting officers are required to "provide capacity building to all public national government entity Audit Committees" but the corresponding institutional set-up is not detailed. In the light of statements by heads of procurement, not all auditors appear to have adequate knowledge and understanding of the specifics of public procurement; no more than 59% of the respondents believed that auditors fully understood the particularities of public procurement. Nevertheless, only in 38% of the 63 major procuring entities visited, it was reported that financial auditors are supported by procurement specialists during performance audits.

- **Recommendations**

Develop the legal and institutional bases for a comprehensive control framework encompassing:

- Internal controls: Implement robust internal controls to ensure compliance and efficiency in procurement processes.
- Internal audits: Conduct regular internal audits to identify and mitigate risks, ensuring transparency and accountability.
- External audits: Facilitate regular, independent external audits to provide an unbiased review of procurement activities and financial integrity but with relatively greater emphasis on performance and on value for money.
- Oversight by legal bodies: Strengthen the oversight bodies and the mechanisms they use to enforce adherence to procurement laws and regulations, promptly identifying and addressing any violations or irregularities.
- Ex-post review of public procurement: Institute mechanisms for reviewing public procurement outcomes against the original needs and objectives, addressing deficiencies and applying lessons learned.

To this end,

- Ensure that both procuring entities and the various oversight bodies as well as their individual staff members in charge have the necessary skills and resources to properly apply prescribed approaches and procedures, and that requirements for qualifications and competence are matched by corresponding education and training facilities
- Carefully assess the advantages of segregation of duties in procuring entities against the penalties incurred in terms of dilution of responsibilities, need for a larger number of fully qualified staff members, and general administrative complexity and costs, and amend the internal organisation accordingly
- Improve the mechanisms for reporting possible cases of fraud and corruption and combine them with suitable whistle-blower protections
- Raise the level of transparency about oversight findings and measures taken

Summary of substantive gaps and recommendations of Indicator 12

Substantive gap	Risk classification and red flags	Recommendations
12(a)(a): Legal gaps with respect to actions on audit findings and to specificities of public procurement	Red flag; high risk of ineffective oversight; mitigation would require redrafting of general regulations for internal and external audit, not only with respect to public procurement, combined with corresponding capacity building and monitoring	Complement the legal and institutional framework to enable and facilitate effective oversight in public procurement
12(a)(b): Incomplete or ineffective internal control and audit functions; gaps in oversight, compliance monitoring and reporting to management	No red flag: high risk of failure to ensure effectiveness, efficiency, integrity and accountability in procuring entities' procurement operations	Ensure that procuring entities have necessary skills and resources to apply existing internal control/audit mechanisms, and monitor compliance
12(a)(c): Internal controls do not effectively balance efficiency and risk mitigation; role segregation and lack of capacity undermine timely decision making and accountability; risk management is underutilised	No red flag: High risk of excessive administrative costs and delays, and non-compliance (in small procuring entities), of failure to identify and mitigate risks, and of dilution of accountability	Review and revise principles and procedures for governance, internal controls and risk management
12(a)(d): External audits do not effectively address performance, risks, compliance and controls in public procurement	No red flag: high risk of low oversight effectiveness, failing to improve performance and undermining transparency, accountability and risk management	Ensure public procurement is explicitly addressed in external audits of procuring entities, with greater focus on performance and value for money
12(a)(f), 12(c)(a): Lack of effective, transparent measures to ensure compliance with audit findings and recommendations	Red flags; high risk of failure to sanction and to otherwise remedy shortcomings identified; mitigation would require the Office of the Auditor-General and other entities to regulate monitoring, reporting and enforcement of compliance in the public sector in general	Clarify actions to be taken, timelines and responsibilities with respect to audit recommendations; raise the level of transparency of the process; monitor compliance and sanction failures to act
12(b)(c): Annual audits of are not systematically done, especially in small entities, and procurement performance is little covered	No red flag; high risk of failure to secure accountability, transparency and value for money and to address inadequate performance	Revise audit principles, procedures and practices to well cover public procurement, with emphasis on performance, and carry out such audits annually
12(c)(b): Monitoring of audit recommendations is weak and enforcement ineffective; corrective actions are not consistently implemented	No red flag; high risk of weak integrity, low transparency, bad performance and inadequate accountability	Institute effective mechanisms for monitoring and enforcement, and monitor and publish how they are applied
12(d)(a): Many auditors lack skills and experience to conduct procurement audits, especially performance audits; requirements for skills and for training are deficient	Red flag; high risk of failures to improve performance and to monitor and enforce adherence to procurement principles; mitigation would require the Office of the Auditor-General and other entities to improve regulations and practices for training, engagement and management of auditors	Review and revise existing programmes for training auditors

Substantive gap	Risk classification and red flags	Recommendations
12(d)(c): There is only scant and weak evidence of fairness and transparency in the selection of auditors and of their independence; reported weaknesses in audit performance point to significant shortcomings	No red flag; medium risk of weak audit effectiveness, efficiency and probity, including with respect to external interference and its effects	Assess the fairness, transparency and independence of auditors, determine the extent to which they may be subject to any form of interference and take steps to address any shortcomings

Indicator 13. Procurement appeals mechanisms are effective and efficient

Pillar I covers aspects of the appeals mechanism as it pertains to the legal framework, including creation and coverage. This indicator further assesses the appeals mechanisms for a range of specific issues regarding efficiency in contributing to the compliance environment in the country and the integrity of the public procurement system.

- **Synthesis of the indicator**

A comprehensive, well-regulated complaints review system is in place. High fees may discourage complaints, reducing the contribution of the work of the review board to the improvement of the compliance environment and the integrity of the public procurement system in the country. Thoroughly motivated decisions are taken on time and published, but their implementation is not transparent. The review body's set-up, staffing and resources are barely sufficient for the current, extremely low number of complaints but limit the scope for expanding its activities. The lack of a case management system with a searchable data base of past decisions creates a risk of incoherent decision making and limits the possibilities to refer to and apply the case law established by the review body's decisions.

- **Findings**

Complaints against decisions by procuring entities, made when the breach occurs but prior to signing a contract, are reviewed by the Public Procurement Administrative Review Board (PPARB), though other ways to seek redress can also be used. The PPARB is the first instance review body and aggrieved parties can always seize it directly, without having to first address the issue to the procuring entity concerned or to any other party. The principles, policies and basic procedures regulating the submission of complaints and the work of the PPARB are clearly set out in the PPADA and the PPADR. In addition, there is a separate contract that is being undertaken to develop and formulate the PPARB's rules and procedures to be gazetted by the Cabinet Secretary, National Treasury, but these have not yet been published. However, in the meantime, the PPARB relies on circulars to guide it. The PPARB only acts upon receipt of formal complaints and is not involved in any capacity in procurement transactions or in the process leading to contract award decisions.

The PPARB bases its decisions on the full range of evidence submitted by the complaining party and by the procuring entity or any other parties involved. All PPARB decisions are published on the PPRA website. There is no deadline for publication set out in the law but the PPRA's performance contract with the Government obliges it to do it within five days, which is normally the case.

The PPARB members are selected on the basis of their competence and independence. Their decisions are taken by forming panels of no less than three members. Cases are allocated and panels are composed based, in the first place, on the particular skills and experience required in the individual case, and else on a rotational basis, so as to spread the workload and help ensure timely and competent resolution of the cases at hand. The PPARB has currently its full complement of 15 part-time members and receives secretariat services and administrative support from the PPRA. An automated case management system was developed but is no longer used.

The decisions of the PPARB may be challenged at the High Court, within 14 days from the delivery of the PPARB's decision. If no such challenge is made within the deadline, the PPARB's decisions become final, binding and enforceable. In turn, the High Court's decision is final, binding and enforceable if not appealed against at the Court of Appeal within 7 days of its delivery.

Complaints to the PPARB must be lodged no more than 14 days after the event which is being complained against, but within the 14 days stand-still period before a contract is signed. The procuring entity concerned then has to suspend the public procurement proceedings until the PPARB has issued a decision. It must do so within 21 days, which has normally been the case to date. The High Court is obliged to make its determination within 45 days of such proceedings being filed but can refrain from requiring the procurement proceedings to be suspended, as a means to avoid unnecessary delays in the procurement of urgent and important items. The Court of Appeal on the other hand is obliged to decide on an appeal before it within 45 days of filing of such an appeal and which decision is final.

When lodging a complaint, a non-refundable fee must be paid, composed of an administrative fee of KES 5,000 as well as an additional fee of an amount that depends, on a regressive scale, on the estimated value of the contracts. Likewise, if a party seeks judicial review by the High Court of a PPARB decision, a fee must also be paid. The requirements in the PPADA and the PPADR to pay a deposit (Regulation 204) at the PPARB and security fee (Regulation 222) at the High Court, in addition to the fees just mentioned, have been suspended by the High Court, on the grounds that it prevents access to justice.

In terms of remedies necessary to correcting the implementation of the procurement process or procedures, the PPARB may do any one or more of the following:

a) annul anything the accounting officer of a procuring entity has done in the procurement proceedings, including annulling the procurement or disposal proceedings in their entirety
b) give directions to the accounting officer of a procuring entity with respect to anything to be done or redone
c) substitute the decision of the Review Board for any decision of the accounting officer
d) order the payment of costs as between parties to the review
e) order termination of the procurement process and commencement of a new procurement process

- **Gaps**

The current operations of the PPARB appear to be dimensioned for handling some 100-200 complaints per year, which is a very low figure by international standards, taking into account the number and value of public procurement proceedings in the country (a total of 34,224 contracts were reported and published in fiscal year 2023/2024). This is unlikely to be sufficient if the current, strong disincentives to lodge complaints are eliminated. It lacks a well working case management system, including a freely available and searchable data base of past decisions. While it prides itself on basing its decisions on existing case law, it is therefore obliged to rely on the good memory of its members and staff and the services of research assistants to identify past decisions having a bearing on new complaints that are lodged. Even if decisions are duly published, the absence of a searchable data base of past decisions makes it difficult for other interested parties to determine how the PPARB could be expected to rule, as a guidance when considering or formulating a complaint.

While the PPARB's decisions are duly published, there is a lack of reporting on their implementation by the parties concerned and the means deployed for monitoring compliance are not clear.

The stand-still period of 14 days is longer than in international practice (usually 10 days). There is no flexibility to adjust the other timelines, e.g., the requirement for the PPARB to issue a decision within 21 days, in complex or difficult cases, which creates a risk that important cases cannot be resolved properly.

The requirements for a deposit and a security fee and for the payment of non-refundable fees in the amounts set out in the legislation are likely to strongly discourage participants from lodging complaints, even in situations where a procuring entity is in quite clear breach of its legal obligations, if the suspension by the High Court of the obligation to pay a deposit and a security fee is lifted. The effect is to strongly reduce the incentives to effectively combat fraud and corruption in public procurement. The non-refundable fees appear to be fairly high in comparison with international practice (where, quite often, there are no fees at all). In addition, in most other countries where administrative fees are charged, they are explicitly required to be refunded if the review body rules in favour of the complainant.

- **Recommendations**

As provided for in the PPADA, Section 28 (2), develop, formulate, gazette and publish the PPARB's internal rules and procedures and make them accessible on the PPIP or another central portal.

Monitor how and when the review board decisions are implemented and publish the actions taken.

Consider giving some flexibility to adjust the timelines for review in complex or difficult cases.

Abolish the obligation to pay a deposit in the amounts now required by law.

Review the resource needs of the PPARB and allocate funds and other resources accordingly. Ensure that the case management system becomes fully operational, with a full range of functions, including a freely accessible, fully searchable data base of decisions, including past ones, in order to ensure certainty, consistency and impartial development of the procurement law, and with interfaces to other systems, in particular those for e-procurement.

Summary of substantive gaps and recommendations of Indicator 13

Substantive gap	Risk classification and red flags	Recommendations
13(b)(b): Current fees inhibit access to justice	No red flag; high risk of bad practices not being complained against, leading to failures to identify and remedy cases of fraud and corruption	Eliminate the requirement for deposits; consider reducing the amounts of the fees and making at least the variable portion refundable if the appeal is upheld

Substantive gap	Risk classification and red flags	Recommendations
13(b)(g): Lack of effective case management system; PPARB set-up insufficient if the case load increases	No red flag; medium risk of failure to issue coherent, predictable decisions and to handle increasing case numbers	Introduce a case management system, with a freely accessible data base of past decisions; revise PPARB set-up and financing

Indicator 14. The country has ethics and anti-corruption measures in place

This indicator assesses i) the nature and scope of anti-corruption provisions in the procurement system and ii) how they are implemented and managed in practice. This indicator also assesses whether the system strengthens openness and balances the interests of stakeholders and whether the private sector and civil society support the creation of a public procurement market known for its integrity.

- **Synthesis of the indicator**

A number of legal instruments, institutions and mechanisms are in place to combat fraud and corruption, including in the field of public procurement. However, there are gaps and overlaps in their coverage and their application does not appear to be complete and uniform, but the lack of comprehensive, open, reliable data makes it difficult to evaluate the actual situation, both in the general and in the individual case. There is written guidance on identification and mitigation of risks with respect to fraud and corruption but no details relative to the particular risks in public procurement.

It is mandatory for public officials to report possible cases of fraud and corruption but there are limited means for doing so and whistle-blower protection is still limited, so reporting tends to be incomplete. Likewise, declarations of assets and of beneficial ownership have to be submitted, but the law seems to require that they be kept confidential, their verification is ineffective and there is little transparency concerning the measures possibly taken in case of missing, incomplete or incorrect declarations or if any illicit enrichment is identified. There is also little evidence whether reports of fraud, corruption, etc., are systematically and effectively followed up and effective, consistent sanctions are meted out.

- **Findings**

Kenya is a State Party to the United Nations Convention Against Corruption, which is the main, global treaty to combat corruption.

The legislation defines fraud, corruption and other prohibited practices in public administration, including public procurement, consistent with international anti-corruption treaties and agreements. As a complement, the Ethics and Anti-Corruption Commission (EACC), the primary body responsible for combating corruption and promoting ethical conduct in Kenya, provides further definitions of prohibited practices and conflicts of interest, sets out associated responsibilities and penalties, and provides guidelines for addressing problems encountered. The EEAC exercises its mandate through law enforcement, prevention, public education, and promotion of standards and best practices in ethics and integrity, and prepares annual reports on its activities and finances. Its investigative powers include the ability to conduct system audits, and it is empowered to take preventive action when corruption is suspected, such as halting or reviewing suspicious procurement transactions. Upon receiving a complaint on alleged cases of fraud, corruption or other prohibited practices, also the PPRA may take actions that are within its competence or forward the case to other supervisory and law enforcement authorities as appropriate.

To this effect, there is a Memorandum of Understanding between the PPRA and the EACC, in addition to the Corruption Prevention Guidelines jointly published in 2009 by their predecessor organisations, the Kenya Anti Corruption Commission and the Public Procurement Oversight Authority.

A number of responsibilities and accountabilities of government employees are specified in the recent Conflict of Interest Act, which repeals the Public Officer Ethics Act. It contains regulations concerning conflict of interest, broadly defined, including obligations for public officers to prepare and submit declarations of income, assets and liabilities and rules for the management of those declarations, as well as a requirement for cooling-off periods for former public officials, and outlines applicable penalties. Similarly, the Anti-Corruption and Economic Crimes Act outlines the responsibilities, accountabilities, and penalties for individuals and entities involved in corrupt activities. The PPADA includes further elements prohibiting corrupt, coercive, obstructive, collusive or fraudulent practices or conflicts of interest in public procurement and sets out penalties for breaching these obligations. These provisions are applicable, *mutatis mutandis*, to both public procurement officials and private sector participants, as well as to any other party involved in public procurement. Public officials, including those in procurement roles, must undergo regular training on ethical standards and conduct and public institutions must organise periodic ethics and integrity training programs for all their officers, including those involved in procurement. To this end, the Government and the PPRA offer regular training programs, designed to keep officials updated on the latest ethical requirements, best practices, and legal updates in public procurement.

Standard tender documents, including general conditions of contract, contain provisions on fraud, corruption and other prohibited practices in line with the requirements in the PPADA. The instructions to tenderers recall the legal provisions on fraud and corruption and the eligibility criteria exclude any tenderer involved in corrupt, coercive, obstructive, collusive or fraudulent practices.

The Anti-Bribery Act requires every public and private entity to assess and map out bribery and corruption risks and to put in place procedures appropriate to the size, scale, and nature of its operations to prevent bribery and corruption. The EACC has developed Draft Guidelines for Corruption Risk Assessment and Management which were published for consultation in October 2024. Public officers and institutions are required to report any instances of suspected corruption to the EACC. To this end, the EACC website has a page with instructions and links for reporting cases of fraud, corruption or other prohibited practices or unethical behaviour in general. Limited legal provisions to protect whistle-blowers are set out in Section 47 of the Conflict of Interest Act.

The applicable legal instruments establish clear requirements for the systematic referral of fraud, corruption, and other prohibited practices to law enforcement authorities, and prescribe penalties to ensure compliance and enforcement.

The PPADA sets out the principles and the various grounds for debarment. Debarment is further regulated in the PPADR, which details the different steps in the debarment procedure in order to ensure due process and requires the publication of the details of the decision as well as the period of debarment. The provisions in the PPADA and the PPADR are complemented by a debarment manual issued by the PPRA in 2022.

There is a presence of civil society organisations (CSOs) actively involved in promoting accountability and transparency in public procurement and working closely with government bodies like the Auditor General's Office to monitor public spending and highlight procurement risks. The adoption of the Open Contracting Data Standard (OCDS) and commitments under the Open Government Partnership (OGP) provide platforms for CSOs to access procurement data, engage in monitoring activities, and offer feedback. As a contribution to shaping and improving integrity of public procurement, TI-Kenya provides a "CSO Guide to Public Procurement," which educates stakeholders on navigating the procurement process, thereby empowering citizens and enhancing oversight. Together with other CSOs, it is also engaged in other forms of awareness raising and training. Kenyan business associations and suppliers increasingly recognise the importance of ethical practices in public procurement, and several of them have adopted internal compliance measures to ensure transparency and integrity.

Kenya has established comprehensive codes of conduct and ethics for government officials, particularly those involved in public financial management and procurement. The PPRA provides specific codes of ethics, for persons involved in public procurement and for procuring entities, covering expected behaviours, ethical standards, and conflict of interest management. The codes clearly define accountability mechanisms for decision-making and require public officials to disclose their financial interests. They are mandatory, and non-compliance can lead to significant consequences, including administrative actions or criminal prosecution. Conflict of interest statements and financial disclosure forms are supposed to be systematically filed and utilised to prevent corruption risks throughout the procurement cycle. General provisions on beneficial ownership are set out in the Companies (Beneficial Ownership) Regulations under the Companies Act and in a form provided in the standard tender documents; however, the term 'beneficial ownership' is not present in the PPADA or the PPADR. Information on beneficial ownership is required to be made accessible to relevant authorities, to ensure transparency in procurement decisions and mitigate the risk of corrupt practices.

- **Gaps**

In practice, despite the clear requirements in the law and the use of standard documents, only 79% of the contracts reviewed by the assessment team included anti-corruption clauses.

It is not abundantly clear if and to what extent any prescribed integrity training programmes are offered, whether they include aspects that are specific to public procurement, and to what extent public procurement officials actually participate in such training. In fact, according to the heads of procurement interviewed, training on procurement ethics and integrity is insufficient. Only 36% had access to special integrity training, and the rest either lacked it entirely or received minimal exposure. This may point to resource constraints that limit the frequency and reach of such training.

Although the PPADA has general provisions touching on corruption and conflict of interest, neither the PPADA nor the PPADR contain any explicit requirements for procuring entities to systematically report allegations of fraud, corruption and other prohibited practices to law enforcement authorities or other supervisory bodies concerned, and there is no clear procedure in place for doing this. There is no dedicated channel for secure, accessible and confidential reporting cases of fraud, corruption or other prohibited practices or unethical behaviour in the particular field of public procurement.

Apart from the general provision stating that the Conflict of Interest Act "shall be administered by the Ethics and Anti-Corruption Commission" (Section 4), no mechanisms are yet in place for applying the whistle-blower protections set out in the Act. The Whistle blower Protection Bill of 2024 has not yet been adopted.

There is no clear and comprehensive evidence whether and to what extent requirements that reports of fraud, corruption and other prohibited practices be systematically followed up by law enforcement authorities are actually being met. Among the heads of procurement in the 63 major procuring entities visited by the MAPS assessors, only 25% of respondents believed that existing measures are effective.

The enforcement of the applicable Acts mentioned is split among many agencies, with gaps and overlaps that prevent consistent, comprehensive, effective, efficient, fair and reasonable measures from being taken. While some cases of apparent fraud, corruption and other prohibited practices have been successfully prosecuted, others are reported in the press but often without evidence of any corresponding actions by the competent authorities. Similarly, the very small number of firms on the PPRA's list of debarred entities may indicate that the consistent application of debarment conditions is weak, in that some tenderers would participate despite having breached procurement contracts, including by poor performance, submitted false information about eligibility and qualifications, or refused to enter a contract. The EACC web page presented as allowing access to and download of its annual reports, etc., appears to be incomplete and not up to date. Though there are cases of corruption reported by EACC in procurement, some corruption cases may go unreported, meaning that the anticorruption framework and statistics may not paint the true picture on the ground.

While there are frameworks to promote transparency and allow CSOs to monitor public procurement, inconsistent government co-operation can sometimes hinder the full realisation of open contracting principles. At present, many procurement contracts are not publicly accessible for review and other important gaps in the reporting by procuring entities mean that available data on public procurement is incomplete. Data on ethical procurement practices among suppliers is also scarce and inconsistent.

Some actions to address cases of fraud, corruption or other prohibited practices are mentioned in the annual reports of, e.g., the EEAC and the PPRA but it is difficult to follow the details of the measures that have been taken as well as their effects in each individual case. The effectiveness of any measures that serve to follow up on reports of fraud, corruption or other prohibited practices or unethical behaviour is not difficult to determine.

No more than 87% of the major procuring entities visited by the assessment team confirmed the presence of a mandatory code of conduct or ethics for staff involved in financial management, including procurement.

Requirements for the preparation and submission of conflict of interest and financial disclosure statements are not complemented by simple and easy procedures for the purpose, nor by adequate mechanisms for monitoring formal compliance, for verifying the veracity of the statements submitted and for taking action if needed. The monitoring mechanisms in place may be insufficient to identify all cases of non-compliance and to allow remedial action to be taken. At present, the information collected is not accessible outside the authorities directly involved. The Conflict of Interest Act came into effect on 19 August 2025, and implementing regulations and corresponding administrative mechanisms will be in place within one year after the entry into force of the Act (Section 40). In the meantime, any statutory instruments made under the Public Officer Ethics Act remain in force (Section 52) of the Conflict of Interest Act). The effects of the new Conflict of Interest Act therefore remain to be determined.

There is a lack of adequate resources and capacity to monitor wealth declarations in order to ensure proper administration, verification and confirmation of the authenticity of the wealth declared by public officers. Restrictions on the publication of beneficial ownership limit the value of corresponding declarations, even if the PPRA is allowed to publish beneficial ownership information on the PPIP in relation to entities that have been awarded a tender by the procuring entity as part of a contract award.

- **Recommendations**

Review if, how and to what extent legal provisions covering general cases of fraud, corruption and other prohibited practices apply to procuring entities and their staff as well as to procurement proceedings, and how any shortcomings in this respect should be addressed, including through suitable mechanisms for monitoring, investigation and enforcement.

Establish comprehensive mechanisms for identifying and managing risks related to fraud, corruption or other prohibited practices in public procurement. Widen and harmonise information gathering on corruption and fraud in procurement, allowing information to be collected from various sources and compiled in ways that make it easy to take measures to address the cases identified. Improve the level of compliance with reporting requirements and take steps to ensure that procurement data is readily accessible in machine readable formats. Raise the level of transparency with respect to reports of alleged cases of fraud and corruption and the measures taken to address the cases that have been reported.

Review and revise the legal and institutional framework in order to eliminate gaps and unnecessary overlaps in the work of the institutions combatting fraud and corruption. Enhance the capacity to identify, investigate and sanction prohibited practices in public procurement and ensure that the competent agencies are duly empowered to take suitable measures. Prepare to handle the rising case load that should be expected as a result of improving the possibilities to identify and lodge reports on fraud, corruption or other prohibited practices or unethical behaviour.

Review how debarment works in practice and take steps to address any shortcomings that may be found.

Review how integrity training is currently carried out and how and to what extent it includes public procurement aspects, and address any shortcomings that may be identified.

Review to what extent companies have internal compliance measures in place, how they are used and how effective they are. Introduce more comprehensive and better co-ordinated initiatives between government regulators and supplier networks to institutionalise ethics within the supply chain.

Set up a dedicated channel on the PPRA website as well as on any other suitable public procurement portal in order to enable secure, accessible and confidential reporting of cases of fraud, corruption or other prohibited practices or unethical behaviour in public procurement. Ensure that all stakeholders are aware of and can easily access these reporting channels. Revise and adopt the Whistleblower Protection Bill and put effective and efficient mechanisms in place to ensure its proper application.

Review and update ethical guidelines and codes of conduct in the light of current developments. Review the current level of awareness and acceptance of the ethical standards in place and enhance the provision of training accordingly. Enhance monitoring of their application and set up enforcement mechanisms as may be warranted. Make the preparation, submission and filing of conflict of interest and financial disclosure statements simple and transparent and make it easy to identify any failure to comply. Set up mechanisms allowing the contents to be checked and sanction any misdeclarations. Consider making asset declarations and beneficial ownership information public.

Raise the level of transparency of all matters covered by the Conflict of Interest Act and prepare implementing regulations that duly reflect and are harmonised with the PPADA and the PPADR.

Summary of substantive gaps and recommendations of Indicator 14

Substantive gap	Risk classification and red flags	Recommendations
14(b)(b): No anti-corruption clauses observed in more than 20% of contracts reviewed, despite their inclusion in standard documents	No red flag; medium risk of difficulty to to deter and penalise unethical behaviour, undermining efforts to combat corruption	Strengthen internal checks to ensure that anti-corruption clauses are duly incorporated in contracts signed
14(c)(b), 14(c)(d): Little evidence whether reports of fraud, corruption, etc., are systematically and effectively followed up and effective, consistent sanctions are meted out	Red flags; high risk of failure to identify, investigate and sanction prohibited practices and to prevent repeat offences; mitigation would require also anti-corruption authorities and related entities to co-operate in facilitating reporting and ensuring that reports lead to adequate investigations and sanctions	Revise the legal and institutional framework to close gaps and reduce overlaps between the competent authorities; raise the level of transparency about the cases reported and the measures taken; build skills to identify, investigate and sanction prohibited practices
14(c)(c): Consistent application of debarment conditions is weak, with very few firms debarred, no details published and scant evidence of bad practices being discouraged	No red flag; medium risk of failure to discourage bad practices as well as to debar delinquent participants and effectively prevent their future participation	Review how debarment works in practice and take steps to address shortcomings; consider setting up a separate debarment board to strengthen the process
14(d)(b): No effective risk management procedures in many procuring entities	No red flag; medium risk of failure to identify and address risks of fraud and corruption	Enhance the EEAC guidelines and complement them by approaches specific to public procurement
14(e)(b): CSOs lack reliable access to procurement data, preventing effective third party monitoring; Government engagement is inconsistent, limiting feedback	No red flag; medium risk of failure to benefit from CSO contributions to public procurement monitoring, thus undermining transparency and accountability	Implement commitments 3, 4 and 5 in the OGP National Action Plan; improve compliance with reporting requirements and facilitate full, free access to public procurement data
14(e)(c): Low level of civil society engagement and limited evidence of its contribution to shaping and improving integrity in public procurement	No red flag; medium risk of failure to benefit from CSO contributions to public procurement integrity, thus undermining transparency and accountability	Review actual and potential civil society contributions to improving integrity in public procurement and facilitate greater CSO engagement accordingly
14(f)(b): No effective legal protection for whistleblowers, discouraging reporting of fraud and corruption	Red flag; high risk of failure to get reports on cases of fraud and corruption, severely undermining accountability and preventing remedial actions; mitigation would require all competent authorities to take a harmonised, effective approach to whistleblower protection	Revise and adopt the Whistleblower Protection Bill, putting effective and efficient mechanisms in place to ensure its proper application; in the meantime, revise and apply the whistleblower protections in the Conflict of Interest Act

Substantive gap	Risk classification and red flags	Recommendations
14(g)(e): Conflict of interest statements, financial disclosure forms and information on beneficial ownership are not accessible; missing, false or incomplete statements are not effectively identified and addressed	Red flag; high risk of fraud, corruption and illicit enrichment and of failure to identify and sanction such cases; mitigation would require comprehensive revisions to regulations and practices for submission and verification of declarations and for taking action as needed, applicable to all civil servants and other persons involved	Simplify preparation and submission of declarations, verify compliance, and sanction as needed; consider making the declarations and any measures taken public

4. Consolidated Recommendations

The following sections sum up the various recommendations made for improving public procurement in Kenya, with particular focus on the areas where the most important gaps and shortcomings have been identified. In order for the recommendations to lead to the desired outcomes, they will need to be implemented in a clear, coordinated, well-resourced and carefully organised manner. To this end, there is an urgent need for a unified, widely shared and formally adopted vision of continuous public procurement reform, in order to ensure national ownership and sustainability of the reform process, with clear definition of roles and responsibilities among the respective stakeholders, and clear and measurable objectives for the short, medium and long term.

This vision would normally be formulated and detailed in the next edition of the National Public Procurement and Asset Disposal Policy, which should be redrafted on the basis of the findings of the MAPS assessment, in close consultation with the various parties involved. The revised policy, complemented by the applicable, specific recommendations in the assessment report, would then serve to amend the PPADA and, in parallel, the PPADR, in order to ensure the coherence of the legal and institutional framework and its harmonisation with other, major development policies.

At the same time, other reform measures would need to be carried out in order to facilitate the implementation of the agreed changes to the NPPADP, the PPADA and the PPADR. In the first place, these concern improvements to the e-GP system and measures to raise the capacity of procuring entities and of other actors involved in public procurement.

As evident from Chapter 3 above and from the indicator matrix in Annex 3, some issues appear in several places under the MAPS pillars but may be addressed by one and the same set of measures. The most important recommendations and the main corresponding actions proposed are therefore summarised and set out below. They closely reflect the observed shortcomings in the actual situation, set against the requirements in the various MAPS indicators, sub-indicators and assessment criteria.

I. Restructure, update and harmonise the legal framework:

> Harmonise the form, contents and hierarchy of the legal instruments on public procurement in a way that reflects the nature and relative importance of principles, policies, procedures and practices set out in the Constitution, the NPPADP, the PPADA, the PPADR and other documents. In particular, clearly distinguish substantive provisions of the law from the implementing regulations, where the PPADA should contain the substantive provisions and the PPADR should guide on implementation, in such a way that the provisions eliminate all instances of ambiguity, inconsistency and contradiction. Start by updating the NPPADP, followed by revising the PPADA and the PPADR in parallel while aligning them and the e-GP system.

II. Redefine, restructure and strengthen the procuring entities:

> Review and revise the definition of procuring entities and make any necessary changes to the organisational and administrative set-up in order to ensure that each and any procuring entity can reasonably be expected to be able to fully exercise its rights and obligations under the law and the regulations, with fully competent, professional staff working in a department set up for the purpose and having appropriate tools, systems and administrative routines and resources at their disposal.

Reconsider the functions of the separate committees for tender opening (which may be housed within the procurement function), evaluation and negotiations, inspection and acceptance, and disposal of assets. As a complement, facilitate the use of joint and centralised procurement.

III. Make the procurement processes simpler and easier to use:

Redefine and simplify the set of procurement procedures, introduce a simple and easy to use, competitive procedure for low value procurement, and provide clear conditions and corresponding guidelines for when and how to use them. Lengthen the minimum time for submission of tenders and give guidance for how to set longer deadlines as a function of the nature and complexity of the procurement at hand. Define framework agreements, competitive negotiations and electronic auctions as complements to the regular procedures.

IV. Ensure that eligibility and qualification requirements for participants better match the needs:

Concerning the need to ensure the capability of participants to carry out the contract, add general principles and requirements to the PPADA and provide further details and guidance in the PPADR, especially for how requirements for eligibility and ability to perform should be set, demonstrated and evaluated. Add an obligation for invitations to tender etc. to include requirements for eligibility or capability.

V. Develop sustainable public procurement approaches and procedures:

Reflect the approaches in the draft sustainable public procurement and asset disposal framework in procedures and practices for identifying needs, preparing and disseminating procurement plans, defining requirements and drafting specifications, setting evaluation criteria and awarding contracts, managing contract implementation, monitoring and evaluating procurement outcomes. Examine if and how preferences and reservations contribute to economic and social sustainability and revise and simplify public procurement regulations correspondingly.

VI. Improve the provision of guidelines, manuals and training materials:

Prepare and issue procedural guidelines, manuals and training materials that are up to date and fully reflect the provisions of the PPADA and the PPADR, revise them without delay as may be necessary to reflect changes in the legislation or in the public procurement market, complement them with good practice examples, and make sure that they can be within the e-GP system as applicable.

VII. Expand capacity building and harmonise working conditions for officials in charge of public procurement:

Expand the provision of public procurement training at all levels, and review, clarify and harmonise the requirements for examination and certification of public procurement officials. Review the actual access to and the use of the existing advisory services, and address any shortcomings identified. Develop a harmonised, cross-cutting supply chain management officers' scheme of service for general application by procuring entities. Define and disseminate good practice for staff performance evaluation, provision of training, and promotion.

VIII. Use the full potential of e-procurement to improve administrative efficiency:

Take all and any steps necessary to make sure that the e-GP system matches what the PPADA requires or allows, that it provides procedural support for all steps in the public procurement cycle, that it ensures the greatest possible transparency of all procurement transactions, irrespective of contract value, and that its functionalities maximise administrative efficiency. In particular, define the form, contents and application of standard documents, including notices and reports, in a way that reflects the optimal way of using them in an e-GP environment.

IX. Use the e-GP system and other means to raise transparency and make it easy to access and analyse information:

Fully exploit the potential for the e-GP system to make public procurement transparent. Review, revise and complement the regulations on record keeping and reporting with a view to making them easy to apply in the e-GP environment, which in turn should reflect the record keeping and reporting requirements and facilitate compliance. Improve the collection and analysis of public procurement and asset disposal data, covering both procurement operations and supply side conditions, and the use of such data for policy making. Engage institutions of higher education to carry out studies and analyses.

X. Streamline, prioritise and ring-fence funds committed to procurement:

Integrate early stage procurement planning into current development planning and budgeting. Adjust administrative procedures and budget regulations as required to make it possible for public procurement planning, execution and evaluation to be carried out in a longer-term perspective, while retaining flexibility to adapt to changing needs and allowing continuity of operations over the year and across fiscal years. Oblige procuring entities to pay within 30 days or the time limit set out in the contract, whichever is shorter. Improve cash management by the Treasury and take other steps to help ensure that procuring entities get greater certainty about the funds that will effectively be available to them for carrying out procurement and paying invoices due.

XI. Maintain and expand the dialogue with stakeholders, including civil society:

Expand the use of consultations at national and county level, particularly in the context of the proposed updating of the National Public Procurement and Asset Disposal Policy and the corresponding amendments of the PPADA and the PPADR. Review how participation of civil society organisations or of individual citizens in the public procurement process could be more clearly regulated and, as appropriate, facilitated, promoted, supported, empowered, and complemented by more effective access to information. Prescribe the procedure for conducting consultative meetings in line with Section 179 of the PPADA.

XII. Strengthen the complaints review system:

Develop the potential of the review system to raise the level of trust in public procurement, encourage wider participation by the private sector and create incentives towards greater attention to good procurement practice. Abolish the obligation to pay a deposit and a security fee in the amounts now required by law, and consider reviewing the variable administrative fees. Develop, formulate, gazette and publish the PPARB’s internal rules and procedures and make sure that their application is supported by adequate tools, in particular a case management system with a searchable data base of past decisions.

XIII. Make oversight and regulatory authorities more efficient and effective:

Review and harmonise the approaches and the scope of work of regulatory and oversight authorities involved, directly or indirectly, in public procurement, so as to close gaps and avoid conflicts of roles and unnecessary overlaps. Establish comprehensive mechanisms for identifying and managing risks related to fraud, corruption or other prohibited practices in public procurement and asset disposal and ensuring that any instances of fraud and corruption are effectively identified, investigated, prosecuted and sanctioned.

XIV. Enhance the fight against fraud and corruption, protect whistle-blowers, and follow due process:

Raise the level of transparency of all matters covered by the Conflict of Interest Act and prepare implementing regulations that duly reflect and are harmonised with the PPADA and the PPADR. Set up a dedicated channel on the PPRA website as well as on any other suitable public procurement portal in order to enable secure, accessible and confidential reporting of cases of fraud, corruption or other prohibited practices or unethical behaviour in public procurement. Ensure that any procuring entity or participant as well as their staff members in charge, as well as any other parties involved, are treated in a fair and predictable manner, based on the merits of the case at hand. Create awareness and train on prevention measures and codes of ethics. Specify the whistleblower protection mechanisms to be put in place and implement them.

5. Strategic Planning

Reflecting the overarching, consolidated recommendations indicated in Chapter 4 above, the key issues to resolve and the proposed actions are the following, by order of importance and urgency. They should be accordingly incorporated in a public procurement development programme that would guide the implementation of the recommendations in this MAPS assessment report.

- The regulatory framework has gaps and overlaps, with key documents out of sequence (law issued well before regulations, with policy coming at the end, and current manuals based on previous legislation) and therefore with inconsistencies.

  Restructure, update and harmonise the legal framework, with a clear hierarchy of principles, policies, procedures and practices and with key documents prepared and issued in the right sequence.

- The public procurement information systems still require separate handling of submission and publication of notices and reports, and of procurement procedures. The new e-GP system does not yet include a full range of functionalities and therefore cannot provide procedural support for all steps in the public procurement cycle, nor allow full transparency of all procurement transactions. Its roll-out to the many procuring entities and the even more numerous suppliers, contractors and service providers is taking time.

  Use the full potential of the e-GP system to improve administrative efficiency, by speeding up development and introduction of the still missing functions and providing enhanced information and training for both public and private sector users.

- Many procuring entities now rarely have the means to make full and profitable use of their rights or to fully meet their many procedural obligations and organisational requirements; they thus lack the necessary capacity to properly apply the full range of procurement procedures and to comply with all recording and reporting requirements, and the provisions for joint or centralised procurement are incomplete and restrictive and therefore of little help.

  Redefine, restructure and strengthen the procuring entities and take complementary measures for helping smaller procuring entities meet their obligations.

- Numerous, detailed and prescriptive procedural requirements apply for tendering, evaluation and award, making it difficult and costly for procuring entities and tenderers to comply and to pay sufficient attention to fitness for purpose and value for money. Guidance on planning and preparation and on contract management has much room for improvement.

  Provide further guidance on planning and preparation and on contract management, make the award procedures simpler and easier to use, reduce their number and introduce a competitive procedure for small value contracts, enhance guidance for choosing the right procedure, and lengthen the minimum timelines.

- Tenderers have to meet eligibility requirements for participating and may also have to demonstrate that they are capable of carrying out their obligations under the contract to be concluded. Excessive or insufficient requirements or failure to set them distort competition and put procuring entities at risk. Current regulations are incomplete and not well applied.

Ensure that eligibility and qualification requirements for participants better match the needs and that they can be *clearly and easily demonstrated and verified.*

- Sustainability considerations are not yet well reflected in public procurement regulations and even less applied. The recently prepared framework for sustainable procurement is an important step forward but has to be transposed into regulations, guidance and training materials and practices. The current preference and reservations schemes are intended to contribute to economic and social sustainability but are difficult and time consuming to apply, little used and possibly not effective and efficient.

Develop sustainable public procurement approaches and procedures by transposing and applying the framework prepared, and review and revise the preference and reservations schemes to make them workable and effective.

- The current Regulations, including the instructions to tenderers in the standard documents, focus very much on procedural details, with limited flexibility for procuring entities to adjust and apply them according to the specific needs of the procurement at hand, and would benefit from a much wider set of good practice examples with explanations. The corresponding manuals contain valuable advice but are outdated.

Improve the provision of guidelines, manuals and training materials, incorporating guidance notes also into the respective parts of the e-GP system, for easy on-line reference when carrying out procurement.

- The number of certified public procurement professionals, members of KISM, is more than 11 times smaller than the number of procuring entities, despite their obligation to have a procurement function led and staffed by professionals. The public procurement education and training currently offered is of good quality but does not provide the number of knowledgeable and skilled professionals needed, while there is no single, unified, prescribed scheme of service for procurement professionals.

Expand capacity building and harmonise working conditions for officials in charge of public procurement.

- Until now, procuring entities have been obliged to report to the PPRA on a large number of elements of the procurement process. However, mainly because of time and capacity constraints, compliance has been very low, and some key information has not been required to be submitted or published. Much procurement information remains inaccessible and not searchable also for technical reasons.

Use the e-GP system and other means to raise transparency and facilitate access to information.

- In practice, public procurement comes in at a late stage of the planning and budget cycle, and budget regulations delay procurement at the beginning of the fiscal year and create a rush to procure towards its end. Procuring entities suffer from uncertainty about the availability of funds and often do not manage to pay suppliers, contractors and service providers on time.

Make the use of funds simpler, more flexible and more effective, integrating public procurement into development planning and medium-term expenditure frameworks and taking steps to ensure that procuring entities are able to promptly pay contractors.

- While the legislation includes provisions on consultations with stakeholders, the responsibilities are spread out among several central institutions, and the private sector finds that it does not get enough opportunity to regularly and effectively engage in the development of public procurement. The needs and the benefits of public procurement are not yet effectively harmonised with development policies in other fields.

  Maintain and expand the dialogue with stakeholders, including civil society, and set public procurement

- The system for review of complaints against actions and decisions of procuring entities is well regulated, motivated decisions are issued on time, and complainants have the right to judicial review. However, lack of trust and high costs appear to discourage aggrieved tenderers from lodging complaints and certain issues, such as a procuring entity's choice of procedure, cannot be appealed against. The lack of a case management system and a searchable data base of past decisions limits the coherence of the decisions and the possibilities to learn from the case law established by the review board.

  Put the complaints review system to better use, lowering the cost of lodging complaints and raising the transparency of the decisions.

- Internal and external audit and other forms of oversight of public procurement are quite comprehensively regulated but not fully effective: the coverage of public procurement operations is incomplete, recommendations may be given but are often not acted upon and monitored, and failure to abide by them is rarely investigated and sanctioned.

  Make oversight of public procurement more efficient and effective, harmonising the roles and approaches of the authorities involved and giving them adequate resources, raising the transparency of their work and ensuring the systematic enforcement of their recommendations.

- Certain ethics and anti-corruption measures are in place, including obligations to register beneficial ownership and for officials to announce conflicts of interest and submit asset declarations, as well as to report cases of possible fraud and corruption. However, their application is incomplete, there is little or no verification of the completeness and correctness of the submissions and most of the documents remain confined to the authority where the official is employed. Correspondingly, few cases are fully investigated and sanctioned, while civil society and other parties concerned have little possibility to observe the extent to which the applicable regulations are implemented, whether in the general or the individual case.

  Enhance the fight against fraud and corruption, protect whistle-blowers, and follow due process, enforcing current obligations for declarations of beneficial ownership, conflicts of interest and assets, and make data and processes transparent in line with Kenya's engagements under the Open Government Partnership.

For ease of reference, the suggested, main priorities for action can be summed up in the form of the following chart:

Urgency/importance chart for the consolidated recommendations and the corresponding actions

	Higher urgency ("start now, finish soonest")	**Lower urgency or more time consuming ("start soon, finish later")**
Higher importance ("greatest effects; best use of scarce resources")	I. Restructure, update and harmonise the legal framework VIII. Use the full potential of e-GP to improve administrative efficiency	II. Redefine, restructure and strengthen the procuring entities III. Make the procurement processes simpler and easier to use IV. Ensure that eligibility and qualification requirements for participants better match the needs V. Develop sustainable public procurement VI. Improve the provision of guidelines, manuals and training materials VII. Expand capacity building and harmonise working conditions for public procurement officers
Lower importance ("lower effects; when resources get available")	IX. Use the e-GP system and other means to raise transparency and facilitate access to information X. Make the use of funds simpler, more flexible and more effective XI. Maintain and expand the dialogue with stakeholders, including civil society	XII. Put the complaints review system to better use XIII. Make oversight more efficient and effective XIV. Raise transparency on fraud and corruption, protect whistleblowers, and follow due process

With respect to the more specific timing of the actions and the distribution of responsibilities among the institutions concerned, the Technical Committee has proposed the following plan. This proposal is based on the Technical Committees knowledge of the roles, responsibilities and resources of the various institutions indicated. The proposed actions, their timing and the institutions responsible are expected to be formalised following the Government's adoption of the assessment report, as an initial step in the implementation of the recommendations made and of the approach presented in the introduction to Chapter 4.

Proposed action	**Timeline**	**Responsible institutions**
I. Restructure, update and harmonise the legal framework	Short Term (Higher Urgency) (within 1 year)	National Treasury, PPRA, AG, Cabinet, Parliament
II. Redefine, restructure and strengthen the procuring entities	Medium Term (Higher Urgency) (within 3 years)	National Treasury, PPRA, PSC, Ministry of Education, Council of Governors
III. Make the procurement procedures simpler and easier to use	Medium Term (Higher Urgency) (within 3 years)	National Treasury, PPRA
IV. Ensure that eligibility and qualification requirements for participants better match the needs	Medium Term (Higher Urgency) (within 3 years)	National Treasury, PPRA

Proposed action	Timeline	Responsible institutions
V. Develop sustainable public procurement	Medium Term (Higher Urgency) (within 3 years)	National Treasury, PPRA
VI. Improve the provision of guidelines, manuals and training materials	Medium Term (Higher Urgency) (within 3 years)	National Treasury, PPRA, KISM, KISEB, etc.
VII. Expand capacity building and harmonise working conditions for public procurement officers	Medium Term (Higher Urgency) (within 3 years)	PPRA, KISM, KISEB, PSC, etc.
VIII. Use the full potential of e-procurement to improve administrative efficiency	Short Term (Higher Urgency) (within 1 year)	National Treasury
IX. Use the e-GP system to raise transparency and facilitate access to information	Short Term (Higher Urgency) (within 1 year)	National Treasury
X. Make the use of funds simpler, more flexible and more effective	Short Term (Higher Urgency) (within 1 year)	National Treasury
XI. Maintain and expand the dialogue with stakeholders, including civil society	Short Term (Higher Urgency) (within 1 year)	National Treasury, PPRA
XII. Put the complaints review system to better use	Medium Term (Higher Urgency) (within 3 years)	National Treasury, PPRA, PPARB
XIII. Make oversight more efficient and effective	Medium Term (Higher Urgency) (within 3 years)	National Treasury, PPRA, PSC, OAG, EACC
XIV. Raise transparency on fraud and corruption, protect whistleblowers, and follow due process	Medium Term (Higher Urgency) (within 1 year)	National Treasury, PPRA, AG, EACC

6. Validation

Validation of the findings and recommendations of the MAPS report has taken place in several steps and by various means, so as to ensure that the description of the situation and the gaps is clear, comprehensive and correct and that the recommendations are well founded and fully supported by the stakeholders involved.

The qualitative elements of the indicator matrix were prepared by the assessment team and submitted to the Technical Committee for its review and comments on 13 April 2025. The Technical Committee examined and commented on the draft, which was revised by the team, followed by its acceptance on 15 May 2025.

Similarly, the quantitative elements and the full indicator matrix were submitted to the Technical Committee on 18 July 2025 and accepted, after revisions, on 21 August 2025.

The draft assessment report was prepared by the assessment team and sent to the PPRA for transmission to the Technical Committee for its review and comments on 17 September 2025. The Technical Committee held a workshop 6-12 October 2025 in order to thoroughly go through the indicator matrix and the draft report line by line. The Technical Committee's observations and suggestions were incorporated by the assessment team into a redraft of the report, which was sent to the PPRA, for submission to the Steering Committee in view of its intended meeting on 17 October 2025; however, this meeting was not held.

The draft final assessment report was presented and discussed in the Steering Committee meeting held on 15 January 2026. At that meeting, subject to minor revisions which were rapidly made by the assessment team, the draft final assessment report was approved for dissemination to stakeholders in preparation for the validation workshop scheduled for 27 January 2026. The draft final assessment report and the indicator matrix, together with an invitation to the validation workshop, was sent out to stakeholders on 15 January 2026.

The Kenya country office of the World Bank, being represented in the Technical Committee, had received a copy of the draft report in preparation for the Technical Committee workshop early October 2025. The assessment team received written comments from the Bank on 21 January 2026. They have been incorporated in the final report together with the inputs from the validation workshop.

The validation workshop was held in the premises of the Kenya School of Government, starting at 09:00 and finishing at 16:30 on 27 January 2026. A total of 90 stakeholder representatives participated, representing a wide range of authorities, public corporations, private sector enterprises and their associations, and civil society, and coming from several parts of the country. During the workshop, the assessment team thoroughly presented the findings and recommendations in the report and invited the participants to give their comments and suggestions. Most of them were already reflected in the text of the report and in the indicator matrix, while the remaining, substantive ones have been incorporated into the final report. Subject to those minor revisions, the participants confirmed their validation of the MAPS assessment report. The validation workshop is covered in Annex 14.

The validated report was submitted to the PPRA and to the MAPS Secretariat, on 30 January 2026. The assessment team made some additional, minor revisions based on comments from the MAPS Secretariat, mainly covering the level of risk associated with the various gaps identified.

Annexes/Appendices

1. Concept Note

2. Composition and terms of reference of the Steering Committee and the Technical Committee

3. Indicator matrix

4. Meetings with key stakeholders

5. Sample of 63 major procuring entities

6. Letter of Invitation issued to the sample of 63 major procuring entities

7. Data collection tools

8. Data from contract file reviews

9. Data from interviews with Heads of Procurement

10. Public sector survey questionnaire

11. Data from public sector survey

12. Private sector survey questionnaire

13. Data from private sector survey

14. Validation workshop

Kenya MAPS Assessment Report, Annex 1
Approved Concept Note

Version 01

Concept Note for the Assessment of the Public Procurement and Asset Disposal System in Kenya

SEPTEMBER 2023

1. Country Context and Background

The Republic of Kenya is located in the East Africa region with a land mass of 580,876.3 km^2 and an estimated population of 47.6 million[1] (KNBS,2019), with an inter-censal population growth rate of 2.2 percent. Kenya operates under a devolved system of governance comprising of the National Government and 47 County Governments, following the promulgation of the Constitution of Kenya (the Constitution), in 2010. The two levels of government are distinct and inter-dependent with constitutionally assigned and protected functions and powers as defined in the Fourth Schedule of the Constitution. The National Government comprises of the National Executive, Parliament and the Judiciary; while the County Government comprises of the County Executive and County Assembly. The two levels of government are required to conduct their mutual relations on the basis of consultation and co-operation.

On the economic end, the nominal Gross Domestic Product (GDP) for Kenya in 2020[2] is estimated at KES 13.368 trillion (113.331 billion US Dollars), up from KES 12.028 (109.650billion US Dollars) in 2021. The Kenya economy is estimated to have experienced a real GDP growth rate of 4.8percent in 2022 down from 7.6 percent in 2021, majorly due to slowing down of economic activities during the electioneering period, the effects of the drought and external shocks from increases in commodity prices in the international markets.

On the fiscal side, the total Government expenditure grew from KES 2,765.77billion in 2019/2020 to an estimate of KES 3,181.56billion in 2021/2022 fiscal year. This growth was occasioned by increased government expenditure through economic stimulus programmes aimed at supporting the economy to recover from the effects of the COVID-19 pandemic.

On the other hand, globally, public procurement transactions account for, on average, 13% to 20% of Gross Domestic Product (GDP); with the global expenditure in procurement being estimated at over USD 9.5 trillion[3]. With a GDP of 95.505 billion[4] US Dollars in 2019, public procurement value in Kenya could be estimated to account for 15.758 billion USD Dollars.

1.1 Role of Public Procurement in Promotion of Socio-economic Development

Public procurement is regarded as a strategic function for effective and efficient delivery of social infrastructure which is the backbone of public goods offered by the Government. A well-functioning public procurement system, devoid of corrupt practices and malfeasance is a panacea for sustainable economic development and a shared prosperity for every citizen. As part of the public financial management ecosystem, quality of public procurement operations directly impacts macro-fiscal policy making by the government; cases of fiscal indiscipline in the public procurement transactions have serious repercussions on the national budget and debt levels.

[1] Kenya National Bureau of Statistics (KNBS): 2019 Kenya Population and Housing Census, Volume I
[2] Kenya National Bureau of Statistics (KNBS): 2021 Economic Survey
[3] Global Public Procurement Database by World Bank Group
[4] World Bank National Accounts Data

The Government designed and continued to implement national blue prints including the Kenya Vision 2030, the Medium-Term Plans and the Bottom-Up Economic Transformation Agenda (BETA). The policy documents have been implemented towards enhancing socio-economic livelihoods of Kenyans, and inclusive growth. Public procurement has been, and is a key facilitator in realisation of these aspirations. This has been evident in the continued investment in rural electrification, supply of water, supply of commodities in the health sector, expansion of road networks in the rural communities, and improvement of education infrastructure. Enhancing efficiency and effectiveness of public procurement processes, is therefore a necessity to realise value for money and deliver quality services to the public.

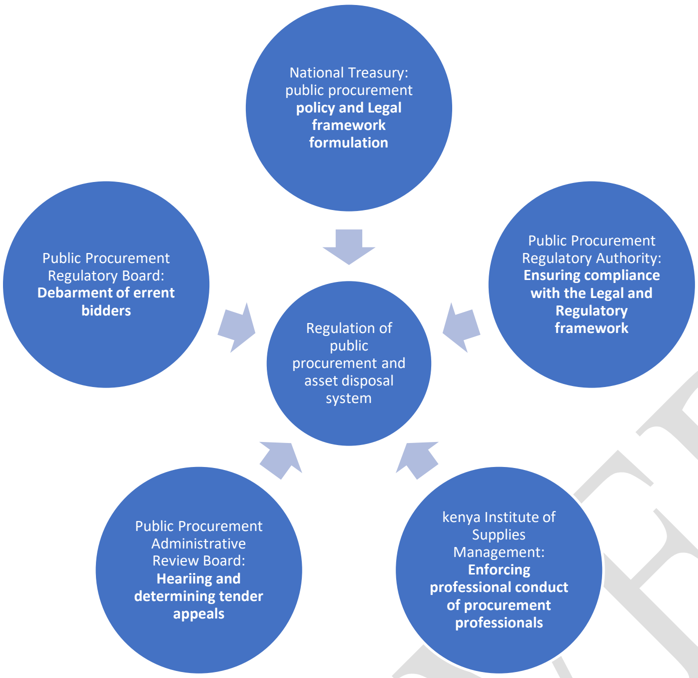
1.2 Public Procurement Legal and Regulatory Framework in Kenya

The Constitution of Kenya, 2010 (the Constitution) under Article 227 requires that public procurements should be undertaken in accordance with a system that is fair, transparent equitable, competitive and cost effective. The Public Procurement and Asset Disposal Act, 2015 (the Act) was enacted in December, 2015 to give effect to the requirements under Article 227 of the Constitution. The Act became effective on 7th January, 2016, repealing the Public Procurement and Disposal Act, 2005. However, the Public Procurement and Disposal Regulations, 2006, remained in force until 2nd July, 2020 when the Public Procurement and Asset Disposal Regulations, 2020 (the Regulations) were gazetted. Over that transition period, the repealed regulations were being applied hand in hand with the Act, in accordance with the guidance issued by the National Treasury through the Treasury Circular No. 2/2016[5] of 29th March, 2016. In, Kenya, public procurement at both levels of government is governed by the Public Procurement and Asset Disposal Act, 2015.

The Act and the Regulations were developed in line with international best practices, with the aim of enhancing accountability, openness, transparency and value for money in public procurement. These principles were further underscored by His Excellency the President of the Republic of Kenya, in June 2018, through issuance of the Executive Order No. 2 of 2018[6]. The Executive Order led to the upgrading of the Tender Portal (the Portal); the Public Procurement Information Portal (PPIP) which is accessible through https://tenders.go.ke. The Portal is a central system for collection and dissemination of public procurement data and information; including for advertisement of public procurement opportunities as well as for publication of details of all contracts signed by procuring entities. Beneficial Ownership Information is also captured and disclosed through the PPIP.

The institutional framework overseeing the public procurement and asset disposal system in Kenya is depicted by the figure below.

[5] Title: Operationalization of the New Public Procurement and Asset Disposal Act, 2015
[6] Title: Procurement of Public Goods, Works and Services by Public Entities.



1.3 Electronic Government Procurement System

In an effort to automate public procurement and asset disposal processes, the Government implemented the Procure to Pay module in the Integrated Financial Information Management System (IFMIS). The module is used to undertake procurement transactions electronically including preparation of procurement plans and linkage with the line items in the budget, tendering through request for quotation and open tender, and use of inbuilt item master/catalogue for common use items. The system is currently being used at both the National and County Government procuring entities. A review of the efficiency and effectiveness of the existing Procure to Pay module was undertaken in 2017[7], with the aim of identifying weaknesses that required improvement. The review report recommended that the Government implement a standalone, end to end and a well-functioning e-Government Procurement system (e-GP).

To this end the e-Government Procurement system Strategy was developed and approved, paving way for acquisition of the standalone system. The roll-out of the e-Government Procurement System is a major deliverable of the Program for Results aimed at strengthening Governance for Enabling Service Delivery and Public Investment in Kenya (GESDek), and the Public Accountability and Service Delivery (PASEDE) programme under the Public Financial Management Reforms Strategy, 2018-2023[8]. The process for acquisition of the e-GP system has commenced following a call for submission of bids in September, 2021. Currently, the system is under pilot phase and it will be rolled out to all implementing agencies by July 2024.

It is envisaged that full implementation of the e-GP System will reduce the challenges that have been experienced in public procurement system; some of which include: cases of weak compliance with public procurement procedures; poor development of specifications; weak

[7] The Multilateral Development Banks (MDB) e-Procurement Readiness Assessment Survey Questionnaire
[8] Source: http://npfmr.treasury.go.ke/public-financial-management-reforms-strategy-2018-2023/

data & information management; poor contract management; poor records management; delays in payment for delivered contracts; and high turnover and transfer of procurement professionals, are among others. These systems will also strengthen public procurement principles of integrity, efficiency, competition, economy, accountability and value for money for the services.

1.4 Preference and Reservation Schemes in Public Procurement

The government being the largest buyer, has the potential of achieving targeted socioeconomic goals through creation of opportunities for participation of disadvantaged and marginalized groups, and local industries in public procurement. In consideration of the provisions of the Constitution under Article 227, the Act, Regulations, and socio-economic development factors, the Government has continued to implement affirmative action programmes, and preference and reservation schemes; to facilitate participation of disadvantaged groups, local contractors and promote consumption of locally manufactured products through public procurement and asset disposal.

Specifically, Part XII of the Act details different kinds of preferences and reservations which procuring entities are required to apply while undertaking public procurement operations. The preferences and reservations include: a requirement to accord preferential treatment to manufactured articles, materials or supplies wholly mined and produced in Kenya; to firms where Kenyans are shareholders; Access to Government Procurement Opportunities (AGPO) and sourcing of at least 40% of procurement supplies including technological from/to the local contractors/citizens; amongst others.

These preferences and reservations have been under implementation since 2013 in Kenya has achieved several milestones including setting up of the Preferences and Reservation Secretariat, that oversees registration and certification of the disadvantaged groups; reengineering and automation of the AGPO registration to allow for electronic generation of AGPO Certificates; continued award of contracts to the disadvantaged groups; and sensitization of the groups on the preference and reservation schemes.

On the other hand, a number of issues have emerged in the course of implementation of the preference and reservation schemes to include; delayed payment to the disadvantaged groups for performed contracts, lack of clarity on some of the preferences and their extent of application for example the local content requirement, and those pertaining to application of preferences to donor funded projects, and overall, on competition in public procurement.

The assessment should therefore review the extent of implementation of the preference and reservation schemes, with a view of outlining the gaps, emerging issues, successes and recommendations for improvement.

1.5 Professionalization of the Public Procurement Practice

The Government of Kenya since the enactment of the Supplies Practitioners Management Act, 2007 has continued to implement actions aimed at strengthening professionalism in public procurement practice. These have included facilitating establishment and operationalization of the Kenya Institute of Supplies Management (KISM) and the Kenya Institute of Supplies

Examination Board (KISEB). KISM is mandated to enforce the code of conduct and ethics for supply chain management cadre; whereas KISEB is mandated to administer professional examinations, to allow the qualified to be admitted as members of KISM.

The Act further requires that procurement and supply chain management functions and operations be undertaken by procurement professionals who possess the requisite qualifications recognized in Kenya and are members of a professional body. However, there is inadequate evidence to confirm full adherence to this requirement. In addition, cases of unethical and corrupt practices have been on the rise, weak implementation of the law, low levels of compliance with the legal and regulatory framework, and poor maintenance of procurement records.

It is envisaged that through this assessment, challenges, gaps, weaknesses, and bottlenecks will clearly be highlighted and recommendations drawn for strengthening professional practice in public procurement.

1.6 Public Procurement Preparation and Contract Management

Contract preparation and management is a critical part of the public procurement processes as contracts are the documents governing the relationship between the procuring entity and the bidders. The Authority, through its compliance monitoring activities have always flagged contract management as one of the areas the procuring entities do not give the seriousness it deserves.

These weaknesses in contract preparation and management have led to most of the projects procured by the Government stalling, being abandoned, contracts being terminated at huge costs to the Government, contract implementation disputes, and generally failure by the Government to deliver on the intended public services. This failure to dully implement the contracts as required, results in huge sunk costs to the Government which constraints further the fiscal space.

The assessment should endeavour to clearly outline gaps, challenges, weaknesses, and successes in contract formation and management. The assessment should clearly outline measures to be put in place to ensure that all procuring entities negotiate and enter into contract through a mechanism that delivers value for money and enhances service delivery.

1.7 Beneficial Ownership Transparency

The current legal framework – arising from improvements in the law done in 2022 – now makes it obligatory for procuring entities to make full disclosures of beneficial ownership of firms awarded contracts by the government. This development in key in harnessing and enhancing transparency and accountability. It is also important to note that these requirements are being facilitated aptly through provision of templates in the Standard Bid Documents being used by procuring entities. The disclosure of beneficial ownership information is done through the Public Procurement Information Portal (PPIP).

1.8 Previous MAPS Assessments and Related Assessments

The last country procurement assessment in Kenya was undertaken in 2007 under the pilot program of Methodology for Assessing Procurement Systems (MAPS) Version I, recommendations from the assessment included: enhancing procurement capacity at

Procurement Entity (PE) level through training, issuance of guidelines and continuous support; improved incentive structures with a view to support sound procurement practices through effective incentives for better outcomes; better access to procurement information including legal framework, tendering opportunities, contract details and related procurement statistics; and intensified partnership and coordination between PPRA and related organisations for example the National Treasury (including the PFMR Secretariat), Office of the Auditor General, and Internal Audit Department.

Implementation of these recommendations have seen continuous improvement in public procurement outcomes. Some of the reforms arising from the recommendations included the development of the tender's portal, use of the procure to pay module in IFMIS, decentralisation of procurement operations to procuring entities and ensuring that the procurement functions are manned by professionals. The recommendations on building of partnerships, and disclosure of public procurement information and related statistics have not been comprehensively implemented. Lessons learned included, the need to draw clear post-assessment implementation action with responsibilities and timelines clearly indicated.

Public Expenditure and Financial Accountability Assessments (PEFA) have been conducted in Kenya in 2017 and 2022. According to the final draft report, Kenya scored D+ for PI-24: Procurement. Key finding being low levels of disclosure of public procurement information to facilitate public scrutiny and for use in decision making. This was premised on the finding that not all procurement transactions undertaken by the general government, were being seamlessly disclosed, to allow monitoring and verification by the procurement authority. This was exacerbated by the slow adoption and use of e-Government procurement system.

Kenya also participated in the 2022 UNEP SDG 12.7 data collection and assessment, in which the country scored an overall score of 38 (classified as low level). The areas identified for improvement included, lack of mandatory provisions in the legal framework on sustainable public procurement (SPP) implementation, lack of data to measure the proportion of SPP in public procurement spend, and practical support to facilitate SPP mainstreaming and implementation.

2. Objectives of the Assessment

The main objective of conducting this country procurement assessment is to determine the extent to which the country procurement system is competitive, transparent, cost-effective and comparable with international best practice. Specifically, the objectives for conducting the assessment are:

a) to assess the overall functioning of the public procurement and asset disposal system in Kenya, identifying strengths & best practices, weaknesses & gaps, lessons learnt, and emerging issues across all public procurement processes and procedures;
b) to assess the implementation of preference and reservation schemes including application of local content requirements/allocations;
c) review the extent of professionalisation of the public procurement and asset disposal system, in terms of academic and professional qualifications and opportunities for continuous professional development;

d) to assess challenges faced in preparation and management of public procurement and asset disposal contracts; and
e) to outline recommendations and actions for implementation aimed at bridging the identified weaknesses, gaps and risks

The assessment will be conducted following the MAPS II methodology. The objective number 2 [c] on the extent of professionalisation of the public procurement and asset disposal system, will not require application of the supplementary module, but through analysis of information collected using the main methodology. Data will be collected for both qualitative and quantitative indicators outlined in the Methodology, and in accordance with the MAPS indicators matrix.

Implementation Model: Tasks to Meet the Objectives

This assessment will be implemented in accordance with the Methodology for Assessment of Procurement Systems (MAPS II) of 2018. The necessary arrangements have been put in place for purposes of adequately planning, conducting and reporting on the assessment including quality assurance, to include:

a) Finalization of the work planning and establishment of the governance structure within the to coordinate the assessment: the assessment shall be led by the Government of Kenya (GoK) through The National Treasury and Planning (including the PFMRS), Public Procurement Regulatory Authority (the Authority) and the Steering Committee. The Authority has established a Technical Committee, to provide technical support, information and the necessary facilitation of the assessment process before and during the assessment period. In taking lead of the assessment, the GoK is demonstrating its commitment to the conduct of the assignment and readiness to adopt and implement the results.

***b) Engagement of the Assessment Team*:** The Lead Consultant and a team of Assessors will be engaged through relevant procurement methods following the World Bank Procurement Regulations; and coordinated by the Authority. The World Bank will provide technical support and advice during the course of the assessment.

c) Conducting the assessment using MAPS II analytical framework and indicators: the assessment will cover all aspects of the public procurement system using the four pillars as provided in the MAPS tool: (i) Pillar I: Legal, Regulatory and Policy Framework; (ii) Pillar II: Institutional Framework and Management Capacity; (iii) Pillar III: Procurement Operations and Market Practices; and (iv) Pillar IV: Accountability, Integrity and Transparency of the Public Procurement System. Both quantitative and qualitative indicators in accordance with the MAPS indicators matrix will be applicable.

d) Draft Report Preparation: The team of assessors will be required to conduct desk-review relevant documents, collect primary data from sampled procuring entities, conduct surveys and interviews from other stakeholder (including the private sector, CSOs, NGOs, etc.,), and any other actions necessary for effective delivery of the assignment. The assessment team will prepare a draft consolidated report, for review by the Technical and the Steering Committees, and validation by other stakeholders.

e) ***Quality Assurance and Dissemination of the validated report:*** The validated report shall be transmitted to the MAPS Secretariat and the Assessment Technical Advisory Group for review and publication. The necessary arrangements shall thereafter be made to ensure that the results of the assessment are shared with the stakeholders.

3. Scope of the Assessment

The Assessment Team, while applying the MAPS II methodology, will cover the entire public procurement and asset disposal processes and procedures as detailed in the Public Procurement Law and practices, in accordance with the objectives of the assessment. In addition to the objectives outlined in Section 2, the assessment team may consider a review of the emergency procurements undertaken to mitigate the spread of COVID-19 pandemic; clearly demonstrating the adequacy of the public procurement system in delivery value for money during such responses.

It is envisaged that the assessment will review the existing systems that have been applied to automate public procurement operations, including the existing procure-to-pay module in IFMIS. The results should clearly demonstrate the gaps, weaknesses, strengths, and recommendations for improvement.

The assessment will cover a sample of 63 procuring entities at both levels of Government (National and County). Kenya has 47 counties. The categories of procuring entities and estimated numbers and proposed samples are presented in the table below.

Table 1: Category of Procuring Entities and Estimated numbers

No.	National Government Entities	Estimated Number of PEs (Population)	Sample
1.	State Corporations and SAGAs	300	27
2.	Ministries and State Departments	44	6
3.	Constitutional Commissions and Independent Offices	17	3
4.	The Judiciary and the Courts	1	1
5.	Parliamentary Service Commission	1	0
6.	Public Colleges and Polytechnics	37	6
7.	Technical and Vocational Training Institutes	672	
8.	Public Universities and University Colleges	38	3
9.	NGCDF Committees	290	0
10.	NGAAF Committees	47	0
11.	County Service Delivery Coordination Units	47	0
12.	Diplomatic Missions	56	0

No.	National Government Entities	Estimated Number of PEs (Population)	Sample
13.	Public Primary	23,650	0
	Secondary Schools	9,150	2
14.	Pension Funds for Public Entities	0	2
Sub-total		**34,350**	**50**
	County Government Entities		
15.	County Executives	47	10*
16.	County Assembly	47	
17.	Public Water Utility Companies	92	3
18.	County Corporations	3	0
19.	City Boards and other Urban Areas	1	0
Sub-total		**190**	**13**
Total		**Est. 34,540**	**63**

* 10 County executives and 10 County assemblies will be covered but the total number of contracts for each entity (county executive and county assembly) of a given county shall add up to 10 contracts)

The actual names of the procuring entities to be assessed will be drawn across the ten sectors of the Kenyan economy namely; Agriculture, Rural and Urban Development (ARUD); Energy, Infrastructure and ICT; General Economic and Commercial Affairs (GECA); Health; Education; Governance, Justice, Law & Order (GJLO); Public Administration & International Relations (PAIR); National Security; Social Protection, Culture and Recreation; and Environmental.

The identification of the names will also consider the annual procurement expenditure, and number of contracts processed. Due care will be taken into account, to ensure that procuring entities in the high, medium and low spend categories are identified for assessment. The assessment will also look into the procurement operations of State-Owned Enterprises (SOEs) and will be sampled alongside State Corporations, as per the table above.

In terms of procurement contracts to be reviewed, the Assessment team will be required to review at least 10 contracts per sampled procuring entity, drawn from the fiscal years (FYs) 2022/2023 and 2021/2022. The sample of contracts shall take into account the different procurement methods used (open tender, request for quotation, direct procurement, restricted tendering etc.), and nature/category of procurements (works, goods, consulting serves and non-consulting services). In total, 630 procurement contracts will be assessed over the assessment period.

Given that public procurement is highly decentralised in Kenya, selecting a representative sample may not be feasible as the numbers would be large, and likely to drive the cost upwards. A carefully and purposefully selected sample of PEs will be drawn from the stated population, while ensuring objectivity and validity of the assessment.

Conducting the MAPS Assessment

The Assessment team will undertake the assessment in continuous cooperation and consultation with the Authority and the relevant Committees set up for purposes of overseeing the assessment. While undertaking the assessment, the consultants shall pay attention to the following areas:

a) Comprehensively undertake an analysis of the Country Context including mapping out stakeholders;

b) Assess the public procurement and asset disposal systems by -;

   (i) developing and regularly updating the assessment schedule in consultation with the Authority and relevant Committees,

   (ii) Collect both qualitative and quantitative data in accordance with the MAPS II indicator system through all the available channels and systems not limited to the Public Procurement Information Portal (PPIP), the IFMIS system and directly through field visits to the sampled procuring entities. The Assessment team will be required to review and assess about 600 contracts over the assessment period. The Technical Committee for the assessment shall proactively support the consultants to ensure effective delivery of the assignment. Specifically, the consultants shall:

   - Assess the system by applying the assessment criteria expressed in qualitative terms. The consultants will be required to prepare a narrative report providing a comparative analysis of the actual situation at the procuring entities against the assessment criteria, while isolating any gaps identified.
   - Assess the system while applying the assessment criteria expressed as quantitative indicators, without exception, to inform preparation of a narrative report detailing the findings including the weaknesses and gaps.
   - Analyse and determine substantive or material weaknesses and gaps and or red flags in the system, to inform development of recommendations and corrective action plans for improvement of the effectiveness of the system.

   (iii) the assessment will include a survey of key stakeholders including the private sector to meet some of the sub-indicators of the assessment.

c) Conduct stakeholders' engagement/consultation sessions through interviews, focus group discussions or key informant interviews, as appropriate;
d) Prepare draft assessment report;
e) Conduct validation of the draft assessment report with key stakeholders and incorporate their views; and
f) Prepare the Final Assessment Report.

Quality Review process

The assessment process and the report shall be subjected to quality assurance through the technical committee and steering committee, that will clear every output of the assessment team, and ensure they meet the requirements laid out in the methodology. The draft report will also be transmitted to the MAPS Secretariat and the Assessment Technical Advisory Group (ATAG) for quality assurance.

4. Information Sources

The sources of information for the assessment will include but not limited to the following:

- The Public Procurement and Asset Disposal Act,2015
- The Public Procurement and Asset Disposal Regulations, 2020
- Regulatory Circulars and Directives by the National Treasury and the Authority
- Executive Order No.6 of 2015 and Executive Order No.2 of 2018
- Procurement and asset disposal records on contracts from sampled procuring entities. The Assessment Team will sample contracts signed by the targeted procuring entities in the last five years. The sampled contracts should be representative of the nature of procurements (goods, works, services), value of the contracts, procurement methods used and status of implementation. The Authority will facilitate the assessment team to access data from the sampled PEs.
- The publicly Public Procurement Information Portal (PPIP)-which is publicly available, and the IFMIS system managed by the National Treasury. The Authority will ensure availability of data from these sources to the assessment team.
- Periodic Reports generated by The National Treasury, the Authority and Office of the Auditor General
- Previous national procurement assessment reports and PEFA Reports
- Interviews and consultations with stakeholders. This will involve focus group discussions with key informants.
- Data will also be collected through surveys to meet the requirements of quantitative and qualitative indicators
- Public Financial Management Reforms Strategies

Data required for purposes of ensuring successful and timely completion of the assessment will be availed to the Assessment team by the Authority. The Authority will ensure seamless coordination with sampled PEs and the National Treasury to ensure access to contract data and other required information that may not be available in the Public Procurement Information Portal.

5. Leadership and Assessment Team

The overall success of the assessment shall be ensured and duly facilitated through the leadership of the National Treasury and the Public Procurement Regulatory Authority as the owners of the process on behalf of the Government of Kenya. The Public Procurement Regulatory Authority has been identified as the MAPS coordinator. The World Bank as an external partner will provide technical support and assistance to the Authority during the assessment period. To ensure involvement of stakeholders in the assessment, at the first level, the **Assessment Steering Committee** has been established as follows:

1. Principal Secretary, National Treasury – Chairperson
2. Director, Public Procurement Directorate (PPD)/National Treasury – Member
3. Attorney General/ Representative – Member
4. Director General, Public Procurement Regulatory Authority – Secretary
5. Chairperson, Public Procurement Administrative Review Board (PPARB) – Member
6. Chairman, Kenya Institute of Supplies Manager (KISM) – Member
7. PS/Representative -State Department for Infrastructure – Member
8. The World Bank – Kenya office – Member
9. African Development Bank – Member
10. Chief Executive Officer, Council of Governors – Member
11. Chief Executive Officer, Kenya Private Sector Alliance (KEPSA) Representative – Member
12. Executive Director, Transparency International -Kenya – Member

The Steering Committee will provide strategic leadership and direction while overseeing the assessment processes to their logical conclusion. The Steering Committee will be supported by a Technical Committee and a Secretariat, established as follows:

1. Director – Research, Innovation and Business Systems, PPRA – Chairperson
2. Representatives of PPD/National Treasury (2) – Members
3. Representative of the Office of the Attorney General
4. Representative of the State Department for Infrastructure
5. KISM- Member
6. Kenya National Highways Authority (KENHA) – Member
7. Project Management Office –Member
8. PPRA, (7) Members including Secretariat
9. PPARB Secretariat (1) – Member
10. Kenya Revenue Authority (KRA) – Member

The Technical Committee will be responsible for the day-to-day monitoring of the assessment and prepare monthly reports for consideration by the Steering Committee. The Technical Committee is the first line of support to the consultants. The Technical Committee will ensure timely access to necessary information and data and will facilitate meetings with public and private sectors stakeholders as and when required by the consultants.

At the second level of management of the assessment, a team of consultants will be engaged to undertake the assessment as follows:

- **Lead Consultant - public procurement specialist**: The Lead Consultant with support from the team of consultants is responsible for conducting the assessment in accordance with the MAPS II methodology, project management, quality assurance of the data analysis and recommendations, writing the report and presentation of the report, as required.

- **National/Local Consultants (4) - public procurement specialists**: The Local Consultants with experience in public procurement operations will lead the exercise of collecting and organizing data in accordance with the MAPS methodology (refer to the scope). The consultants will work closely with the lead consultant and relevant stakeholders to ensure that the assessment is conducted in accordance with the MAPS methodology.

- **International Procurement Legal Expert**: The Procurement Legal Expert will support/guide the team of consultants on issues related to public procurement legal frameworks and related indicators.

- **National Data Analyst:** The consultant to support the assessment team with data analysis and interpretation of the findings.

The consultant team members will be in charge of the assessment by collecting and analysing data, reviewing selected procurement processes and cases, conducting stakeholder interviews, proposing recommendations and documenting the detailed assessment results in accordance with the methodology.

6. Stakeholders

The following are some of the stakeholders identified to be engaged during the assessment exercise. The stakeholders will be engaged through online surveys/face to face interviews, key informant interviews, and focus group discussions. The stakeholders are expected to provide quality information and feedback on the public procurement system in Kanya to meet the requirements of qualitative and quantitative indicators. The names of the stakeholders are detailed below:

Table 2:List of Stakeholders for Consultation

Type of function or institution	Name of Institution in the country incl. contact information	(If applicable: time slot in interview agenda)
Institution in charge of policy making	The National Treasury and Planning	
Authorities responsible for budgeting, payment and financial procedures	The National Treasury and Planning	
Authority responsible for Public Private Partnerships	The National Treasury and Planning	
Authority in charge of the assessment (typically the regulatory authority, ministry, or centre of government)	PPRA	
Institution in charge of the normative/regulatory function for public procurement	PPRA	
Administrative/judicial review (appeals) body for procurement	PPARB	

Type of function or institution	Name of Institution in the country incl. contact information	(If applicable: time slot in interview agenda)
Selected number of procuring entities including state owned enterprises (selection can be made based on regional or thematic focus of assessment)	To be determined	
Centralized procurement body, if any	Supplies Branch, Ministry of ICT Consolidated Procurement	
Authorities in charge of internal and external controls and audits	Office of the Auditor General Internal Audit Department, National Treasury	
Anti-corruption agencies	Ethics and Anti-Corruption Commission (EACC) National Anti-corruption Steering committee	
Competition bodies, e.g. Competition Commission	Competition Authority of Kenya	
Public Service Commission	Public Service Commission County Public Service Boards for sampled counties	
Training institutions	Universities and relevant colleges	
Procurement professional body	Kenya Institute of Supplies Management	
Representatives of private sector	KEPSA and Kenya Association of Manufacturers	
Representatives of civil society	Hivos East Africa/Transparency International/Open Governance Institute/ Institute of Economic Affairs/International Commission of Jurists	
Research institutions, Academia	Universities, Kenya Institute for Public Policy Research and Analysis (KIPPRA)	
Media	Media Council of Kenya, Editors Guild,	
International partners engaged in procurement in the country (if applicable and not already otherwise involved in the assessment, e.g. through the Technical Advisory Group)	PFM Development Partners Group	
Contractors Associations and professional bodies	Engineers/Architect/Quantity Surveyors Associations, Law Society of Kenya	

The Lead consultant in consultation with the Assessment Steering Committee shall undertake a detailed stakeholder mapping and categorize them by power and level of influence. The consultants will therefore design appropriate engagement strategies to ensure adequacy of the process. This will include stakeholder validation sessions of the findings presented in the draft report.

7. Validation of the Assessment (Results)

After completion of the assessment, the Lead consultant will share the Draft Report with the Steering Committee through the Technical Committee, for review and validation. The draft report will thereafter be shared and presented to the Cabinet Secretary- National Treasury and Planning, for concurrence.

The next level will be a validation workshop involving key stakeholders to discuss the findings of the assessment, reform priorities and proposed strategies to address weaknesses and gaps in the procurement system. The validated assessment report shall be shared with the MAPS Secretariat for review for quality assurance

8. Communication and Use

Internal and external stakeholders will be engaged from the beginning of the assessment to ensure that they are up to date with the status of the assessment. Key stakeholders will also be involved during stakeholder consultations, and validation of the findings.

The Technical Committee will ensure that key stakeholders involved in the assessment are given adequate information in a timely manner, as well as promptly responding to any inquiries by the stakeholders. The final report shall be shared with the stakeholders and published in The National Treasury, MAPS and the Authority's websites.

The findings from the assessment and the Action Plan detailing the recommendations will be shared with the stakeholders through dissemination workshops to be convened by the National Treasury and the Authority.

Post assessment support: the GoK will cooperate with the development partners and key stakeholders to implement the public procurement system improvement action plan included in the assessment Report.

9. Outputs and Timetable

The output delivery timelines are presented as below:

Table 3: Project Outputs and Delivery Timelines

	Output		**Responsible**	**Cooperation With**	**Deadlines**[9]
1.	Draft Concept Note		PPRA	World Bank	August, 2021
2.	TORs for SC and TC		PPRA		August, 2021
3.	TOR for the Consultants		PPRA	SC	August, 2021
4.	Technical committee (TC)		PPRA	TNT	August, 2021
5.	Brief to the CS & PS, TNT		PPRA	TNT	August, 2021
6.	Steering committee (SC)		TNT/PPD	PPRA	October, 2021
7.	Consultants (Two International and 6 Locals)	Approval of the TORs	SC, W B	TC, PPRA	April, 2023
		RFP/appropriate document based on the choice of	PPRA	Kenya Revenue Authority (KRA)	August, 2023

[9] **Note: The deadlines that appear old and not revised alongside others, implies that that the has been completed.**

	Output		Responsible	Cooperation With	Deadlines[9]
		procurement method			
		Procurement Plan	PPRA	KRA	August, 2023
		Solicitation of bids through the most feasible procurement method	KRA	PPRA	August, 2023
		Opening of bids	KRA	PPRA	September, 2023
		Evaluation/assessment of bids received	KRA	PPRA	September, 2023
		No objection/prior review	WB	KRA	September, 2023
		Contract award	KRA		October, 2023
		Execution of the contract	KRA	PPRA	October, 2023
8.	Approval of the Concept Note by the MAPS Secretariat and ATAG		PPRA	SC/TNT	September, 2023
9.	Launch Workshop		PPRA	TNT /KRA/PMO	November, 2023
10.	Inception Report		Lead consultant	PPRA/KRA/TC/SC	November, 2023
11.	Stakeholder mapping report		Lead consultant	PPRA/KRA/TC/SC	November, 2023
12.	Conduct Assessment while taking into account the objectives and scope of the Assessment		Consultants	TC, SC	November, 2023
13.	Draft Report		Lead Consultant	TC, SC	October, 2024
14.	Briefing of the CS, TNT on the Draft Report		Chair, SC	TNT	October, 2024
15.	Validation Workshop		PPRA	TC/KENHA/PMO	November, 2024
16.	Final Report		Lead Consultant	TC, SC	December, 2024
17.	Quality Assurance of the Assessment Report		MAPS Secretariat; ATAG	PPRA	December, 2024
18.	Launch and Dissemination workshop of the final assessment report		PPRA	TC/KENHA/PMO/TNT	January, 2025
19.	Publication of the Assessment Report		PPRA	MAPS Secretariat/TNT	January, 2025

10.External Support and Budget

The assessment is estimated to cost $**370,000** which will be financed through the Horn of Africa Gateway Development Project (HoAGDP), a project financed by the World Bank and coordinated by the Kenya Revenue Authority (KRA). The itemised budget is presented in the following table:

Table 4: Draft Assessment Budget

Item	Unit cost	Units	Units	Total (KES)	Total (USD)
	Cost (KES)	Persons	Quantity		
Expert Costs	**Daily rate**		**Days**		
External Expert(s): 5 Local consultant(s) @USD 300	43,485	5	180	39,136,500	270,000
External Expert(s): International Legal Expert consultant @USD 500	72,475	1	60	4,348,000	30,000
External Expert: International Procurement Lead consultant @USD 700	101,465	1	90	9,131,850	63,000
Sub-total External Experts				52,616,350	363,000
Travel Costs	**Cost/trip**		**Trips**		
Return air ticket for the Lead Expert	200,000		1	200,000	1,400
Fuel and maintenance. @100,000 per vehicle	100,000		3	300,000	2,100
Sub-Total Travel costs				**500,000**	**3,500**
Other Expenditure (costs for consultations, etc.)					
Validation workshop (100 participants, interpretation, venue)	5,000		100	500,000	3,500
TOTAL ESTIMATED COSTS				53,616,850	**370,000**

Note: 1USD = 144.95 KES (September 2023)

11.Source Documents

- Methodology for Assessing Procurement Systems (MAPS), Version of 2018
- Template: Concept Note - Assessment of the Public Procurement System of (Country) using the MAPS methodology 2018

Kenya MAPS Assessment Report, Annex 2
Composition and terms of reference of the Steering Committee and the Technical Committee

MEMBERS OF THE STEERING COMMITTEE

NO.	DESIGNATION	POSITION	NAME
1.	Principal Secretary, National Treasury	Chairperson	Dr. Chris Kiptoo, CBS
2.	Director, Public Procurement Directorate, National Treasury	Member	Mr. Eric Korir
3.	Representative of the Attorney General	Member	Mr. Nevis Ombasa
4.	Director General, Public Procurement Regulatory Authority	Secretary	Mr. Patrick Wanjuki
5.	Chairperson, Public Procurement Administrative Review Board	Member	Mr. George Murugu
6.	Chairman, Kenya Institute of Supplies Management	Member	Mr. John Karani
7.	Principal Secretary, State Department for Roads	Member	Eng. Joseph Mbugua, CBS
8.	The World Bank - Kenya Office	Member	Mr. Joel Munyori
		Member	Boaz Akello
9.	African Development Bank	Member	Mr. David Gacheru
		Member	Mr. Parveen Gupta
10.	Chief Executive Officer, Council of Governors	Member	Ms. Mary Mwiti
11.	Chief Executive Officer, Kenya Private Sector Alliance	Member	Carole Kariuki
12.	Executive Director, Transparency International	Member	Ms. Sheila Masinde

TERMS OF REFERENCE OF THE STEERING COMMITTEE FOR THE ASSESSMENT OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL SYSTEM IN KENYA USING THE METHODOLOGY FOR ASSESSING PROCUREMENT SYSTEM (MAPS)

1. Context

The Government of Kenya with the support of the World Bank is implementing the Horn of Africa Gateway Development Project (HoAGDP), aimed at opening up the horn of Africa Corridor. The HoAGDP has several components and sub-components, with one of the sub-components requiring conduct of ana analytical study on the public procurement system in Kenya to bring out the strengths, weaknesses and emerging issues. This analytical study will be undertaken using the Methodology for Assessing Procurement System (MAPS) II. The assessment will be managed and coordinated by the Public Procurement Regulatory Authority (the Authority), with guidance and support from the National Treasury and Planning.

The MAPS II analytical framework has four pillars; (i) **Legal, Regulatory and Policy Framework**, (ii) **Institutional Framework and Management Capacity**, (iii) **Procurement Operations and market Practices**, and (iv) **Accountability, Integrity and Transparency**. The four pillars are further broken down into 14 indicators and 55 sub-indicators.

The assessment will cover all the pillars and indicators without exception, and applied on sampled procuring entities and stakeholders at both the National and County governments. It is expected that the assessment will detail the gaps, challenges, weaknesses, and emerging issues in the public procurement system and prioritize reforms in an action plan for corrective measures. The final report of the assessment will be disseminated to stakeholders for information.

As per the required governance structure in the implementation of MAPS II assessments, a Steering Committee should be established to provide oversight and first level quality assurance of the assessment. These TORs have been developed to guide the operations of the Steering Committee before, during and after the conclusion of the assessment by the Consultants.

2. Objectives

The specific objectives of the steering committee are:

1) Secure Government ownership and support of the assessment processes and the Report.
2) To provide strategic direction and ensure that the assessment is carried out within the agreed time-frame, quality and budget.
3) To oversee the assessment and ensure that all relevant parties deliver their responsibilities including procuring entities who are sources of information and data required for the assessment
4) To oversee the quality and adequacy of the assessment methodology, implementation, and reporting.
5) To provide guidance on the validation of the findings and dissemination of reports.

3. Tasks

1. Timely review and approval of the MAPS Assessment Concept Note, ToRs for the Consultants, and assessment reports;
2. Review the assessment methodologies and provide guidance on the approach to data collection and analyses.

3. Undertake advocacy and consensus building for the successful implementation of the assessment.
4. Regularly brief the Cabinet Secretary on the progress of the assessment.
5. Oversee the progress of the assessment including receiving/reviewing periodic reports from the Technical Committee.
6. Facilitate any meetings with stakeholders to clarify and/or justify the need for cooperation for purposes of the assessment on the basis of the benefits of MAPS Assessment;
7. To ensure that identified risks and challenges are managed including the involvement of all key procurement stakeholders in the assessment at the appropriate time and level
8. Participate in stakeholder consultative meetings with the MAPS Assessment Consultants;
9. Ensure that final report is disseminated using available means including through upward/downward government structure; and
10. Participate in the formulation and follow up of time-bound action plans for implementing the MAPS Assessment recommendations.

4. Structure of the Steering Committee

The National Treasury and Planning shall establish Steering Committee under the leadership of Principal Secretary, National Treasury and will include the following stakeholders:

1. Principal Secretary, National Treasury – Chairperson
2. Director PPD – Member
3. Attorney General/ Representative- Member
4. Director General PPRA – Secretary
5. Chairperson, PPARB
6. Chairman, KISM- Member
7. PS/Representative -State Department for Infrastructure– Member
8. Development Partners Representatives (2) – Member
9. Chief Executive Officer, Council of Governors – Member
10. Chief Executive Officer, Kenya Private Sector Alliance (KEPSA) Representative – Member
11. Executive Director, Transparency International - Member

5. Meetings of the Steering Committee

The Steering Committee will develop its schedule of meetings in accordance with the duration of the assignment. The frequency of the meetings will be determined by the agenda and any emerging issues to be addressed.

MEMBERS OF THE TECHNICAL COMMITTEE

NO.	DESIGNATION	POSITION	NAME
1.	Director, Research, Innovation and Business Systems, PPRA	Chairperson	Rev. Henock Kirungu
2.	Representatives (2) of the Public Procurement Directorate, The National Treasury	Member	Mr. Victor Marege
		Member	Mr. Samuel Ndirangu
3.	Representative of the Office of the Attorney General	Member	Ms. Abigael Masinde
4.	Representative of the State Department for Infrastructure	Member	Mr. Nathan M. Soita
5.	Representative of Kenya Institute of Supply Management	Member	Mr. Chilion Ogol
6.	Representatives (2) of Kenya National Highways Authority	Member	None (see note)
		Member	None (see note)
7.	Representative of Project Management Office, Horn of Africa Gateway Development Project	Member	Ms. Judith Kerich
8.	Representatives of PPRA (10, including Secretariat)	Focal Person	Mr. Peter Ndungu
		Member	Mr. Thomas Otieno
		Member	Ms. Pauline Opiyo
		Member	Mr. Peter Wangai
		Member	Mr. Philip Okumu
		Member	Ms. Rose Ndirangu
		Member	Mr. Raphael Ngalatu
		Secretary	Mr. Polycarp Oduol
		Secretariat	Ms. Everlyne Abuga
		Secretariat	Ms. Dorcas Kyengo
9.	Representative of Public Procurement Administrative Review Board Secretariat	Member	Mr. James Kilaka
10.	Representatives (2) of Kenya Revenue Authority	Member	Ms. Ruth Njoki Rugwe
		Member	Ms. Mirriam Mumo Musyimi

As indicated in the Concept Note, the Kenya National Highways Authority was initially the implementing agency for the Horn of Africa Gateway Development Project that is financing this MAPS assessment. However, when the Kenya Revenue Authority took over as the implementing agency for the project, it replaced the Kenya National Highways Authority as a member of the Technical Committee, thus the lack of representation on the part of the Kenya National Highways Authority.

TERMS OF REFERENCE OF THE TECHNICAL COMMITTEE FOR THE ASSESSMENT OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL SYSTEM IN KENYA USING THE METHODOLOGY FOR ASSESSING PROCUREMENT SYSTEM (MAPS)

The Government of Kenya with the support of the World Bank is implementing the Horn of Africa Gateway Development Project (HoAGDP), aimed at opening up the horn of Africa Corridor. The HoAGDP has several components and sub-components, with one of the sub-components requiring conduct of an analytical study on the public procurement and asset disposal system in Kenya to bring out the strengths, weaknesses, emerging issues and recommendation for improvement. This analytical study will be undertaken using the Methodology for Assessing Procurement System Version II (MAPS II). The assessment will be managed and coordinated by the Public Procurement Regulatory Authority (the Authority), with guidance and support from National Treasury and Planning.

The MAP II analytical framework has four (4) pillars; (i) **Legal, Regulatory and Policy Framework,** (ii) **Institutional Framework and Management Capacity**, (iii) **Procurement Operations and market practices**, and (iv**) Accountability, Integrity and Transparency**. The four (4) pillars are further broken down into 14 indicators, 55 sub-indicators and 210 assessment criteria.

The assessment will cover all the pillars, indicators and assessment criteria without exception, and will be applied on a sample of 63 procuring entities; and stakeholders at both the National and County governments. It's expected that the assessment will detail the gaps, challenges, weaknesses and emerging issues in the public procurement and asset disposal system; and prioritize reforms in an action plan for implementation of corrective measures. The final report of the assessment will be disseminated to stakeholders for implementation, and published in the MAPS Initiative website.

To ensure seamless coordination and implementation of the assignment and the consultancy, the Authority has constituted a joint Technical Committee to manage the assessment processes. The Technical Committee will be composed of officers drawn from the Authority, the National Treasury (PPD), Kenya Institute of Supplies Management (KISM), Kenya Revenue Authority and the Horn of Africa Gateway Development (HoAGD) Project Management Office.

The Terms of Reference for the Technical Committee will be to:

1. Review the Concept Note, TORS and Contracts of the Consultants and create a common understanding on the approach of the assignment, and subsequent deliverables;
2. Create a common understanding of the Methodology for Assessment of Procurement systems (MAPS II) and related guidelines for effective management of the assignment;
3. Monitor, in consultation with the Management Consultant, the progress of the Assessment and the consultancy/assignment deliverables and ensure timely approvals of the outputs/deliverables submitted by the consultants including payment of invoices.
4. Promptly address/resolve any emerging issues during implementation of the consultancy. The Committee may immediately escalate the matters which they may not be in a position to resolve to the Steering Committee;
5. Monitor and evaluate the progress of the Assessment, including undertaking spot checks, as well as field monitoring of the assignment to validate the data collected.
6. Promptly issue introductory letters to the Consultants and create necessary contacts with the procuring entities and stakeholders considered for the assessment exercise;
7. Prepare an end of consultancy monitoring report documenting the emerging issues, lessons learnt, success stories, challenges and recommendations for future improvements.

8. Introduce and facilitate access of the MAPS Assessment Consultants to relevant persons and/or organizations that are sources of information, data and documents for the assessments;
9. Ensure that any documents obtained for purposes of the MAPS Assessment are handled with due care and regards to the level of confidentiality of the documents;
10. Prepare its work plan, working arrangements and report regularly to the Steering Committee on the status of implementation of the Assessment;
11. Perform any other duties as may be assigned by the steering committee from time to time.

The Committee is at liberty to review the TORS to ensure smooth implementation of the assessment. The Committee shall prepare a realistic work plan to be approved by the appointing Authority and agree on other working arrangements. It’s imperative for the Committee to ensure effective implementation of the Assessment; including attending all meetings.

MAPS | Methodology for Assessing Procurement Systems

Kenya MAPS assessment 2024, Annex 3: Indicator Matrix

MAPS TEMPLATE VERSION 1 – UPDATED 2024

Final version of 30 Jan. 2026

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Pillar I. Legal, Regulatory, and Policy Framework

Pillar I. Legal, Regulatory, and Policy Framework

Indicator 1. The public procurement legal framework achieves the agreed principles and complies with applicable obligations

Sub-indicator 1(a) Scope of application and coverage of the legal and regulatory framework

The legal and regulatory body of norms complies with the following conditions:

Assessment criterion 1(a)(a):
Is adequately recorded and organized hierarchically (laws, decrees, regulations, procedures), and precedence is clearly established.

Conclusion:	Minor gap
Red flag:	No

Qualitative analysis

The Constitution of Kenya, the Public Procurement and Asset Disposal Act 2015 (PPADA), the Public Procurement and Asset Disposal Regulations 2020 (PPADR) and the National Procurement Policy 2020 are adequately recorded, organised hierarchically, and precedence is clearly established.

The Constitution, Article 227, provides guidance on public procurement including the principles of fairness, equitability, transparency and cost effectiveness as well as laying the founding principles for preference and reservations upon which the system is built an outlining the legal framework upon which the public procurement is to be implemented.

In terms of hierarchy, Article 227 is implemented through the PPADA which is "an Act of Parliament to give effect to Article 227 of the Constitution…". The Regulations under the PPADA are made for better implementation of the Act (Section 180) while tender documents issued by PPRA are used in procurement and asset disposal proceedings (Section 9 (1)(f), 58 and 70).

The standard tender documents listed in the Eighth Schedule of the PPADR set out the prescribed procedures and give instructions for their application. As a complement, 20 different manuals available on the PPRA website provide complementary guidance.

Gap analysis

There are some unnecessary overlaps between the PPADA and the PPADR, in the sense that certain elements of the PPADA are repeated in the PPADR, sometimes with slightly different wording, but without providing expected, further guidance on the application of the PPADA. The following table gives some examples:

PPADA Section number	PPADR Regulation number
47 (1)	33 (2)
53 (2)	40 (1)
53 (7)	40 (2)
54 (3)	43 (2)
83 (1)	80 (1)
90 (5)	84 (4)
153 (1)	141 (2)
153 (2)	141 (1)

There are also inadequacies and gaps in cases where certain areas require specific regulations to guide implementation, and these are not in place. For instance, the Public Procurement Administrative Review Board (PPARB), which is an entity on its own, would need own Regulations (PPADA, Section 28 (2)) to guide the performance of its functions. The same would apply to debarment, as required by the PPADA, Section 41 (5). The

PPADA, Sections 124 (16) and 162 (6) and the PPADR, Regulations 48 (2) and 68 (5) foresee that further guidelines be provided but they do not seem to have been issued.

The procurement manuals currently made available to public procurement practitioners are based on and refer to earlier legislation that is no longer valid. Existing guidelines have not been updated since the Public Procurement and Disposal Act of 2005, despite being marked on the PPRA website as having been last modified in July 2019, and are thus obsolete.

Recommendations
Unnecessary overlaps between the PPADA and the PPADR should be reduced. Have the hierarchy clearly laid out in the sense that the PPADA offers substantive provisions while the PPADR guide on procedures and implementation rules. The issue of hierarchy may be laid out clearly within the Act. See also the discussion under assessment criterion 1(b)(a).

In order to ensure not only proper precedence but also full conformity, the old operational manuals should be reviewed and aligned with the Constitution, the National Public Procurement Policy, the PPADA and the PPADR in their current wording. Update guidelines to align with the present legislation and conduct education on importance of guidelines especially in the preparation and in application of tender documentation and in seeking guidance with regard to applicable methodologies. Create public knowledge on the existence of manuals and guidelines beyond the laws (guidelines are part of the existing procurement framework)

Draft and implement pending regulations to address shortcomings in the implementation of the provisions of the PPADA and, at the same time, expand the regulations to cover the areas they are intended in full.

Assessment criterion 1(a)(b):
It covers goods, works and services, including consulting services for all procurement using public funds.

Conclusion: No gap

Red flag: No

Qualitative analysis
The PPADA, Sections 90 -133, and the corresponding parts of the PPADR regulate the procedures for procurement of goods, works and services, including consulting services, for all procurement and assets disposal using public funds.

The PPADA, Section 4 (1), states that it applies to all State organs and public entities with respect to

a) procurement planning
b) procurement processing
c) inventory and asset management
d) disposal of assets
e) contract management

“Public entities” are defined in the PPADA, Section 2, which lists a large number of categories of entities as well as “any other entity or a prescribed class of public entities or particular public entities that use public money for purposes of procurement”. “Public money” is defined as including “includes monetary resources appropriated to procuring entities through the budgetary process, as well as extra budgetary funds, including aid, grants and loans, put at the disposal of procuring entities by donors”. As a complement, the PPADA, Section 4, defines activities which are not considered as public procurement under the PPADA. This includes procurement utilising monies from agreements under bilateral and multilateral arrangements. In doing so, it explains the omission of provisions of the PPADA in event of conflicts with such agreements.

Gap analysis
While the assessment criterion is met according to its terms, the definition of ‘procuring entities’ would merit review and revision, as further discussed under assessment criterion 6(a)(a).

It should be a source of concern that projects undertaken using money borrowed by Republic of Kenya may not be subject to the provisions of the PPADA that would otherwise enable the available structures, especially the PPRA, to monitor and evaluate their implementation and the use of public funds. This is more so in the light of the definition of public money under the PFMA and the Constitution. In most cases, the funds involved are usually high value debts, to be repaid by the public, and would therefore merit steeper monitoring and audit efforts.

Recommendations
Simplify the primary Act by moving the procedural rules to the Regulations.

Require the Regulator to be fully involved in, all procurement negotiations involving donor or external funding.

Address the treatment of all donor funding within the Public Financial Management Act (PFMA) at a global level, with the PPADA clearly cross-referencing the PFMA for financial accountability and resource management.

Assessment criterion 1(a)(c):
PPPs, including concessions, are regulated.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
PPPs, including concessions, are regulated under an entirely separate legal regime, including the administrative set-up, the Public-Private Partnership Act, 2021 (PPPA). Its Section 4 (2) states that the provisions of the Public Procurement and Asset Disposal Act, 2015, shall not apply to a public-private partnership.

However, a number of concession-like tenders are undertaken under the PPADA. For instance, the KAA provides services under concession models where the providers normally take over facilities under build/install, operate and transfer models. Similarly, lately, the Government has leased out sugar factories under PPADA in what would in essence be PPP models.

Gap analysis

The provisions in the PPADA on public-private partnerships are deficient, even as revised in 2022, in that the definition of a public entity in Section 2 includes (item (p)) “a body that uses public assets in any form of contractual undertaking *including public private partnership*” (emphasis added), and that Section 4 (2) (e) excludes “procurement and disposal of assets under Public Private Partnership Act, 2013[sic!]” from the procurements or asset disposals to which the PPADA applies.

The definition of “concession” in the PPPA 2021, Section 2, includes the possibility for the concessionaire to charge user fees, receive availability payments or both such fees and payments during the term of the concession. However, it may be held, as is the case in, e.g., the European Union, that availability payments or similar features move much of the commercial and financial risk from the private sector partner to the public sector partner (the procuring entity) and that, consequently, such private-public partnerships should be treated as regular public contracts falling under the public procurement law, and not as concessions. Also, the PPPA does not delve into concessions in any detail: beyond definitions of the word concessions and brownfield concessions, the PPPA is silent on concessions and also the draft PPP Regulations do not have any provisions regarding concessions.

Recommendations
The Constitution envisions one Act to govern public procurement, therefore the existence of two separate laws on procurement, the PPPA and the PPADA, should be reviewed.

Review and revise the risk allocation provisions in the PPPA to prevent unnecessary and unintended burdens on the public budgets involved. Review and revise the provisions on due diligence and public consultations as well as others in the PPPA that are intended to ensure economy, efficiency, transparency and accountability in the preparation and management of PPP operations. Review the definitions in the PPPA, Section 2, and the Second

Schedule, and revise them as may be needed for making the terms abundantly clear and aligned with established international practice. In this context, clearly define concessions and make provisions with regard to (possible) application of concessions in both PPPA and PPADA. Mandate the inclusion of procurement professionals in PPP/Concessions negotiations - revise Section 4(2).

Assessment criterion 1(a)(d):
Current laws, regulations and policies are published and easily accessible to the public at no cost.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The Constitution and the currently applicable laws (PPADA 2015 and PPPA 2021), regulations (PPADR 2020) and policies (National Public Procurement and Asset Disposal Policy, 2020), are published on the official websites of the respective authorities and accessible to the public at no cost.

Gap analysis
The official legal texts are only available in English, not even in Kiswahili and even less in any of the other languages of the country. There are no facilities for helping people with visual impairments or other disabilities or lack of reading skills to access the contents of the texts.

Recommendations
Ensure that links to all applicable laws, regulations and policies are working and are easy to find in the public procurement portal, and that they always link to the latest, consolidated version of the texts, incorporating all applicable amendments. Clearly assign these responsibilities to the PPRA.

Publish the texts also in other languages, as appropriate, and make the texts accessible to people who may have difficulty reading them. Create a searchable data base for all legal texts related to public procurement to help identify and access the provisions applicable to a particular topic.

Sub-indicator 1(b)
Procurement methods
The legal framework meets the following conditions:

Assessment criterion 1(b)(a):
Procurement methods are established unambiguously at an appropriate hierarchical level, along with the associated conditions under which each method may be used.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
Methods of procurement for goods, works and services are clearly established in the PPADA, Section 92, as follows:

a) open tender;
b) two-stage tendering;
c) design competition;
d) restricted tendering;
e) direct procurement;
f) request for quotations;
g) electronic reverse auction;
h) low value procurement;
i) force account;
j) competitive negotiations;
k) request for proposals;

l) framework agreements; and
m) any other procurement method and procedure as prescribed in regulations and described in the tender documents.

In addition, the PPADA, Section 124, lists further approaches to be applied when using requests for proposals for consulting services:

a) quality and cost based selection;
b) quality based selection;
c) least cost selection;
d) consultants qualifications selection;
e) individual consultants selection;
f) fixed budget selection; or
g) single source selection.

Finally, the PPADA, Section 114A, give procuring entities the right to use a procurement procedure specially permitted by the National Treasury in the following cases:

a) where exceptional requirements make it impossible, impracticable or uneconomical to comply with the Act and the Regulations;
b) where the market conditions or behaviour do not allow the effective application of the Act and Regulations made under the Act;
c) for specialized or particular requirements which are regulated or governed by harmonized international standards or practices;
d) where strategic partnership sourcing is applied;
e) where credit financing procurement is applied; or
f) in such other circumstances as may be prescribed.

The Cabinet Secretary may prescribe the procedure for carrying out such specially permitted procurements.

General conditions for the use of the different methods mentioned and of the approaches for applying requests for proposals for consulting services are given in the respective sections of the PPADA, which also contain various procedural regulations. For goods, works and services, open tender is the preferred method; for the engagement of consultants, quality and cost-based selection is preferred. Most procedures have elements of competition, the main exceptions being direct procurement and specially permitted procedures.

The particular case of classified procurement is covered by the PPADA, Section 90, which addresses the need for security agencies and entities that procure items of classified nature to procure under the PPADA save for those particular items. The entities are required to maintain a dual list items to be procured, intended to make it obligatory to use competitive and available-to-public methods for non-classified items. The dual list shall thus distinguish between items subject to open and to classified procurement and disposal proceedings, respectively. On this topic, see also the discussion under assessment criterion 4(a)(a).

The PPADR set out further conditions and procedural details and adds provisions (PPADR, Regulations 108-112) on community participation as an additional method.

Gap analysis

Some of the methods appearing in the list in the PPADA, Section 92, would not be considered as ‘procurement procedures’ in international practice.

A framework agreement would normally be seen as a particular form of contract that would be the outcome of a procurement procedure such as open or restricted tendering. In international practice, it would also be possible to conclude a framework agreement with only one or with any suitable number of suppliers, while the PPADR, Regulation 102 (1) (b), now requires at least seven, something which considerably limits the benefits of this approach and the cases when it can be used.

Likewise, an electronic auction may be considered as the approach for selecting the ‘winning’ tender, coming at the end of a procedure like open or restricted tendering or request for quotations or proposals, after evaluation of the eligibility and qualifications of the participating tenderers and of the conformity of their tenders with the requirements. At present, the only definition of 'electronic reverse auction' is in the PPADA, Section 2, and the implicit limitation of such an auction to cases when price is the only evaluation criterion means that the full potential value of the approach cannot be reached.

"Force account" would often be appropriate for, e.g., works that are small, scattered, or unquantifiable in advance or in areas where qualified firms are unlikely to bid at reasonable prices, emergency works, situations where the risk of disruptions of ongoing work is better of borne by the Government than a contractor, works in security zones etc., as is clear in international practice, including in bilateral partners' guidelines. However, it would thus constitute a project delivery approach serving as an alternative to regular public procurement of works or services, and would therefore typically be regulated separately.

In addition to the examples of overlapping wording given under assessment criterion 1(a)(a), there is a considerable overlap between the provisions in the law (PPADA) and those in the implementing regulations (PPADR), in that both indicate various conditions for the use of the various methods and approaches as well as a range of procedural details. At the same time, the choice of the procurement method to be used cannot be complained against under the provisions for administrative review of procurement and disposal proceedings (PPADA, Section 167).

In the structure of the Act and Regulations, there are several more instances where the two instruments have overlap or end up becoming inconsistent. The PPADA, in certain cases, is providing guidelines on technical issues while, in other cases, the PPADR introduce substantive clauses not covered by the PPADA. For instance, the PPADR, Regulation 99 (2), introduces an applicability limit to goods with standard specifications for the use of reverse auction, which is a substantive issue that normally would be covered by the PPADA. On the other hand, the PPADA, Section 93, not only introduces and provides for prequalification but then proceeds to issue guidelines on the application of the section. Another example is under framework agreements where the conditions for using them (PPADR, Section 101) would normally be expected to be found under the Act at Section 114.

As a further example, in the PPADA, Section 92 and the PPADR, Regulation 100, competitive negotiations are presented among other methods of procurement of goods, works and services, while procedural details are set out in the PPADA, Section 132, rather than under the PPADR, and only applicable to the particular case of procurement of consultancy services. Consequently, there are no provisions on how competitive negotiations could be carried out for procuring other services or goods or works.

The PPADR, Regulation108, introduces community participation as a procurement method which is not founded in the PPADA. The simple reference to the PPADA, Section 92 (m) does not seem to be adequate to justify such a substantive change.

Recommendations

Provide more clear, operational guidance for the choice of procurement method and allow the choice to be complained against to the Review Board. Adopt a best practice where the hierarchy of the methods is clearly outlined under the legislation.

Set out the definitions and the substantive characteristics of the procedures and the general conditions for their use within the specific section introducing the method in the PPADA and put the procedural details, including standard forms and the like, in the PPADR, as appropriate for eliminating unnecessary overlaps and potential contradictions and closing any gaps in the description of the prescribed approach.

See also the recommendations under the following assessment criterion, 1(b)(b).

Assessment criterion 1(b)(b):

The procurement methods prescribed include competitive and less competitive procurement procedures and provide an appropriate range of options that ensure value for money, fairness, transparency, proportionality and integrity.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The methods and approaches prescribed include a wide range of procedures, with the potential to select the one best suited to the situation in the individual case in a way that helps ensure value for money, fairness, transparency, proportionality and integrity. At the same time, the choice of the procurement method to be used cannot be complained against under the provisions for administrative review of procurement and disposal proceedings (PPADA, Section 167).

Gap analysis
The large number of procurement methods and selection approaches, combined with the partly overlapping conditions for their use, make it difficult to select the one that would best ensure value for money, fairness, transparency, proportionality and integrity in the procurement at hand.

In the PPADA, Section 124, most of the approaches to be applied when using requests for proposals for consulting services are simply examples of how price and non-price criteria can be combined and used for evaluation. These different approaches and the conditions for making a choice between them would be equally applicable to tenders in general. Consequently, they should rather be covered in general provisions and, as may be appropriate, by more specific guidance for how evaluation criteria should be determined and applied. However, although the PPADA, Section 80 (3), requires that technical criteria should be quantifiable and should consider price, quality, time and service, such further guidance is now scarce.

For low value procurement, the PPADA, Section 47 (3) requires that the Cabinet Secretary may prescribe corresponding procedures; this is presumed also under Sections 92 (1) (m) and 107 (b), but the only 'procedure' set out in the PPADR, Regulation 93, is 'direct shopping', as the right to simply go and buy the item needed. In other jurisdictions, such purchases below a *de minimis* amount would simply be allowed without be made without any particular procedure other than for recording the transaction, while remaining subject to other provisions regulating the management of public funds. On the other hand, above such an amount, there is now no simple and practical but still somewhat competitive approach that could be used. The procedure for requests for quotations may have a potential to serve this purpose but is now procedurally complicated. The requirement in the PPADR, Regulation 91 (5), for 'rotation' has the effect to reduce effective competition, while appearing to be in direct contradiction to the requirement in the PPADA, Section 106 (3), for selection to be made on the basis of the lowest price. The requirement for limiting participation to persons on a previously established list of registered suppliers (PPADA, Section 106 (2) (a) and PPADR, Regulation 91 (5)) also reduces competition and limits the possibility for the procuring entity to obtain the items best suited to meet the needs and on the most favourable conditions, particularly in cases where there have been deficiencies in registration or when an existing list is otherwise not adequate for the purpose.

In practice, only 52% of the heads of procurement of the 63 major procuring entities visited reported publicly disclosing their list of registered suppliers, typically via a website or noticeboard. The remaining 48% publish this information only partially or not at all, limiting supplier visibility and raising concerns about favouritism or closed networks. Transparency in supplier registration is crucial to build trust and promote a level playing field. In addition, the requirement for rotation among registered suppliers is a practice that would seem to have effects similar to collusion between a small number of qualified tenderers: reduced competition, high prices and barriers to entry by other firms; especially whenever registration is not fully fair and transparent.

Further, only 41% of the heads of procurement confirmed that the requirement for rotation among the registered suppliers was fully applied. A full 25% stated that they always award contracts only to the registered suppliers; this may save administrative time and resources but strongly limits effective competition, very likely leading to higher cost and possibly lower fitness for purpose of the items procured. However, this requires further verification, as the answers to another question give a very different picture: the highest share of registered suppliers among the total number of suppliers to the procuring entity was 21%, for an average of 10%. See also assessment criterion 10(b)(a).

Engagement of consultants has to be done using requests for proposals as the prescribed procedure, to be combined with the application of various approaches for setting the criteria for final selection. However, there would not necessarily be any need for or advantage of setting out specific procedures for the engagement of consultants. The procedural approaches etc. now prescribed could simply be considered as a particular case of restricted tendering (or direct agreement) that would just need to be complemented by specific guidance on the evaluation criteria to be used and on their application.

There are several overlaps between the general approach for pre-qualification and that for expressions of interest for consulting services in the PPADA, Sections 93-95 and 118-119, respectively, as well as between the mentioned approach for pre-qualification and various provisions for registration of suppliers in the PPADA, Sections 2, 56, 57, 71 and 157.

The provisions on pre-qualification and restricted tendering do not appear to allow the selection of a predetermined number of participants to be invited to tender, even if the PPADA, Section 102 (1) (b), allows the use of restricted tendering if "the time and cost required to examine and evaluate a large number of tenders would be disproportionate to the value of the goods, works or services to be procured".

Recommendations

Reduce the number of procedures ("methods" in the PPADA), eliminating the unnecessary details for engagement of consultants. Delete the provision allowing the use of "any other procurement method and procedure as prescribed in regulations and described in the tender documents". Correspondingly, revise the the procedure for requests for quotations for greater simplicity and increased competition, as a means to carry out low value procurement above a *de minimis* amount and regulate community participation in the PPADA, as appropriate. Consider framework agreements and electronic auctions as complements to procurement procedures rather than as procedures in their own right, and regulate them accordingly.

Amend the scope of Competitive Negotiations to allow for its use in the procurement of goods and services, in addition to the current limitation on consultancy services. Retain the Competitive Negotiation mechanism within the main Act only where it is explicitly defined and used as a distinct procurement method. Any detailed operational procedures for this mechanism should be transferred to the Regulations.

Incorporate the provisions on the use of expressions of interest into those on pre-qualification, so that the engagement of consultants may simply become a particular application of restricted tendering, apart from the cases of. Harmonise the approaches for pre-qualification and for registration of suppliers, contractors and service providers.

For greater clarity and certainty, add language to the conditions and circumstances under which the various procedures would be possible or recommended or required to be used, prepare and disseminate corresponding guidance and training materials, and monitor the application of the principles and approaches mentioned.

Ensure that supplier registration is carried out in full transparency. Consider abolishing the requirement for rotation, which seems to contradict the general principles set out in the PPADA; otherwise, provide guidelines on how to conduct rotation.

Include the choice of procedure among the decisions which can be complained against to the PPARB.

See also the recommendations under the preceding assessment criterion, 1(b)(a).

Assessment criterion 1(b)(c):

Fractioning of contracts to limit competition is prohibited.

Conclusion: No gap

Red flag: No

Qualitative analysis

Fractioning of contracts to limit competition is prohibited by the PPADA, Section 54 (1). The legislation, however, allows splitting for purposes of unbundling for implementation of preference schemes, for small, scattered jobs (force account), for goods whose quantities cannot be established at the beginning, among others. For each method there is a set guidance on applicability for which unbundling must be properly justified

Gap analysis
As worded, the assessment criterion may seem to be met, as the fractioning of contracts to limit competition is clearly prohibited. On the other hand, the possibilities to split procurement into lots for other reasons, whether by nature of the items to be procured or by region or place of delivery or execution, are regulated in a quite restrictive manner. The provisions for unbundling of needs set out in the PPADR, Regulation 154 (1) are only intended to serve the purpose of ensuring maximum participation of citizen contractors, disadvantaged groups, small, micro and medium enterprises in public procurement. In international practice, individual lots may contain a set of similar or complementary items and may be defined by the place or region of delivery or execution. In this way, the procuring entity can carry out just one procedure for meeting the needs for a wide range of items, at the same time allowing a larger number of tenderers to participate. This approach is particularly important to have available for use by centralised procurement bodies but also by many individual procuring entities.

Recommendations
Regulate the use of competitive procedures for related but not identical items by expanding the provisions for division into lots in the PPADA and the PPADR; such provisions are now included in e.g. the standard tender documents for goods (item 2.2.4. Multiple Contracts) but the legal basis for doing so is not clear.

In particular, the division into lots already allowed by the PPADR, Regulation 154 (1), should not be limited to the specific purpose now stated.

Assessment criterion 1(b)(d):
Appropriate standards for competitive procedures are specified.

Conclusion: No gap

Red flag: No

Qualitative analysis
Part VI of the PPADA sets general standards by laying out the procurement and asset disposal principles including procurement planning, prohibition of splitting of tenders, laying down the fundamentals with regard to eligibility, making it mandatory to make use of standard tender documents and limitation on conflict of interest. The maintaining of open tendering as the preferred method of procurement ensures that in as much as possible, tendering shall remain competitive.

Appropriate standards for each competitive procedure are specified, in that the conditions for their use and the procedural requirements are set out in the PPADA and the PPADR and further developed in the instructions to tenderers in the standard documents listed in the Eighth Schedule of the latter.

Gap analysis
The assessment criterion is met.

Recommendations
Complement the procedural prescriptions in the PPADR with corresponding guidance materials and examples.

Sub-indicator 1(c)
Advertising rules and time limits
The legal framework meets the following conditions:

Assessment criterion 1(c)(a):
The legal framework requires that procurement opportunities are publicly advertised, unless the restriction of procurement opportunities is explicitly justified (refer to indicator 1(b)).

Conclusion: No gap

Red flag: No

Qualitative analysis

Procurement plans are required to be published according to the PPADA. Section 53 (12) requires that, upon submission of the procurement plans to the National Treasury pursuant to Section 44(2)(c), the accounting officer of a procuring entity shall publish and publicise its approved procurement plan as invitation to treat on its website. Section 53 (13) requires that, upon receipt of the procurement plans submitted by the procuring entities, the National Treasury shall publish and publicize the procurement plans as invitation to treat on the state tender portal.

There is a general requirement for invitations to open tenders to be brought to the attention of those who may wish to submit tenders (PPADA, Section 96 (1)) and corresponding requirements are set out for other methods. In addition, if the estimated value of the goods, works or services being procured is equal to, or more than the prescribed threshold for county, national and international advertising, the procuring entity shall advertise in the dedicated Government tenders' portals or in its own website, or a notice in at least two daily newspapers of nationwide circulation or a notice in at least two free to air television stations and two radio stations of national reach (Section 96 (2). Further, in this case, the procuring entity shall use Kenya's dedicated tenders portal or any other electronic advertisements as prescribed and post advertisements at any conspicuous place reserved for this purpose in the premises of the procuring entity (Section 96 (3).

In equal measure, there are requirements for advertisement for other methods of procurement prescribed either through direct requirement for advertisement or using lists which were established earlier using advertised processes.

Gap analysis

The assessment criterion is met. Nevertheless, there is some room for improvement.

The PPADA, Section 96, issues guidance on how to go about making advertisements but is mainly focused on open tendering, as is PPADR, Regulation 85, and general provisions on advertising are spread across the PPADA and the PPADR.

There is a fixation on advertising on established media (papers, radio, TV) while there are no provisions on how to make best use the notional advantages of deploying social media. In addition, advertising at county level may often face issues of reach and accessibility and possibly language barriers, but this is not covered.

Recommendations

No recommendations needed.

Assessment criterion 1(c)(b):

Publication of opportunities provides sufficient time, consistent with the method, nature and complexity of procurement, for potential bidders to obtain documents and respond to the advertisement. The minimum time frames for submission of bids/proposals are defined for each procurement method, and these time frames are extended when international competition is solicited.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis

As set out in the PPADR, Regulations 83, 86, 87, 89 (7), 100 (3), 114 and 119, the minimum time for submission of tenders is seven days after the publication of the invitation to participate in open or restricted or two stage tendering or to submit best and final offers in competitive negotiations or to submit expressions of interest or proposals for consulting services. However, no minimum time is indicated for requests for quotations; the PPADA, Section 106 (2) (c), only requires that the request be issued early enough so that the person has adequate time to prepare a quotation, while the PPADR are silent on the matter.

The PPADA, Section 97 (2), states that the time allowed for the preparation of tenders shall be exclusive of the day of the tender notice.

At least fourteen days must be allowed for the submission of applications for prequalification (PPADA, Section 94 (4)) and for the registration of suppliers (PPADR, Regulation 70 (4)).

Gap analysis
The time periods set out in the PPADA and the PPADR for submission of tenders or proposals are extremely short by international standards, with no provisions requiring the time to be set according to the nature and complexity of the procurement and with the same time limit for both national and international tenders. They do not reflect the longer time needed for larger or more complex procurement and would often not be reasonable even for rather small value items. Only minimum times are indicated and there is no guidance for when it may be appropriate to give prospective participants more time to prepare their submissions. The absence of any express allowance for time increases in cases of complex processes or international competition increase the risk for abuse of the minimal timelines to eliminate some competitive bids. The absence of any defined minimum time for requests for quotations and the apparent lack of any guidance for determining what would be "adequate time to prepare a quotation" add to the risk of late requests and hastily prepared quotations giving less value for money and discouraging fair competition.

It also appears evident that the mostly unrealistically short deadlines now prescribed put a premium on advance, privileged information about upcoming procurements. On the face of it, this seems to create strong incentives for prospective tenderers to bribe officials in order to get privileged, detailed, advance knowledge of an upcoming procurement and for corrupt officials to leak such information to their preferred tenderers. As a result of the various factors just mentioned, serious tenderers would often find themselves discouraged from participating at all, leaving the procuring entities to evaluate hastily prepared submissions of lower quality and also prone to errors and omissions which may require the submissions to be rejected for formal reasons.

In the case of open tendering, the tender documents are supposed to be available on a website immediately after the publication of a notice (PPADA, Section 98 (1)); however, no such provisions are explicitly stated for other methods. In addition, the PPADA, Section 74 (2) requires all tender documents to be sent 'by recorded delivery', apparently implying that they have to be sent by mail in hard copy, which takes time and further reduces the time available for preparing tenders.

Recommendations
Any intention to reduce the time needed for carrying out public procurement procedures would be better served by putting greater emphasis on proper planning and preparation, timely issue of clear procurement plans and opportunities for advance registration of qualified providers of key items expected to be procured, as well as by greater use of joint or centralised procurement and of framework agreements.

If simplified procedures are in place for contracts below certain value thresholds, open tendering, restricted tendering and two stage tendering above those thresholds could have a time frame for submission of no less than 14 days, with the caveat that tenders for large or complex contracts would typically require more time to be prepared and that procuring entities should set submission deadlines accordingly. Shorter time frames could then be considered as exceptions, under specified circumstances, in particular when prospective tenderers are given the possibility to register their qualifications and their supply potential in advance.

Assessment criterion 1(c)(c):
Publication of open tenders is mandated in at least a newspaper of wide national circulation or on a unique Internet official site where all public procurement opportunities are posted. This should be easily accessible at no cost and should not involve other barriers (e.g. technological barriers).

Conclusion: No gap

Red flag: No

Qualitative analysis
Above prescribed value thresholds, the PPADA, Section 96 (2), requires advertisements in open tenders to be put on the procuring entity's own website or on the national procurement portal or in at least two daily newspapers of nationwide circulation or a notice in at least two free to air television stations and two radio

stations of national reach. In addition, a procuring entity shall use Kenya's dedicated tenders portal or any other electronic advertisements as prescribed; and post advertisements at any conspicuous place reserved for this purpose in the premises of the procuring entity. County-specific procurements have to be advertised in dedicated Government tenders portal, on the procuring entity's own website, or in at least one daily newspaper of county-wide circulation or as a notice in at least two free to air television stations and two radio stations of national reach. There are no costs and no other barriers that would limit access to the advertisements.

Gap analysis
The assessment criterion is met.

Recommendations
The legal framework would benefit from having general provisions on publication and dissemination of notices and tender documents, with their form and contents further detailed in the applicable regulations. Failure to observe prescribed requirements for publication should normally constitute a sufficient reason to cancel a procedure.

The national public procurement portal would need to have a suitable search and alert function in order to facilitate for prospective tenderers to identify notices which may be of interest to them. If this is the case, then it may not be necessary to require notices to be published also in the press or on television or radio. However, given the general requirement to bring invitations to tender to the attention of all prospective tenderers, procuring entities may find it useful to do so in any case. Exploiting other media, including social media, and tackling issues like language barriers and disability, especially for county tenders, would reduce access related problems.

Assessment criterion 1(c)(d):
The content published includes enough information to allow potential bidders to determine whether they are able to submit a bid and are interested in submitting one.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The required contents of invitations to tender (PPADA, Section 74 (1)) corresponds to established practice, except that requirements for eligibility or capability are not included, neither explicitly nor by reference.

Gap analysis
The invitation has to include "a declaration that the tender is only open to those who meet the requirements for eligibility" but there is no obligation to set out those eligibility requirements in the notice or at least refer to the general, legal requirements for eligibility, nor is there an obligation to set out or just to mention any requirements for capability (such as licences; financial or technical resources; etc.), if applicable. This means that prospective tenderers do not have sufficient information to decide whether to participate or not. The PPADR is silent on the matter under Regulation 72, Invitation to tender.

Recommendations
Add an obligation for invitations to tender and similar notices to briefly cover any requirements for eligibility or capability, whether explicitly or by reference.

Sub-indicator 1(d)
Rules on participation
The legal framework meets the following conditions:

Assessment criterion 1(d)(a):
It establishes that participation of interested parties is fair and based on qualification and in accordance with rules on eligibility and exclusions

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
Eligibility criteria are prescribed in PPADA, Section 55. Section 58 (2) requires the tender documents to contain sufficient information to allow fairness, equitability, transparency, cost-effectiveness and competition among those who may wish to submit their applications.

Gap analysis
General principles and requirements concerning the capability of participants to carry out the contract to be concluded are missing. The PPADA, Section 71 (2) (b), mentions capability criteria, such as necessary qualifications, experience, resources, equipment and facilities to provide what is being procured, but only in the particular context of registration of suppliers. Section 124 (4) requires that the criteria for assessing the technical and financial capability of the tenderers shall be as may be prescribed by the accounting officer in the tender documents, but without further detail and only in the context of requests for proposals.

There are no generally applicable indications in the PPADA how compliance with requirements for eligibility and capability may be demonstrated by participants and evaluated by the procuring entity. The forms in the standard tender documents and the corresponding requirements for documentary evidence have their merits but seem to lack a solid, legal basis. The provisions on self-declaration set out in the PPADA, Section 62, are now limited in scope but could be modified to serve the general purpose of regulating how compliance with all eligibility requirements should be stated. A similar approach could be taken also for qualification requirements.

The verification of compliance with the qualification requirements would normally be carried out at the same time as the verification of eligibility but there is no such requirement in the PPADA, nor in the description of the preliminary evaluation required in the PPADR, Regulation 74 (1), which in any case only applies to open tenders. Failure to meet the qualification requirements should then lead to the tender in question being discarded, as in the case of failure to meet the eligibility criteria.

Post-qualification, as described in the PPADA, Section 83, is now only an option ("An evaluation committee may [...] conduct due diligence [...] to confirm and verify the qualifications") but it should rather be a general obligation, with further details provided in the PPADR. For practical reasons, when evaluating smaller value tenders for simple items, it may be sufficient to carry out the verification of compliance with the eligibility requirements only as post-qualification. This may also be a reasonable solution if a corresponding self-declaration is used to claim compliance with the qualification requirements.

The lack of precision in the prescriptions regulating eligibility and qualification requirements and the application of corresponding criteria in the evaluation process means that there is a high risk of procuring entities either failing to set reasonable requirements for qualifications or setting them unreasonably high. In turn, this creates a risk that, in the first case, the selected tenderer will not be able to perform, and, in the second case, the procuring entity will find itself obliged to reject otherwise appropriate tenders. Further, the lack of detail on how compliance with eligibility and qualification requirements should be demonstrated and verified raises the risk that the approaches taken become unnecessarily difficult, time consuming and expensive for both procuring entities and tenderers, thereby defeating the purpose.

At the practical level, experience shows that, if regulations and guidance notes are not clear enough and well applied, there is a strong risk of over-reliance on formal details during preliminary evaluation and post-qualification, leading to unnecessary elimination of tenders for minor, subjective technicalities, or even of misuse of such requirements to reduce competition or otherwise favour a particular tenderer.

Recommendations
Provide for more clear qualification criteria: add general principles and requirements concerning the capability of participants to carry out the contract to the PPADA and provide further details and guidance in the PPADR.

Assessment criterion 1(d)(b):
It ensures that there are no barriers to participation in the public procurement market.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
There are barriers to participation in the sense that the PPADA, Sections 155 and 157 set out requirements for local preferences and for reservations for women, youth and disabled persons, which, as and when applied, exclude participation by others. The provisions mentioned are further elaborated on in the PPADR, Regulations 144-149. Certain trades and professions are subject to licensing or certification requirements but these to not directly limit participation in the public procurement market.

Gap analysis
While the preferences and reservations reflect general provisions in the Constitution, Section 227 (2), the formal requirements for their application add a considerable administrative burden to both procuring entities, especially smaller ones, for the planning, preparation and evaluation of tenders, and to participants, for determining an optimal tendering approach and for demonstrating compliance with the eligibility criteria. Thus, procurement becomes more costly and takes more time, the risk of errors or omissions rises and therefore also the risk of rejection of tenders or of complaints, and compensating for the uncertainties in the application of the provisions may tend to reduce value for money.

There is little clear evidence of their costs or benefits and, on the whole, whether and to what extent they serve their purpose, already for the simple reason that reporting is incomplete.

Recommendations
Carefully assess and quantify the costs and benefits of applying the various preferences and reservations set out in the law, and adjust the latter as may be required to make them efficient and effective in reaching their objectives. Include illustrative examples detailing the specific types and sizes of procurement that may be legally reserved for special groups. In addition, explore mechanisms to incentivise subcontracting to reserved groups within larger contracts.

Address persistent delays in payment to suppliers and contractors, as this is a critical barrier to participation entry particularly for small and medium enterprises

Assessment criterion 1(d)(c):
It details the eligibility requirements and provides for exclusions for criminal or corrupt activities, and for administrative debarment under the law, subject to due process or prohibition of commercial relations.

Conclusion: No gap

Red flag: No

Qualitative analysis
Eligibility requirements are set out in the PPADA, Section 55, which, among other aspects, provides for exclusions for criminal or corrupt activities, and for administrative debarment under the law, subject to due process or prohibition of commercial relations.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Assessment criterion 1(d)(d):
It establishes rules for the participation of state-owned enterprises that promote fair competition.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The legal framework does not include any particular rules for the participation of state-owned enterprises, except for the eligibility provisions that are referred to in the standard tender documents, in particular the one for works. There, the Instructions to tenderers, Section 3.8, state that a tenderer that is a state-owned enterprise or a public institution in Kenya may be eligible to tender and be awarded contract(s) only if it is determined by the procuring entity to be financially autonomous and not receiving any significant subsidies or budget support from any public entity or Government, and if it is operating under commercial law and vested with legal rights and liabilities similar to any commercial enterprise to enable it to compete with firms in the private sector on an equal basis.

Gap analysis
Provisions that would help ensure fair competition in case of participation by state-owned enterprises are missing from the PPADA and the PPADR. The corresponding eligibility provisions in some of the standard tender documents are appropriate but not sufficient and have no explicit basis in the legislation.

In practice, out of the contract files from the 63 major procuring entities that were reviewed by the MAPS assessors, 54% were found to have correctly applied eligibility conditions for state owned enterprises and public entities. This indicates that while a majority of procuring entities are adhering to the eligibility standards mentioned, there is still a sizable minority where application is incomplete.

Clarifying and complementing the rules for ensuring fair competition in case of participation by state-owned enterprises would likely need to be matched by corresponding provisions in the statutes and other governance arrangements for state-owned enterprises.

Recommendations
There is a need for a legal framework that establishes rules for the participation of state-owned enterprises that promote fair competition. In particular, they would need to address cases when state-owned enterprises benefit from subsidies, privileged access to financing or state guarantees or enjoy other special or exclusive rights, or whose management may have links to the management of the procuring entity carrying out procurement of items that the company may have on offer. The wording used in the standard tender documents for works offers one possible solution, which would need to be elaborated on in guidance notes and the like in order to facilitate its application by a procuring entity. Other regulations governing the work of state-owned enterprises should have matching changes.

As a complement, there is a need for improved training, oversight, and enforcement mechanisms to ensure these critical fairness provisions are not bypassed or ignored, especially in high-value or politically sensitive procurements.

Assessment criterion 1(d)(e):
It details the procedures that can be used to determine a bidder's eligibility and ability to perform a specific contract.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The PPADA includes a list of eligibility criteria (Section 55), implies a right of the procuring entity to set suitable capability criteria, and requires the tender documents to include the corresponding requirements (Section 70). It also requires the procuring entities to apply those criteria when examining and evaluating tenders.

Gap analysis
Neither the PPADA nor the PPADR set out any procedures that can be used to determine a bidder's eligibility and ability to perform a specific contract. On the other hand, the standard tender documents have forms to fill in for demonstrating eligibility and include requirements for the documentary evidence of the tenderers' qualifications, which has to demonstrate, to the procuring entity's satisfaction, that the requirements and the

criteria set out in the tender. This being said, the formal requirements are very detailed and prescriptive, possibly more so than necessary.

Recommendations
Set out in the PPADA and, as appropriate, in the PPADR, the basic principles for how requirements for a tenderer's eligibility and ability to perform a specific contract should be set, demonstrated and evaluated, and clarify and simplify the standard tender documents accordingly.

Sub-indicator 1(e)
Procurement documentation and specifications
The legal framework meets the following conditions:

Assessment criterion 1(e)(a):
It establishes the minimum content of the procurement documents and requires that content is relevant and sufficient for suppliers to respond to the requirement.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The PPADA, Section 70, sets out the required contents of the tender documents, while Section 60 (1) specifically calls for requirements that give a correct and complete description of what is to be procured and that allow for fair and open competition. Further guidelines regarding the content of the tender documents and the expected standards of the same are set out in the PPADR, Regulation 68. This regulation imposes the standard of evaluation criteria that are quantifiable, measurable and objective and also empowers the PPRA to issue circulars and guidelines on the content of the documents.

Gap analysis
The required contents of the tender documents, as set out in the PPADA, Section 70 (6), do not include any requirements and criteria for eligibility and qualifications, nor any indication how compliance with such requirements should be demonstrated and how compliance would be evaluated.

Recommendations
Complement the PPADA, Section 70 (6) by a formal requirement for tender documents to set out appropriate requirements for eligibility and qualifications, including how participants should demonstrate compliance with them, as well as the criteria and the approach that the procuring will apply in its evaluation.

As a complement, there should be clear guidance for procuring entities how to set requirements and evaluation criteria and how to apply the latter, in particular to prevent misuse by setting irrelevant, unduly strict or procedurally onerous requirements or by failing to set reasonable requirements.

Assessment criterion 1(e)(b):
It requires the use of neutral specifications, citing international norms when possible, and provides for the use of functional specifications where appropriate.

Conclusion: No gap

Red flag: No

Qualitative analysis
The PPADA, Section 60, calls for the use of neutral specifications, mentions international standards and allows the use of functional specifications. Further details to this effect are set out in the standard tender documents.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Assessment criterion 1(e)(c):
It requires recognition of standards that are equivalent, when neutral specifications are not available.

Conclusion: No gap

Red flag: No

Qualitative analysis
The PPADA, Section 60 (4), states that requirements must allow equivalents whenever neutral specifications are not possible to use.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Assessment criterion 1(e)(d):
Potential bidders are allowed to request a clarification of the procurement document, and the procuring entity is required to respond in a timely fashion and communicate the clarification to all potential bidders (in writing).

Conclusion: No gap

Red flag: No

Qualitative analysis
The PPADA, Section 75 (2), implies a right of a candidate (prospective tenderer) to inquire about tender documents. Any corresponding materials must be promptly provided to all concerned (Section 75 (3)). In addition, the deadline for submission has to be extended as suitable (Section 75 (5)). In addition, the instructions to tenderers in the standard tender documents indicate how to submit requests for clarification and how these will be dealt with.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Sub-indicator 1(f)
Evaluation and award criteria
The legal framework mandates that:

Assessment criterion 1(f)(a):
The legal framework mandates that the evaluation criteria are objective, relevant to the subject matter of the contract, and precisely specified in advance in the procurement documents, so that the award decision is made solely on the basis of the criteria stipulated in the documents.

Conclusion: No gap

Red flag: No

Qualitative analysis
As required in the PPADA, Sections 60, 70 and 80, the evaluation criteria have to be objective, relevant to the subject matter of the contract, and precisely specified in advance in the procurement documents, and the award decision must be made solely on the basis of the criteria stipulated in the documents.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Assessment criterion 1(f)(b):
The legal framework allows the use of price and non-price attributes and/or the consideration of life cycle cost as appropriate to ensure objective and value-for-money decisions.

Conclusion: No gap

Red flag: No

Qualitative analysis
The PPADA, Section 60 (3), allows the use of price and non-price attributes and the consideration of life cycle cost, as appropriate, and Section 80 (3) requires the corresponding criteria to be duly applied. In addition, the standard tender documents have provisions for including sustainability aspects, including life cycle costs, or for otherwise ensuring value for money.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Assessment criterion 1(f)(c):
The legal framework mandates that quality is a major consideration in evaluating proposals for consulting services, and clear procedures and methodologies for assessment of technical capacity are defined.

Conclusion: No gap

Red flag: No

Qualitative analysis
The wordings variously used in Part X, Procurement of consultancy services, in the PPADA and in the PPADR clearly imply that quality should be a major consideration in evaluating proposals for consulting services. Clear procedures and methodologies for the assessment of technical capacity are provided in the mentioned Part X as well as in the standard document for requests for proposals for consultancy services.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Assessment criterion 1(f)(d):
The legal framework mandates that the way evaluation criteria are combined and their relative weight determined should be clearly defined in the procurement documents.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The PPADA, Section 86 (1) (b), refers to the way evaluation criteria are combined. The detailed procedure as well as guidelines for their relative weight are set out in the standard tender documents, which have to clearly define those weights for each individual procurement, as applicable.

Gap analysis

The wording in the PPADA, Section 86 (1) (b), about how evaluation criteria are combined seems to refer to requests for proposals only, even if the principles for combining evaluation criteria would normally be applicable to most of the other methods as well.

While the primary and secondary legislation allow for the use of a variety of evaluation criteria and sets out how they should be combined, procuring entities seem to be short of knowledge, skills and experience in doing so. In particular, the field visits undertaken during the assessment have shown that many procuring entities find it difficult to properly apply the instructions in the standard tender documents.

Recommendations
Revise the PPADA, Section 86 (1) (b), to explicitly refer to all procurement methods where different criteria are combined.

The PPADR may be amended to provided further guidance and procuring entities would need capacity building on how to set and apply evaluation criteria and to combine them as appropriate.

Assessment criterion 1(f)(e):
The legal framework mandates that during the period of the evaluation, information on the examination, clarification and evaluation of bids/proposals is not disclosed to participants or to others not officially involved in the evaluation process.

Conclusion: No gap

Red flag: No

Qualitative analysis
The PPADA, Section 67, effectively mandates that during the period of the evaluation, information on the examination, clarification and evaluation of bids/proposals is not disclosed to participants or to others not officially involved in the evaluation process.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Sub-indicator 1(g)
Submission, receipt, and opening of tenders
The legal framework provides for the following provisions:

Assessment criterion 1(g)(a):
Opening of tenders in a defined and regulated proceeding, immediately following the closing date for bid submission.

Conclusion: No gap

Red flag: No

Qualitative analysis
The PPADA, Section 78, regulates the opening of tenders and requires it to be done immediately after the deadline for submission. The PPADA, Section 176, criminalises any interference with unopened tenders. Further procedural details are set out in the corresponding regulations of the PPADR and in the standard tender documents.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Assessment criterion 1(g)(b):
Records of proceedings for bid openings are retained and available for review.

Conclusion: No gap

Red flag: No

Qualitative analysis
The PPADA, Section 78 (10), requires tender opening minutes to be prepared. Section 68 requires these minutes and other procurement records to be kept for at least six years after the end of the procurement and to be made available for review.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Assessment criterion 1(g)(c):
Security and confidentiality of bids is maintained prior to bid opening and until after the award of contracts.

Conclusion: No gap

Red flag: No

Qualitative analysis
The PPADA, Section 67, contains broad requirements for confidentiality, and Section 77 requires that tenders are kept unopened in a lockable, secure box, foreseen to be opened only after the tender submission deadline.

Gap analysis
The assessment criterion is met.

Recommendations
The requirement for safekeeping of tenders until tender opening applies also to electronic submissions; however, the details set out in the PPADR, Regulation 57, may need to be adapted as appropriate in line with other means that may become adopted for regulating access to electronic records.

Assessment criterion 1(g)(d):
The disclosure of specific sensitive information is prohibited, as regulated in the legal framework.

Conclusion: No gap

Red flag: No

Qualitative analysis
The PPADA, Section 67, prohibits the disclosure of specific, sensitive information, except in certain, defined cases.

Gap analysis
The assessment criterion is met.

Recommendations
For ease of application of the law, specify the instances where disclosure of specific sensitive information is allowed..

Assessment criterion 1(g)(e):
The modality of submitting tenders and receipt by the government is well defined, to avoid unnecessary rejection of tenders.

Conclusion: No gap

Red flag: No

Qualitative analysis
The PPADA, Section 70 (6) (e), requires that tender documents set out the modalities for submitting tenders, and these are reflected accordingly in the standard documents issued.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Sub-indicator 1(h)
Right to challenge and appeal
The legal framework provides for the following:

Assessment criterion 1(h)(a):
Participants in procurement proceedings have the right to challenge decisions or actions taken by the procuring entity.

Conclusion: No gap

Red flag: No

Qualitative analysis
The PPADA, Section 167 (1), gives participants in procurement proceedings the right to challenge decisions or actions taken by the procuring entity. The right is subject to certain procedural limitations, like the time within which such challenge must be mounted, and certain substantive limitations, such as challenge on the basis of method of procurement adopted (on this point, see assessment criterion 1(h)(c)).

Administrative review is done by the Public Procurement Administrative Review Board (PPARB), which has the authority to suspend the award decision and grant remedies. A person aggrieved by a decision made by the PPARB may seek judicial review of it by the High Court and a person aggrieved by a judgment of the High Court may appeal it at the Court of Appeal. The right to review according to the PPADA is in addition to any other legal remedy a person may have. Participants also have the right to raise concerns with the PPRA and to make requests for debarment.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Assessment criterion 1(h)(b):
Provisions make it possible to respond to a challenge with administrative review by another body, independent of the procuring entity that has the authority to suspend the award decision and grant remedies, and also establish the right for judicial review.

Conclusion: No gap

Red flag: No

Qualitative analysis
The PPADA, Section 167 (1), makes it possible to respond to a challenge with administrative review by another body, independent of the procuring entity. To this end, Sections 27-32 establish the Public Procurement and Administrative Review Board (PPARB) as a body set up to review tender disputes. The tribunal is set up as an

unincorporated board whose functions are generally supported by the PPRA. Section 173 sets out the powers of the Review Board, which has the authority to suspend the award decision and grant remedies, and Section 175 (1) establishes the right to judicial review, where a person aggrieved by a decision made by the Review Board may seek judicial review by the High Court within 14 days from the date of the Review Board's decision. A person aggrieved by the decision of the High Court may appeal to the Court of Appeal within 7 days of such decision and the Court of Appeal shall make a final decision within 45 days. Section 174 makes it clear that the right to review according to the PPADA is in addition to any other legal remedy a person may have.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Assessment criterion 1(h)(c):
Rules establish the matters that are subject to review.

Conclusion: No gap

Red flag: No

Qualitative analysis
The PPADA, Section 167 (1), allows review of any decision by a procuring entity, with a small number of exceptions set out in Section 167 (4):

a) **the choice of a procurement method;**
b) **a termination of a procurement or asset disposal proceedings in accordance with Section 63 of the PPADA; and**
c) **where a contract is signed in accordance with section 135 of the PPADA.**

Gap analysis
The applicable rules clearly establish the matters that are subject to review, so the assessment criterion is met in this, formal respect. However, there are several aspects which require careful attention and action.

The exceptions to the matters that are subject to review include the choice of the procurement method. The procurement methods defined in the PPADA, Section 92, include direct procurement. In practice, the use of this method is very often subject to abuse, and the general principles of fairness and openness set out or referred to in the PPADA, Section 3, would seem to require a possibility of recourse against the use of direct procurement as opposed to any competitive procedure set out in the law.

According to the PPADA, Section 167 (4) (c), the right of review has expired where the contract has already been signed in accordance with Section 135. Item (3) in this section introduces a compulsory stand-still period of 14 days from the date of notification but without stating which one; presumably, the award notification presented in Section 87. However, in the absence of publication of an award notice, if there are no other participants, only the winning tenderer will be informed, so the stand-still period can no longer serve its purpose to allow complaints to be lodged before the contract comes into force. This may limit the right to review where the contract has been entered into contrary to the provisions of the PPADA and the PPADR. By judicial precedence, the issue of the signed contract has now been put into jurisdiction of the Board where there was breach prior to signing. However, as Section 167 (4) (c) now stands, affected parties may be discouraged from pursuing this right.

Recommendations
Delete the exception regarding the choice of procedure; as a minimum, allow review of the decision to use direct procurement instead of any competitive procedure.

Revise the text of the PPADA, Section 135 (3), to refer to ‘publication of the award notice [with appropriate reference]’ instead of ‘notification’, and revise the PPADA, Section 87 (3), to include an obligation to also publish an award notice, as would have to be further regulated. In case of failure to publish such a notice, the right to lodge a complaint to the PPARB should remain in force even after the signature of the contract.

Assessment criterion 1(h)(d):
Rules establish time frames for the submission of challenges and appeals and for issuance of decisions by the institution in charge of the review and the independent appeals body.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
Time frames for the submission of challenges and appeals and for issuance of decisions by the institution in charge of the review and the independent appeals body are clearly set out in the PPADA, Sections 167, 171 and 175. In addition, Section 135 (3) calls for a standstill period of 14 days between the award notification to the participating tenderers (Section 87) and the signature of the corresponding contract.

Gap analysis
The time frames prescribed for submissions and decisions lack provisions allowing for some flexibility in the case of large and complex contracts, particularly those where the Review Board may need to seek advice of an external expert on some technical issues. A standstill period of 14 calendar days is not longer than usually found in international practice, in contrast to the very short minimum deadline of seven days for submission of tenders etc.

In addition, the time frames for lodging complaints are not directly related to the various steps in the procurement cycle before contract signature. As a means to make challenges more timely and to prevent undue delays in the procurement process, legislation in some countries specifies that, e.g., requests for review of matters in the tender documents (bias, lack of clarity, etc.) have to be made by a certain (small) number of days before the deadline for submission of tenders (notwithstanding that such issues would normally be resolved by requesting clarification of the tender documents), while complaints against the award decision would have to be made within the standstill period (the exception to this being cases when contract awards have not been duly published before contract signature).

Recommendations
Introduce some flexibility in the time frame for review and decision, as a function of the nature and complexity of the contract. Consider whether the time frames for complaints may benefit from being linked to the respective step in the procurement cycle. Consider increasing the standard timeline for PPARB decisions from 21 to 30 days.

Cf. recommendations under 13(b)(e).

Assessment criterion 1(h)(e):
Applications for appeal and decisions are published in easily accessible places and within specified time frames, in line with legislation protecting sensitive information.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
According to the PPADA, Section 168, requests for review are only required to be notified to the procuring entity against which a complaint has been made, as well as to the parties invited in the subsequent proceedings. The PPADA, Section 9 (1) (m) (i), requires the PPRA to include complaints made on procuring entities into the central database to be created, but without any corresponding provisions for publication. Nevertheless, as agreed between the PPADR and the PPRA, the decisions of the Review Board are now being published on the PPRA website with only insignificant delays.

Gap analysis
It appears that there are no legal provisions requiring that complaints made as well as decisions taken by the Review Board be published, nor are there any time frames for such publication. While the decisions are actually published at present, the organisation of the publishing is not well displayed to enable easy access and lacks search features.

Recommendations
Add suitable provisions to the PPADA and the PPADR regarding publication both of complaints made and of decisions taken, and ensure that the e-GP system under preparation contains or is interfaced with a facility for such publications. Cases posted on the website should be properly indexed for purposes of greater and more convenient access.

Assessment criterion 1(h)(f):
Decisions by the independent appeals body can be subject to higher-level review (judicial review).

Conclusion: No gap

Red flag: No

Qualitative analysis
The right to judicial review of decisions by the Review Board is granted by the PPADA, Section 175.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Sub-indicator 1(i)
Contract management
The legal framework provides for the following:

Assessment criterion 1(i)(a):
Functions for undertaking contract management are defined and responsibilities are clearly assigned.

Conclusion: No gap

Red flag: No

Qualitative analysis
General requirements for contract management are set out in the PPADA, Sections 48 and 150. Section 151 contains additional details for the management of complex and specialised contracts. Further provisions are given in the corresponding parts of the PPADR, in particular Regulations 34 and 35.

See also the points made under 9(c)(b).

Gap analysis
The assessment criterion is met.

Recommendations
To facilitate proper application of the current prescriptions, review Section 48 and Section 150 of the PPADA to identify and eliminate any contradictions or conflicts in the assigned responsibilities for the issuance of certificates, and institute a training and capacity building programme focused on advanced contract management skills for all procurement officers and staff involved in contract administration.

Assessment criterion 1(i)(b):
Conditions for contract amendments are defined, ensure economy and do not arbitrarily limit competition.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
Conditions for amendments or variations to contracts are set out in the PPADA, Section 139. They limit the changes of quantities and prices to certain percentages of the values in the original contract and require renewed tendering if the contract price increases by more than 25%.

The PPADR, Regulation 132, contains some additional definitions and procedural provisions. A price adjustment formula is proposed in the General Conditions of Contract, Section 13.9, in the standard tender document for works; to be used in cases when the price of inputs changes but only if corresponding details are set out in the Special Conditions of Contract. However, inputs from the field visits indicate that procuring entities avoid using it.

Gap analysis
The provisions in the PPADA are not complete and partly contradictory. As an example, clause 139 (3) requires that "No contract price shall be varied upwards within twelve months from the date of the signing of the contract", while clause 139 (4) (a) allows variations to be based on the consumer price index, which evidently may either decrease or increase also during the first year. No reference is made to, e.g., price indices for fuel or raw materials, nor to variations that may apply in a works contract using a bill of quantities.

In addition:

- 139 (4) (a) refers only to the consumer price index, which may not be relevant for e.g. fuels, construction materials, raw materials or other inputs for which the prices may vary according to the situation in the market, beyond the control of the supplier or contractor;
- 139 (4) only mentions goods and professional services, not works or other services;
- 139 (7) requires the method for computing price variations to be prescribed in regulations, but the PPADR do not contain anything of the kind.

As a result, tenderers may resort to "padding" prices in order to cater for uncertainties in the costs of inputs, raising the cost to the procuring entity, while nevertheless running the risk of being unable to deliver if input prices increase even more than feared. Accordingly, these risks should be duly addressed both by the procuring entity and by the participating tenderers in the preparation and tendering phases.

Recommendations
Review and revise the PPADA and the PPADR with respect to the issues mentioned above, and provide corresponding guidance and training to procuring entities and prospective participants.

Assessment criterion 1(i)(c):
There are efficient and fair processes to resolve disputes promptly during the performance of the contract.

Conclusion: No gap

Red flag: No

Qualitative analysis
The forms of contract included in the standard tender documents listed in the Eighth Schedule of the PPADR contain clauses promoting prompt settlement of any dispute, in the first place through arbitration.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Assessment criterion 1(i)(d):
The final outcome of a dispute resolution process is enforceable.

Conclusion: No gap
Red flag: No
Qualitative analysis The forms of contract included in the standard tender documents require the outcome of arbitration to be binding upon the parties; in case of failure by any party to comply, the matter may be referred to a competent court of law.
Gap analysis The assessment criterion is met.
Recommendations No recommendations needed.
Sub-indicator 1(j) **Electronic Procurement (e-Procurement)** The legal framework provides for the following:
Assessment criterion 1(j)(a): The legal framework allows or mandates e-Procurement solutions covering the public procurement cycle, whether entirely or partially.
Conclusion: No gap
Red flag: No
Qualitative analysis The PPADA, Section 64 (2), allows the use of e-procurement solutions. Further details are set out in the PPADR, Regulations 49-55 and 57-64.
Gap analysis The assessment criterion is met.
Recommendations No recommendations needed.
Assessment criterion 1(j)(b): The legal framework ensures the use of tools and standards that provide unrestricted and full access to the system, taking into consideration privacy, security of data and authentication.
Conclusion: No gap
Red flag: No
Qualitative analysis The legal framework has no provisions restricting access to the e-procurement system other than for the purposes of ensuring security of data and proper authentication of users as well as any otherwise prescribed confidentiality of the proceedings.
Gap analysis The assessment criterion is met. However, while the right to unrestricted and full access to the e-procurement system may be granted by law, its effective exercise requires that procuring entities and other participants have the necessary means for connecting to and using the system, whether in terms of hardware, software, connections or skills.
Recommendations Examine the extent to which procuring entities and other participants have effective access to e-procurement, and take suitable measures to close any gaps in this respect.

Assessment criterion 1(j)(c):
The legal framework requires that interested parties be informed which parts of the processes will be managed electronically.

Conclusion: No gap

Red flag: No

Qualitative analysis
The legal framework requires the use of standard tender documents, which include sections for informing participants about the parts of the procurement process that will be managed electronically.

Gap analysis
The assessment criterion is met.

Recommendations
For eliminating uncertainty, it could be appropriate to include in the legal framework a clear obligation to inform interested parties, already in tender notices and the like, about which parts of the process will be managed electronically. Conversely, if any general obligation to use e-procurement has certain exceptions, such exceptions should also be indicated already in tender notices and the like.

Sub-indicator 1(k)
Norms for safekeeping of records, documents and electronic data
The legal framework provides for the following:

Assessment criterion 1(k)(a):
A comprehensive list is established of the procurement records and documents related to transactions including contract management. This should be kept at the operational level. It should outline what is available for public inspection including conditions for access.

Conclusion: No gap

Red flag: Yes

Qualitative analysis
The PPADA, Section 44 (2) (d) requires the procuring entity to ensure proper documentation of procurement proceedings and safe custody of all procurement records. These records are detailed in Section 68, which also outlines what is available for public inspection, including conditions for access (Section 68 (3) – (5)).

Gap analysis

The assessment criterion is met in terms of the legal requirements. However, in practice, mismanagement or misplacement of procurement records is a common problem, documented in, e.g., the PEFA Report 2022, Ch. 5., which notes that there is currently no complete procurement data and no comprehensive information on procurement methods used. Procurement monitoring by the Public Procurement Regulatory Authority (PPRA) and an electronic database (Public Procurement Information Portal (PPIP)) for advertisement of procurement opportunities and publication of details of contracts awarded has been established and accessible through https://tenders.go.ke. The procurement data published in the PPIP is not complete and comprehensive; the PEFA report mentions that not all contracts awarded by all national government procuring entities for the FY2020/2021 had been published or maintained. The observations made during the review of contract files in the current MAPS assessment confirm that the situation has hardly improved, neither with respect to the physical files retained by the procuring entities nor as regards the PPIP entries.

For the situation in practice, see the gap analysis under assessment criterion 9 (c) (g).

Recommendations
Review and revise the modalities for creation and safekeeping of procurement records and for making them

accessible as may be required, taking into account the possibilities offered by a more comprehensive e-procurement system. Consider adding provisions and creating mechanisms that would help monitoring and enforcement of compliance.

Assessment criterion 1(k)(b):
There is a document retention policy that is both compatible with the statute of limitations in the country for investigating and prosecuting cases of fraud and corruption and compatible with the audit cycles.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
As required in the PPADA, Section 68 (1), procurement records have to be kept for at least six years after the end of the procurement in question. This matches Section 4 of the Limitations of Actions Act which provides that actions on contract should be brought before the end of 6 years after the cause of action accrues. It would also allow for the normal cycle of audits to be carried out without impediment, in that the accounting officer has to maintain a proper filing system with clear links between procurement and expenditure files that facilitates an audit trail (PPADA, Section 68 (6)). On the other hand, the statute of limitations in Kenya does not apply to criminal proceedings or in civil proceedings for the recovery of assets.

Gap analysis
The lack of obligation to retain procurement records for more than six years may affect the possibility to investigate and prosecute cases of fraud and corruption. Failure to retain records for the required duration can hinder investigations, compromise procurement integrity, and expose entities to legal challenges. Apart from the potential advantages of a well functioning e-procurement system, once rolled out, strengthening internal policies and investing in secure, long-term storage infrastructure, both physical and digital, remains essential to bridging the compliance gap discussed in the gap analysis under assessment criterion 9 (c) (g).

Recommendations
Consider whether the possibility to investigate and prosecute fraud and corruption would benefit from extending the time for retention of procurement records.

Assessment criterion 1(k)(c):
There are established security protocols to protect records (physical and/or electronic).

Conclusion: No gap

Red flag: No

Qualitative analysis
The PPADA, Section 44 (2) (d) calls for safe custody of all procurement records. The PPADR, Regulation 33 (3) (o) requires the procurement function to maintain and archive procurement and asset disposal documents and records for the required period.

Gap analysis
The assessment criterion is met.

Recommendations
While the obligation to protect procurement records is clear, procuring entities may benefit from practical guidance for doing so in a reliable, transparent, effective and efficient manner.

Sub-indicator 1(l)
Public procurement principles in specialized legislation
The legal and regulatory body of norms complies with the following conditions:

Assessment criterion 1(l)(a):

Public procurement principles and/or the legal framework apply in any specialised legislation that governs procurement by entities operating in specific sectors, as appropriate.

Conclusion: No gap

Red flag: No

Qualitative analysis

The legal framework applies to procurement by all public entities, defined to include, among other elements, any organ or department of the national government or a county government, state corporations, any company owned by a public entity, and any body that uses public assets in any form of contractual undertaking, irrespective of the sector of activity (PPADA, Sections 2 and 4 (1)). Contrary to the practice in some other countries, there are thus no particular provisions in the PPADA or the PPADR regulating procurement by, e.g., utilities. This is despite the fact that utilities, because of the importance for them to ensure continuity of supply, may have greater needs than other procuring entities to be able to rapidly procure equipment and works that may be necessary for repairing or replacing facilities that have suffered damage.

There is also no other, specialised legislation regulating public procurement in any specific sectors.

Classified procurement methods and procedures are set out in the PPADA, Section 90 and in the PPADR, Regulation 84. They require the use of dual lists for distinguishing items subject to open and to classified procurement and disposal proceedings, respectively. Procuring entities that deal with classified items shall agree annually with the Cabinet Secretary on the category of classified items to be included in the classified list of procurements or disposals to be applied. The Cabinet Secretary shall then submit the list of classified items to Cabinet for approval.

Gap analysis

The assessment criterion is met. However, the potentially different needs of, e.g., utilities are not reflected in the legislation. It also fails to give any guidance on the criteria and conditions to be applied when making the distinction between open and classified procurement. This makes it difficult to monitor and enforce compliance and opens the door to abuse in the classification of items to be procured.

Recommendations

Although the assessment criterion is met, it should be considered whether and how the particular procurement needs of utilities may have to be reflected in the legislation. It would also be necessary to clarify the basis for the classification of items according to whether open or classified procurement should be applied and, as may be appropriate, to add provisions ensuring proper monitoring and enforcement of the applicable criteria and conditions. Nevertheless, the PPADA should serve as the overarching legal authority for all public contracting. Any specialised legislation that may possibly be enacted should align with the Act's principles, with a specific focus on incorporating utility providers into the standard procurement framework.

Assessment criterion 1(l)(b):

Public procurement principles and/or laws apply to the selection and contracting of public private partnerships (PPP), including concessions as appropriate.

Conclusion: No gap

Red flag: No

Qualitative analysis

Selection and contracting of public-private partnerships is governed by the procurement principles and methods set out Part V of the Public-Private Partnership Act, which reflect the principles and approaches set out in the PPADA.

Gap analysis

The assessment criterion is met.

Recommendations No recommendations needed.
Assessment criterion 1(l)(c): Responsibilities for developing policies and supporting the implementation of PPPs, including concessions, are clearly assigned.
Conclusion: No gap
Red flag: No
Qualitative analysis Responsibilities for developing policies and supporting the implementation of public-private partnerships, including concessions, are clearly assigned, as set out in Section 3 and Part II of the Public-Private Partnership Act.
Gap analysis The assessment criterion is met.
Recommendations No recommendations needed.

Indicator 2. Implementing regulations and tools support the legal framework

Sub-indicator 2(a) **Implementing regulations to define processes and procedures**
Assessment criterion 2(a)(a): There are regulations that supplement and detail the provisions of the procurement law, and do not contradict the law.
Conclusion: Minor gap
Red flag: No
Qualitative analysis The PPADR, issued in 2020, supplement and detail the provisions of the PPADA, issued in 2015, and thus reflect the provisions in the law. A general procurement manual as well as procurement manuals for goods, works and services, etc., complement the provisions in the PPADR by recalling important principles and giving practical examples for how public procurement may be carried out.
Gap analysis The PPADA and the PPADR are not well harmonised, in that the PPADA contains quite a number of detailed, procedural prescriptions which would rather be expected to be found in the PPADR, while the PPADR sometimes more or less repeats what is already said in the PPADA, without providing further guidance. (Cf. comments under assessment criterion 1(a)(a)). Also, none of the various manuals have been updated in order to conform with the current PPADA and PPADR.
Recommendations When revising the PPADA and the PPADR, it would be appropriate to make a clearer distinction between matters of principle and policy, that would mainly be found in the PPADA, and matters of procedure and practice, that would mainly be found in the PPADR. Also, the various procurement manuals would need to be updated to fully align with and complement the PPADA and the PPADR.
Assessment criterion 2(a)(b): The regulations are clear, comprehensive and consolidated as a set of regulations readily available in a single accessible place.

Conclusion: Minor gap
Red flag: No
Qualitative analysis The PPADR are clear, comprehensive and consolidated as a set of regulations readily available in a single document, readily accessible for download from the PPRA website.
Gap analysis On the face of it, the assessment criterion may seem to be met. However, the PPADR and its standard documents sometimes go into great procedural detail, making them time consuming to apply and creating a risk that otherwise acceptable tenders have to be rejected for formal reasons.
Recommendations Revise the standard documents for improved clarity, simplicity and applicability.
Assessment criterion 2(a)(c): Responsibility for maintenance of the regulations is clearly established, and the regulations are updated regularly
Conclusion: No gap
Red flag: No
Qualitative analysis Responsibility for maintenance of the regulations is clearly established by the PPADA, Sections 7 and 180, which require the National Treasury and its Cabinet Secretary to make implementing regulations which will take effect after endorsement by Parliament.
Gap analysis The assessment criterion is met.
Recommendations No recommendations needed.
Sub-indicator 2(b) **Model procurement documents for goods, works and services**
Assessment criterion 2(b)(a): There are model procurement documents provided for use for a wide range of goods, works and services, including consulting services procured by public entities.
Conclusion: No gap
Red flag: No
Qualitative analysis The current standard documents listed in the Eighth Schedule of the PPADR cover a wide range of goods, works and services, including consulting services procured by public entities.
Gap analysis The assessment criterion is met.
Recommendations No recommendations needed.
Assessment criterion 2(b)(b): At a minimum, there is a standard and mandatory set of clauses or templates that reflect the legal framework. These clauses can be used in documents prepared for competitive tendering/bidding.
Conclusion: No gap

Red flag: No

Qualitative analysis
The current standard documents include clauses, forms and templates that reflect the legal framework and help prepare procurement documents and produce required records.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Assessment criterion 2(b)(c):
The documents are kept up to date, with responsibility for preparation and updating clearly assigned.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The PPADA, Section 9 (1) (f), obliges the PPRA to prepare, issue and publicise standard public procurement and asset disposal documents and formats to be used by public entities and other stakeholders.

Gap analysis
The responsibility to keep the standard documents updated and aligned with the PPADA and the PPADR is not explicitly stated in the PPADA, Section 9 (1) (f), even if it may be taken to be clearly implied.

Recommendations
For greater certainty, add an explicit requirement for the standard documents to be updated whenever needed to ensure full alignment with the PPADA and the PPADR or as may otherwise be suitable.

Sub-indicator 2(c)
Standard contract conditions used

Assessment criterion 2(c)(a):
There are standard contract conditions for the most common types of contracts, and their use is mandatory.

Conclusion: No gap

Red flag: No

Qualitative analysis
The current standard documents listed in the Eighth Schedule of the PPADR include contract conditions and, in the general case, their use is compulsory.

Gap analysis
The assessment criterion is met. This being said, the text of the standard contract for works seems to contain a number of elements copied from the FIDIC Red Book. This may constitute a copyright infringement.

Recommendations
Liaise with FIDIC in order to resolve any copyright issues related to the standard contract for works. Alternatively, prescribe or allow the use of FIDIC contracts or other, similar, internationally recognised contracts, and give guidance on how to draft their special conditions in order to reflect the particularities of the works at hand and the legal environment in Kenya.

Assessment criterion 2(c)(b):
The content of the standard contract conditions is generally consistent with internationally accepted practice.

Conclusion: No gap

Red flag: No

Qualitative analysis
The conditions of contract set out in the standard tender documents are generally well aligned with international, established practice.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Assessment criterion 2(c)(c):
Standard contract conditions are an integral part of the procurement documents and made available to participants in procurement proceedings.

Conclusion: No gap

Red flag: No

Qualitative analysis
The tender documents issued to participants reflect the provisions in the standard documents and contain the contract conditions set out therein.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Sub-indicator 2(d)
User's guide or manual for procuring entities

Assessment criterion 2(d)(a):
There is (a) comprehensive procurement manual(s) detailing all procedures for the correct implementation of procurement regulations and laws.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The prescribed standard documents contain detailed instructions about the procedures to be followed in order to comply with the provisions in the PPADA and the PPADR. In addition, the PPOA had developed comprehensive procurement manuals, such as the Public Procurement and Disposal General Manual. The manuals provide detailed procedures for the implementation of procurement regulations and laws. They cover aspects like procurement planning, tendering, evaluation, contract management, and disposal of assets. The guidelines are intended to ensure standardised practices across all public procuring entities, promoting transparency and fairness.

However, the existing ten operational manuals were prepared before 2014. This is before the PPADA, the PPADR and the NPPADP came into effect.

Gap analysis
The operational manuals are not fully aligned to the Constitution of Kenya 2010, the NPPADP 2020, the PPADA 2015 and the PPADR 2020.

Although comprehensive manuals exist, there may nevertheless be gaps in awareness and accessibility among lower-level procuring entities. Even among the 63 major procuring entities interviewed, 32% stated that there were not any procurement policy and manual to guide internal procurement and disposals decision making and guide procurement and contract management on procurement and disposals. Ensuring that all procuring entities have such manuals and that all relevant personnel have easy access and understanding of these manuals is crucial.

The existing manuals provide general guidelines. However, there may be a need for more specialised manuals or sections tailored to specific sectors or types of procurement to address unique challenges and requirements.

There may be gaps in ensuring that all procuring entities strictly adhere to the guidelines provided in the manuals. The effectiveness of these manuals depends heavily on the capacity and willingness of entities to follow the prescribed procedures.

The effectiveness of procurement manuals also relies on adequate training and capacity building for procurement officers and stakeholders. There is a need for continuous professional development programmes to ensure that all involved parties are knowledgeable about the latest updates and best practices.

Recommendations

The old operational manuals should be reviewed for relevance and aligned, as appropriate, to the latest versions of the Constitution of Kenya, the NPPADP 2020, the PPADA 2015 and the PPADR 2020. Doing so, it may be suitable for sector specific and inventory manuals to be done by the PPRA, and the general manual done by the National Treasury.

In this context, the form and contents of procurement manuals as well as their dissemination and use would benefit from review and revision, in close consultation with users and in a holistic capacity building context, incorporating the regulatory prescriptions and their purposes, the manuals, corresponding training materials and training approaches, standard forms, administrative tools, and the reflection of these in the e-procurement system as well as the interfaces with other public administration systems and approaches. The implementation of this recommendation should be aligned with that of related recommendations under Pillar II, in particular those under assessment criteria 5(b)(i) and 6(a)(c) and sub-indicator 8(a).

Assessment criterion 2(d)(b):
Responsibility for maintenance of the manual is clearly established, and the manual is updated regularly.

Conclusion: Minor gap

Red flag: No

Qualitative analysis

The responsibility for maintaining manuals, in the sense of documents detailing all procedures for the correct implementation of procurement regulations and laws (a function now met by the current standard documents), lies with the PPRA, according to the PPADA, Section 7 (1) (f), and further supported by the training requirements in Section 7 (1) (ra).

Gap analysis

While the supplementary guidance in the various documents labelled “procurement manuals” are intended to be updated as soon as necessary, the frequency and dissemination of these updates can be inconsistent. Most of the currently disseminated manuals are not fully updated in line with the current legal framework. Regular, clear communication of updates is essential to maintain compliance and best practices.

Recommendations

Incorporate revised approaches for updating manuals into the general approach to capacity building in public procurement.

Pillar I. Legal, Regulatory, and Policy Framework

Indicator 3. The legal and policy frameworks support the sustainable development of the country and the implementation of international obligations

Sub-indicator 3(a) **Sustainable Public Procurement (SPP)**
Assessment criterion 3(a)(a): The country has a policy/strategy in place to implement SPP in support of broader national policy objectives
Conclusion: Minor gap
Red flag: No
Qualitative analysis The Green Economy Strategy and Implementation Plan (GESIP) 2016-2030 and the National Public Procurement and Asset Disposal Policy 2020 mention the country's commitment to integrating sustainability into public procurement processes. Paragraph 2.10 in the latter document requires public entities to adopt sustainable procurement. The PPADA, Section 3., refers to sustainable development as one of the values and principles of the Constitution and relevant legislation that have to guide public procurement and asset disposal. Although not well reflected in the PPADA or the PPADR, SPP approaches are to some extent enabled by provisions in the standard tender documents allowing for, e.g., the use of life cycle cost as an award criterium as well as the use of sustainability considerations in the technical requirements. This being said, work on preparing an SPP policy with accompanying action plans and guidance materials is ongoing. A comprehensive, draft sustainable public procurement framework has been prepared by a dedicated working group in the National Treasury and issued for consultation, with responses requested by 13 May 2025. After revisions, based on the comments received, the draft framework was presented for validation on 26 June 2025. This framework proposes essential approaches for advancing sustainable public procurement and asset disposal in Kenya. It outlines each approach and immediate, medium-term and long-term actions for a fully sustainable procurement system, with the aim to integrate sustainability as a core component of all public procurement, establishing a new norm that aligns with national development objectives.
Gap analysis The draft sustainable public procurement framework has not yet come into force and will need to be complemented by corresponding revisions to the standard tender document as well as by appropriate guidance notes and training materials in order for the new approaches to become reality. At present, both the PPADA and the National Public Procurement and Asset Disposal Policy refer to sustainability only very briefly and in general terms. The PPADR do not contain any reference to sustainable procurement or to sustainability, except in the form of some optional contents of the standard tender documents. Integration of SPP with other national development goals and policies would enhance the effectiveness and impact of sustainable procurement. Ensuring that SPP is not seen as an isolated initiative but as part of a holistic approach to sustainable development is crucial. The PPADA and the PPADR would therefore also merit revision in order to form a proper legal basis for the approaches set out in the draft framework. The weak development of sustainable procurement policies and practices may discourage innovation in the field and may prevent procuring entities from improving the quality of their services and lowering their costs in the medium and long term.
Recommendations To the extent not yet done in the course of preparation of the draft sustainable public procurement framework, carry out a formal assessment of the sustainable public procurement status in Kenya using, e.g., the UNEP approach recommended for this purpose, formulate a sustainable public procurement policy for incorporation into the National Public Procurement and Asset Disposal Policy, harmonised with the broader

national policy objectives for sustainable development. Reflect the approaches in the framework in future revisions of the PPADA, and take concrete measures for applying it in the PPADR and its standard documents, as well as in guidance and training materials.

Assessment criterion 3(a)(b):
The SPP implementation plan is based on an in-depth assessment; systems and tools are in place to operationalise, facilitate and monitor the application of SPP.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The draft sustainable public procurement framework includes a comprehensive set of approaches for operationalising sustainability throughout the procurement cycle. It also outlines measures to be taken for awareness raising, training and capacity building, as well as for reporting, monitoring and evaluation. The draft framework is in the process of being adopted.

Gap analysis
The draft sustainable public procurement framework seems to reflect a clear and correct understanding of the situation with respect to sustainable public procurement but does not contain or make reference to any corresponding, specific "in-depth assessment" as referred to in the assessment criterion. The proposed mechanisms for applying the approaches set out in the draft sustainable public procurement framework are not yet fully in place. Their implementation will require time and efforts and corresponding guidance and training materials as well as awareness raising and training activities remain limited.

Recommendations
As appropriate, carry out and publish an in-depth assessment of the situation with respect to sustainable public procurement, particularly in order to have a correct understanding of the information and training needs and for determining the priority areas for introducing sustainable public procurement. Implement the action plan set out in Schedule 2 of the draft framework.

Assessment criterion 3(a)(c):
The legal and regulatory frameworks allow for sustainability (i.e. economic, environmental and social criteria) to be incorporated at all stages of the procurement cycle.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The PPADA, Section 60 (3), calls for sustainability criteria to be included, where appropriate, in specific requirements relating to the goods, works or services to be procured. This implies that sustainability can be incorporated at all stages of the procurement cycle. Correspondingly, approaches proposed in the draft sustainable public procurement framework cover the whole procurement cycle.

Gap analysis
The provisions in the PPADA allowing sustainability aspects to be considered are quite brief and not yet matched by any corresponding provisions in the PPADR, except that the standard tender documents listed in the Eighth Schedule of the PPADR allow the inclusion of some sustainability aspects among the evaluation criteria and in the instructions to tenderers. The approaches set out in the draft sustainable public procurement framework have not yet been reflected.

Recommendations
Develop guidelines for the incorporation of sustainability aspects in all phases of the procurement cycle, harmonised with the approaches set out in the draft sustainable public procurement framework. Run pilots

for assessing the workability of draft provisions and for raising awareness and building skills, starting with environmental aspects of sustainability, which may generate "quick wins".
Assessment criterion 3(a)(d): The legal provisions require a well-balanced application of sustainability criteria to ensure value for money.
Conclusion: Minor gap
Red flag: No
Qualitative analysis The PPADA, Section 60 (3), calls for public procurement to be guided, where appropriate, by the need for maximisation of value for money, among other values and principles. However, there is no explicit requirement for the systematic application of sustainability criteria as a means to achieve this objective.
Gap analysis The assessment criterion is not fully met.
Recommendations Amend the PPADA and related regulations to require a well-balanced application of sustainability criteria as the default approach in public procurement.
Sub-indicator 3(b) **Obligations deriving from international agreements** **Public procurement-related obligations deriving from binding international agreements are:**
Assessment criterion 3(b)(a): Clearly established
Conclusion: Minor gap
Red flag: No
Qualitative analysis The National Public Procurement and Asset Disposal Policy, Section 2.9, requires the public procurement and asset disposal system to recognise multilateral, regional and bilateral trade agreements to which Kenya is a signatory, without specifying any procurement related obligations that may derive from them. The PPD has recognised the following, relevant agreements, among others: • UN 2030 Agenda for Sustainable Development • GPA, Article 10 • UNCITRAL Model Law on public procurement • ISO 20400:2017 Sustainable Procurement • African Union Agenda 2063 • EAC Vision 2050
Gap analysis There is no evidence that any public procurement related obligations deriving from binding international agreements have been positively identified and correspondingly reflected in the legal framework.
Recommendations Review the international agreements to which Kenya is a party for matters related to public procurement, list any obligations derived from them, and reflect them in future revisions of the National Public Procurement and Asset Disposal Policy and the PPADA and related regulations as appropriate.
Assessment criterion 3(b)(b): Consistently adopted in laws and regulations and reflected in procurement policies.
Conclusion: Minor gap

Red flag: No
Qualitative analysis Public procurement policies and regulations appear to be intended to align with established international practice.
Gap analysis There is no evidence whether any specific, public procurement related obligations deriving from binding international agreements are systematically and consistently adopted in laws and regulations and reflected in procurement policies. Effective monitoring and evaluation mechanisms are crucial to ensure ongoing compliance with international obligations. There are opportunities to strengthen the existing systems to provide more rigorous oversight and assessment of procurement practices against international benchmarks.
Recommendations As a complement to the recommendation under the preceding assessment criterion, set up a mechanism for systematically examining any new international agreements with respect to public procurement related obligations and then reflecting those in procurement policies, laws and regulations as appropriate.

Pillar II. Institutional Framework and Management Capacity

Indicator 4. The public procurement system is mainstreamed and well integrated into the public financial management system

Sub-indicator 4(a)
Procurement planning and the budget cycle
The legal and regulatory framework, financial procedures and systems provide for the following:

Assessment criterion 4(a)(a):
Annual or multi-annual procurement plans are prepared, to facilitate the budget planning and formulation process and to contribute to multi-year planning.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
Within the Public Financial Management system, the processes are undertaken in accordance with the Public Finance Management Act. This law requires the national government, under Section 30, to undertake procurement operations in accordance with public procurement law. A similar provision for counties is found under Section 121. Further, Sections 35 and 125, respectively, require the national government and the counties to commence the annual budget process with an integrated national development planning. In practice, planning and submission of annual development plans are mandatory requirements that must be tabled in Parliament and County Assemblies before budgets are prepared.

The PPADA, Section 44, requires procuring entities to ensure that procurement plans are prepared in conformity with the medium term fiscal framework and fiscal policy objectives and to submit them to the National Treasury for approval. The PPADR, Regulation 40, further requires departmental plans to be prepared by user departments for consolidation into the procuring entity's annual procurement plan that is prepared for each financial year as part of the annual budget preparation process. The PPADA, Section 53, sets out further requirements for procurement planning. Among them, Section 53 (7) provides that multi-year procurement plans may be prepared in a format set out in the Regulations and shall be consistent with the medium-term budgetary expenditure framework for projects or contracts that go beyond one year. At the same time, the annual plan should in any case indicate whether items shall be procured within a single-year period or under a multi-year arrangement.

Gap analysis
In practice, public procurement strategy has not been given a priority during the initial stages of planning and budgeting in the integrated planning and Public Investment processes prescribed by the Public Finance Management Act.

Out of a total of 630 contract files reviewed by the assessors in the 63 major procuring entities, 25.1% were not included in the annual procurement plan. This raises concerns about off-plan spending, reactive procurement, or possible bypassing of formal planning processes. Such practices can undermine budget predictability, hinder accountability, and create opportunities for mismanagement or irregularities. Together, these findings show that while a majority of procurements are planned, a significant share still occur outside formal plans or lack proper tracking, highlighting a key area for governance and oversight improvement.

This is despite the fact that 60% of the heads of procurement interviewed indicated that their procurement plans are fully aligned with the financial budgeting process and approved prior to the start of the financial year. A further 22% stated that this was partially the case, while the rest indicated a lack of alignment. Such alignment is critical for ensuring that procurements are not only scheduled effectively but are also backed by budgetary allocations. Misalignment between procurement and budgeting often leads to stalled procurements, delayed payments, or reallocation of resources mid-year, which can disrupt service delivery. Further, multi-year procurement planning is either underused or underreported. This affects not just transparency, but also predictability in public spending, contractor readiness, and value for money over time.

Further, 79% of them reported that their procurement plans include all critical stages of the process. This is a positive indication that a majority are incorporating procurement as a structured and sequential process. On the other hand, the remainder, that either did not fully reflect all stages or were misaligned with financial processes, may be at risk of non-compliance with the PPADA and applicable standards.

Slightly less than 30% of the files found to contain multi-year contracts indicated the presence of a corresponding multi-year procurement plan, which is a relatively small fraction. This suggests that long-term procurement planning, crucial for large infrastructure projects, recurring service contracts, or phased development initiatives, is not widely adopted across procuring entities.

There are no clear provisions in the legislation for making changes to the procurement plans and publishing those changes. Despite the requirement in the PPADA, Section 53 (7), there is no form prescribed for multi-year procurement plans.

Publication of the procurement plans is incomplete. Among the heads of procurement interviewed, only half (50%) stated that their procuring entities publish procurement plans online both on their organizational websites and the national procurement portal.

In addition, there are some unnecessary and possibly confusing overlaps between Sections 44 and 53 of the PPADA. Also, the exemption of submission of procurement plans by the national security organs (PPADA, Section 44 (3) poses the challenge of compliance with the principles of the PPADA and effectively reduces the access to the market constituted by their open procurement. In fact, the PPADA, Section 90, requires that also national security organs and other procuring entities that deal with procurements of classified nature distinguish between items subject to open and to classified procurement and disposal and their procurement accordingly. There may thus be no major reason not to prepare and to publish (as required by the PPADA, Section 53 (12) and (13)) plans covering the national security organs' open procurement.

Recommendations

Improve training on procurement planning.

Monitor the preparation and publication of procurement plans and whether contracts concluded were duly included, as a means to enforce the preparation and submission of documentation.

Consider building systems that flag contracts likely to require multi-year planning. Prepare and issue forms to be used for multi-year procurement plans.

As needs may change during the validity of the original plan, revise regulations to facilitate preparation, approval and publication of revisions to the procurement plans.

Require national security organs and other procuring entities that deal with procurements of classified nature to distinguish between items subject to open and to classified procurement and disposal and to prepare and publish procurement plans for their open procurement.

In order to help ensure that classified procurement also applies, as appropriate, the principles, policies and procedures set out in the PPADA, prescribe standard operating procedures to be used for classified procurement and consider means to allow for its proper monitoring. Consider having the Director-General, PPRA, as a member of the committee approving classified procurement lists.

Assessment criterion 4(a)(b):

Budget funds are committed or appropriated in a timely manner and cover the full amount of the contract (or at least the amount necessary to cover the portion of the contract performed within the budget period).

Conclusion: Substantive gap

Red flag: No

Qualitative analysis

The PPADA, Section 44 (2), provides that, in the performance of their responsibilities, accounting officers shall ensure that procurements of goods, works and services of the public entity are within the approved budget of that entity. Section 45 (3) provides that all procurement processes shall be within the approved budget of the procuring entity and shall be planned by the procuring entity concerned through an annual procurement plan. Correspondingly, Section 53 (5) provides that procurement and asset disposal planning shall be based on indicative or approved budgets which shall be integrated with applicable budget processes, and, in the case of a State Department or County Department, such plans shall be approved by the Cabinet Secretary or the County Executive Committee member responsible for that entity. Section 53 (8) provides that an accounting officer shall not commence any procurement proceeding until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in its approved budget estimates.

Gap analysis
In practice, only 70% of the contracts reviewed by the assessors were confirmed to be budgeted for prior to execution. For another 25%, the contracts had not been budgeted, while data was missing or unclear in the remaining contract files. This raises concerns about how these procurements were approved and funded. Entering into contracts without a clear budget allocation increases the risk of delayed payments, budget overruns, and financial mismanagement.

In response to the question covering the case of multi-year projects, only 22% of such contracts were stated to be supported by a multi-year approved budget. Another 71% were explicitly marked as not having a multi-year budget. This suggests that even when projects span multiple years, implementation may not be matched with corresponding financial planning to ensure continuity and stability.

See also the gap analyses under 4(b)(a), 4(b)(b) and 9(c)(c).

Recommendations
Monitor and enforce compliance with the legal requirements.

Improve cash management by the Treasury and take other steps to help ensure that procuring entities get greater certainty about the funds that will effectively be available to them for carrying out procurement and paying invoices due.

Review the reasons behind the relatively low level of compliance and the limited use of multi-year budgets and prepare corresponding measures.

See also the recommendations under 4(b)(a), 4(b)(b) and 9(c)(c).

Assessment criterion 4(a)(c):
A feedback mechanism reporting on budget execution is in place, in particular regarding the completion of major contracts.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The PPADA, Section 152, calls for monthly review and reporting on all procurement contracts. In addition, Section 151 requires the creation of a specific contract implementation team for complex and specialised contracts. The team must regularly review and report on contract implementation, as further required in the PPADR, Regulation 138.

The Integrated Financial Management Information System (IFMIS; https://www.ifmis.go.ke/) is a comprehensive automated platform designed to streamline financial operations within both the National and County Governments of Kenya, integrating key financial processes such as planning, budgeting, procurement, expenditure management, and reporting.

Gap analysis
As consistently indicated by procuring entities, apart from its financial management functions, IFMIS and related mechanisms are not enough to help ensure proper management of public procurement, including budget execution aspects. Only 40% of the heads of procurement interviewed indicated having a feedback report on planned versus actual time, costs and project completion. These reports are crucial for evaluating whether timelines, budgets, and deliverables are being met. Without this feedback loop, procurement

becomes a transactional activity rather than a performance-driven function. The remaining 60% either do not conduct this kind of tracking or do so inconsistently. This lack of monitoring means missed opportunities to identify procurement bottlenecks, cost overruns, or supplier performance issues. It also undermines the ability of entities to learn from past procurement cycles and adjust future plans based on empirical data.

The low uptake reported suggests a pressing need for standardised templates, automated tracking tools, and institutional incentives to enforce the use of performance reporting in procurement. A robust performance tracking mechanism should include key performance indicators such as lead times, contract delivery rates, deviations from budgets, and completion timelines. When done well, it enables strategic procurement, supports better decision-making, and improves accountability.

Recommendations
Ensure that the need for a feedback mechanism for reporting on budget execution, in particular regarding the completion of major contracts, become duly addressed in the development of the e-procurement system. In this context, issue suitable guidance notes and examples for facilitating compliance with the requirements in the PPADA, Section 151, and the PPADR, Regulation 138.

Sub-indicator 4(b)
Financial procedures and the procurement cycle
The legal and regulatory framework, financial procedures and systems should ensure that:

Assessment criterion 4(b)(a):
No solicitation of tenders/proposals takes place without certification of the availability of funds.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
According to the PPADA, Section 53 (8), an accounting officer shall not commence any procurement proceeding until satisfied that sufficient funds to meet the obligations of the resulting contract are reflected in its approved budget estimates.

Gap analysis
The assessment criterion is somewhat reflected in the law. However, it is not abundantly clear from the law which procurement preparations may or may not be carried out before the required funds are made available, and “any procurement proceeding” may often be interpreted in an unduly restrictive manner.

In the 63 major procuring entities visited, no more than 75% of the heads of procurement interviewed confirmed having systems to verify the availability of funds before procurement decisions are made. This is a strong indicator that entities are not formally aligned with budgetary discipline.

As evidenced during the field work, several procuring entities have undertaken unplanned procurements and commenced procurement proceedings without sufficient funds, eventually leading to huge pending bills and incomplete public projects. This indicates incomplete compliance and ineffective oversight with respect to the requirement.

At the same time, it is reported that funds originally confirmed as being available are taken back by the Treasury, limiting the funds that the procuring entity can use, even for meeting its payment obligations under contracts already duly entered into.

See also the gap analyses under 4(a)(b), 4(b)(b) and 9(c)(c).

Recommendations
It should be made clear that the requirement in the PPADA, Section 53 (8), applies to the publication of invitations to tender, while all other preparatory steps in the procurement cycle can and should be carried out as much in advance as necessary and appropriate in order for invitations to tender to be ready to be issued as soon as the necessary funds are confirmed as being available.

Consider strengthening the provision in the PPADA, Section 53 (8), to require that solicitation of tender should not be conducted unless necessary funds have been released and set aside.

Take steps both in the Treasury and in individual procuring entities to make the effective level of availability of funds clearer and more predictable and aligned with the procuring entity's disbursement obligations.

Consider separating development funds accounts and recurrent accounts, and putting funds committed to a specific procurement contract in separate accounts.

See also the recommendations under 4(a)(b), 4(b)(b) and 9(c)(c).

Assessment criterion 4(b)(b):
The national regulations/procedures for processing of invoices and authorisation of payments are followed, publicly available and clear to potential bidders.*

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The national regulations/procedures for processing of invoices and authorisation of payments are set out in, e.g., the PPADR, in the first place in Regulations 139, 150 and 171. The PPADR are publicly available. In the individual case, payment conditions and instructions for invoicing are set out in the tender documents and included among the conditions in the procurement contracts concluded.

According to the PPADR, Regulation 139 (2) and (6), a procuring entity shall make prompt and timely payments to a contractor that meets its contractual obligations and shall plan its procurement and cash or fund flows to ensure that contractors are paid promptly as per the terms of contract. Regulation 151 (1) requires that a procuring entity shall make prompt payments for all performed contracts including enterprises owned by youth, women or persons with disabilities and shall make payment within sixty days from the date of receipt of the invoice.

In the 63 major procuring entities visited, no more than 75% of the heads of procurement interviewed reported having some form of controls for invoice approval, an important mechanism to prevent duplicate payments, fraud, or budget overruns. However, 86% confirmed that they have processes to certify the receipt of goods and services, which helps ensure that payments are tied to actual deliveries and not just paperwork. Nevertheless, 24% indicated that they have no systems in place for payment authorisation. Collectively, these statistics suggest that many procuring entities have not yet built comprehensive procedural frameworks to manage procurement expenditures. However, the existence of these systems alone does not guarantee their effectiveness. Their actual utility depends heavily on consistent application, skilled personnel, and effective oversight mechanisms.

Quantitative analysis

*// Minimum indicator // * Quantitative indicator to substantiate assessment of sub-indicator 4(b) Assessment criterion (b):*
- invoices for procurement of goods, works and services paid on time (in % of total number of invoices): 76%.
Source: Data collected from Heads of Procurement interviewed by the MAPS assessment team.

Gap analysis
Despite the promising presence of formal controls, real-world implementation often diverges from policy. Having documented procedures does not inherently ensure that they are followed correctly or uniformly across departments. For example, without regular internal audits or real-time monitoring systems, issues such as unauthorized payments, misclassification of expenditures, or approval bottlenecks may still arise. Moreover, the quality of documentation and the capacity of personnel enforcing these controls can vary widely between entities. In some cases, entities may meet the compliance checkbox without conducting thorough verifications.

There is also a risk of over-reliance on manual systems, which are prone to human error and manipulation. To move from form to function, procuring entities must invest in operationalising these controls effectively. This includes regular training, updating control protocols to address evolving risks, and using audit feedback to strengthen weak points. Periodic testing of control effectiveness and integrating technology to automate repetitive control steps can also enhance reliability and consistency across the board.

According to the PPADR, Regulation 151 (1), the obligation to make prompt and timely payments is conditioned by the availability of funds. Procuring entities visited have stated that this sometimes happens because the National Treasury has not made budgeted funds available or has clawed back funds already allocated, though specific evidence to this effect has not been possible to collect in the course of the assessment. In fact, the procuring entities contacted during the assessment as well as the representatives of all associations grouping suppliers and contractors interviewed confirm that payments are very often delayed and that lack of funds is a very frequent reason. This is despite the provision in the PPADR, Regulation 150 (2), that where delay of payments for goods, works and services performed are likely to happen, a procuring entity may facilitate invoice discounting arrangements with a financial institution for the purpose of advancing credit to the affected enterprises. At the same time, the exact extent of the problem is not adequately known, because of the frequent failure of procuring entities to submit quarterly payment performance statistics to the National Treasury and the Authority demonstrating compliance with the obligation to pay invoices within sixty days, for publication, as set out in the PPADR, Regulation 150 (4).

In addition, if indeed funds are at hand as supposed to be ascertained by the requirement in the PPADA, Section 53 (8), then there should be no reason to set a deadline for payment of sixty days. This is much longer than normal in international practice and amplifies the cash flow problems of suppliers and contractors, especially SMEs and disadvantaged groups, even in the absence of delays beyond that time frame.

See also the gap analyses under 4(a)(b), 4(b)(a) and 9(c)(c).

Recommendations

Seek ways to better monitor and enforce compliance with the obligation to pay invoices within sixty days, as set out in the PPADR, Regulation 150 (4), whether by incorporating it as a functionality of a coming e-procurement system or by other means. Until this becomes effective, seek to determine the precise nature and extent of late payments and the reasons for them by analysing information from a representative sample of procurement entities and collating this information with data from the associations representing suppliers and contractors.

Given the requirement in the PPADA, Sec. 53 (8), it should be possible for invoices to be paid, as a matter of routine, as soon as the procuring entity has checked them and satisfied itself that the items provided meet the requirements of the contract, so consider requiring payment to be made no later than 30 days after receiving the invoice, except if and to the extent that the items do not meet the requirements.

Consider setting up a system for centralised payment of procurement invoices above a *de minimis* amount.

See also the recommendations under 4(a)(b), 4(b)(a) and 9(c)(c).

Indicator 5. The country has an institution in charge of the normative/regulatory function

Sub-indicator 5(a)

Status and legal basis of the normative/regulatory institution function

The legal and regulatory framework, financial procedures and systems provide for the following:

Assessment criterion 5(a)(a):

The legal and regulatory framework specifies the normative/regulatory function and assigns appropriate authorities formal powers to enable the institution to function effectively, or the normative/regulatory functions are clearly assigned to various units within the government.

Conclusion: No gap

Red flag: No

Qualitative analysis
The regulatory functions and the corresponding entities in charge are clearly described in the PPADA.

Section 7 assigns the responsibility for public procurement and asset disposal policy to the National Treasury established under Section 11 of the Public Finance Management Act. The National Treasury is empowered to issue regulations, policies and guidelines for the application of the provisions in the PPADA on various aspects of public procurement procedures and practices as well as on the organisation, staffing and operations of the corresponding services in the procuring entities, including centralised purchasing bodies.

Section 8 establishes the Public Procurement Regulatory Authority, with its functions set out in Section 9, mainly to monitor public procurement and enforce compliance with applicable regulations, prepare and issue standard documents, give advice and technical support, handle complaints that are not subject to administrative review, develop and manage the central public procurement portal and create a central repository for public procurement data, report on the state of affairs in public procurement to Parliament and to other bodies as appropriate, develop a code of ethics and develop and support capacity building.

Section 33 prescribes that a county treasury shall be the organ responsible for the implementation of public procurement and asset disposal policy in the county, and requires it to establish a procurement function in charge of delegated authority for management and supervision of public procurement in the county, including the possible creation of a centralised purchasing body.

Complaints against actions by procuring entities until contract signature are dealt with by the Public Procurement Administrative Review Board, which is established and organised as set out in Sections 27-32. The corresponding procedures for administrative review of procurement and disposal proceedings as well as the powers of the review board are set out in Sections 167-175.

Gap analysis
There is an apparent overlap, rather than a gap, in the statutory roles of the National Treasury, the PPRA and the KISM with respect to training and capacity building, and between the National Treasury and the PPRA with respect to monitoring, evaluation and information.

Recommendations
See topic specific recommendations under sub-indicator 5(b).

Sub-indicator 5(b)
Responsibilities of the normative/regulatory function
The following functions are clearly assigned to one or several agencies without creating gaps or overlaps in responsibility:

Assessment criterion 5(b)(a):
providing advice to procuring entities

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The PPADA, Section 7 (2) (d) provides that the National Treasury shall provide technical assistance on procurement and assist in the implementation and operation of the public procurement and asset disposal system, while Section 9 (1) (g) provides that PPRA shall provide advice and technical support upon request and Section 9 (1) (ra) requires the PPRA to develop, promote and support the training and capacity development of persons involved in procurement and asset disposal.

In the particular case of preferences and reservations, Section 157 (17) states that the National Treasury shall operationalise a preference and reservations secretariat which shall be responsible for providing technical and advisory assistance to procuring entities in the implementation of the preferences and reservations under the PPADA.

Gap analysis
In the best of cases, the overlaps in the responsibilities for providing advice to procuring entities could mean that the latter have ample opportunities to receive support on a wide range of topics whenever needed. However, such duplication of efforts may lead to inefficiencies and could create a risk that procuring entities receive conflicting advice, or none at all if each agency were to presume that one of the others would deal with the matters at hand.

Recommendations
Clarify which entity should be in charge of which aspects of capacity building for procuring entities and other parties involved in public procurement.

Assessment criterion 5(b)(b):
drafting procurement policies

Conclusion: No gap

Red flag: No

Qualitative analysis
The PPADA, Section 7 (2) provides that the National Treasury, being responsible for public procurement policy formulation, shall

- formulate, evaluate, promote and research on national and county public procurement and asset disposal policy and standards;
- develop policy guidelines for the efficient procurement management and disposal system for national executive;
- develop and review policy on procurement of common user items in the public sector both at national and county government levels;
- develop policy on the administration of preference and reservations scheme and registration of target groups under preference and reservations scheme as prescribed.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Assessment criterion 5(b)(c):
proposing changes/drafting amendments to the legal and regulatory framework

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The National Treasury's general responsibility for public procurement policy formulation and for issuing regulations may seem to include a responsibility for proposing changes and drafting amendments to the legal framework. More specifically, the PPADA, Section 179 (1) provides that the National Treasury shall convene meetings at least annually for the purpose of consulting with persons in the public and private sectors who have an interest in the proper functioning of the public procurement and asset disposal system, presumably for getting inputs for possible changes to the legal or institutional framework.

Gap analysis
Given its various operational responsibilities, the PPRA would often have reasons to propose changes to the legislation as may be appropriate for addressing issues that turn up in the implementation of the law. For related reasons, it may also be well placed for drafting specific amendments which the National Treasury, after its review and adoption, may submit to Parliament. This would correspond to established practice in

other countries with a comparable legal and institutional framework. However, the PPADA is largely silent on this point, which creates a risk of incomplete or conflicting initiatives to propose changes and draft amendments.

Recommendations
Give the PPRA the explicit right to propose to the National Treasury any changes to the legislation that its experience suggests would be needed, and the duty to draft corresponding, proposed amendments to laws and regulations if so requested by the National Treasury.

To help ensure proper wording of the legal texts, consider involving the Law Society of Kenya when drafting legislation, presuming that the substantive matters at hand have already been subject to wide consultations.

Assessment criterion 5(b)(d):
monitoring public procurement

Conclusion: Minor gap

Red flag: No

Qualitative analysis
According to the PPADA, Section 9 (1), the PPRA has the duty to monitor the functioning of public procurement and to carry out research on the public procurement and asset disposal system and any developments arising from the same.

In addition, Section 157 (17) provides that the preference and reservations secretariat is responsible for monitoring and evaluating the implementation of the preferences and reservations under the PPADA.

Gap analysis
There are apparent overlaps in the statutory responsibilities for monitoring and evaluating the implementation of the preferences and reservations under the PPADA, in that not only the preference and reservations secretariat but also the PPRA shall monitor the implementation of the preference and reservation schemes by procuring entities (Section 9 (1) (e)) and that the preferences and reservations referred to in Section 157 (2) shall be monitored and evaluated by the Authority (Section 157 (3) (c)).

Recommendations
Clarify that the preference and reservations secretariat is responsible for monitoring the implementation of the preference and reservation schemes by procuring entities and shall transmit this information to the PPRA.

Assessment criterion 5(b)(e):
providing procurement information

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The PPADA, Section 9 (1) (k), requires the PPRA to develop and manage the State portal on procurement and asset disposal and ensure that it is available and easily accessible.

To this end, the PPRA has a clear obligation to compile and safeguard procurement information in a form that allows it to be provided as and when needed: the PPADA, Section 9 (1), states that one of its functions shall be to create a central repository or database that includes

i. complaints made on procuring entities
ii. a record of those prohibited from participating in tenders or those debarred
iii. market prices of goods, services and works
iv. benchmarked prices
v. State organs and public entities that are non-compliant with procurement laws
vi. statistics related to public procurement and asset disposal

vii. price comparisons for goods, services and works
viii. any information related to procurement that may be necessary for the public

Correspondingly, procuring entities are required to submit reports and upload contract files to the PPRA at various stages of the procurement process, in addition to their obligations to keep full records of public procurement proceedings and to make them available when needed.

Furthermore, the PPADA, Section 67, provides that the Authority shall disseminate and ensure accessibility of all public procurement and asset disposal laws, directive, manuals, guidelines, circulars, market price indices, standard tender and asset disposal documents, public procurement and asset disposal formats in the State portal envisaged under Section 9(1)(k) of the Act.

Gap analysis
The rights of various parties to access public procurement information and the corresponding obligations to provide it are not clearly set out in a consolidated manner in the PPADA or the PPADR, nor is it clear to what extent other legislation may affect such rights and obligations.

The provision of procurement information is also severely hampered by the notorious failure of procuring entities to properly submit the various reports required from them, as noted by the PPRA itself and by other parties. (Cf. e.g. https://gerivia.co.ke/1581/reflections-on-the-new-ags-tender-transparency-rules/)

Recommendations
In the context of the development and introduction of the e-GP system, thoroughly review modalities, responsibilities and means for generating, submitting, compiling and safeguarding public procurement information, as well as for disseminating it or making it available as appropriate.

Assessment criterion 5(b)(f):
managing statistical databases

Conclusion: No gap

Red flag: No

Qualitative analysis
The PPRA has a clear obligation to compile and safeguard procurement information in a form that allows it to be provided as and when needed: the PPADA, Section 9 (1), states that one of its functions shall be to create a central repository or database.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed

Assessment criterion 5(b)(g):
preparing reports on procurement to other parts of government

Conclusion: No gap

Red flag: No

Qualitative analysis
The PPADA, Section 9 (1), states that one of the functions of the PPRA shall be to report to Parliament and the relevant county assembly. Correspondingly, the PPRA prepares and publishes an annual report.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Assessment criterion 5(b)(h):
developing and supporting implementation of initiatives for improvements of the public procurement system

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The PPADA, Section 179 (1), states that the National Treasury shall convene meetings at least annually for the purpose of consulting with persons in the public and private sectors who have an interest in the proper functioning of the public procurement and asset disposal system. At the same time, the PPRA, in undertaking its functions, is required to cooperate with state and non-state actors with a view to obtaining recommendations on how public procurement and disposal can be improved (Section 9 (1) (q)). In practice, the PPRA organises regular consultations with heads of procurement and other interested parties.

Gap analysis
The overlapping obligations of the National Treasury and the PPRA to develop and support implementation of initiatives for improvements of the public procurement system create a risk of unnecessary duplication of efforts or ineffective exchange of information from activities carried out in parallel. Conversely, the dilution of responsibility may lead to inadequate efforts being made to solicit suggestions for improving public procurement.

Recommendations
Ensure that there is adequate co-ordination between the National Treasury and the PPRA about the actions for developing and supporting implementation of initiatives for improvements of the public procurement system.

Assessment criterion 5(b)(i):
providing tools and documents, including integrity training programmes, to support training and capacity development of the staff responsible for implementing procurement

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The PPADA, Section 9 (1) (ra), requires the PPRA to develop, promote and support the training and capacity development of persons involved in procurement and asset disposal. However, this seems to be partly contradicted by the provision in the PPADR, Regulation 6 (1), stating that the National Treasury shall be responsible for training and capacity building for procurement and supply chain management services at the national government level. No such responsibility applies to the county governments (cf. the PPADA, Section 33, and the PPADR, Regulation 20); instead, according to the PPADR, Regulation 6 (2), the National Treasury shall assist county governments in training and capacity building for procurement and supply chain management pursuant to Section 14 of the Public Finance Management Act, 2012.

The PPADR, Regulation 7, requires that, in addition to the functions of the PPRA provided for under section 9 of the PPADA, the PPRA shall develop, promote and support the training of persons involved in public procurement and asset disposal.

At the same time, the work of persons involved in procurement and asset disposal is also regulated by the Supplies Practitioners Management Act, which provides (Section 5 (b) (b) and (c)) that the Kenya Institute of Supplies Management shall make provision for the training and instruction of persons seeking registration under the Act and shall recommend to the Cabinet Secretary for the time being responsible for education institutions to be approved for training of persons seeking registration under the Act.

Furthermore, in the particular case of disadvantaged groups eligible for preferences and reservations under the PPADA, the preference and reservations secretariat set up by the National Treasury is responsible for training and capacity building of the target groups in question (PPADA, Section 157 (17) (b)).

Gap analysis
As in other, similar cases, there are considerable, apparent overlaps in the responsibilities for supporting training of procurement practitioners. This could mean, in the best of cases, that the latter will have ample opportunities to receive training and that a wide range of training materials may be available. However, such duplication of efforts may also lead to inefficiencies, while gaps may remain in the provision of tools and documents to support training and capacity building and in the range of training offered.

Recommendations
Clarification is required regarding the allocation of training functions for the different entities involved in capacity building, specifically the roles of PPRA, KISM, KISEB and the National Treasury, and other entities involved. On the face of it, while the National Treasury is the policy maker and the PPRA the regulator and supervisor in public procurement, training and capacity building would be the main responsibility of the KISM, also by regulating curricula and syllabuses of other, approved training bodies. In any case, it would seem appropriate to set up a mechanism for regular, formal consultations between the National Treasury, the PPRA and the KISM on the preparation and dissemination of training materials and on the form and contents of training being delivered. This should be further addressed in the framework of a wider review of capacity building objectives, needs and means, to be carried out as recommended elsewhere.

Assessment criterion 5(b)(j):
supporting the professionalisation of the procurement function (e.g. development of role descriptions, competency profiles and accreditation and certification schemes for the profession)

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The National Treasury appears to have broad responsibility for professionalisation of the public procurement function, in that the PPADA, Section 7 (2) (e), requires it to manage and administer the scheme of service of the procurement and supply chain management services cadre for the national government.

As set out in the Supplies Practitioners Management Act (SPMA), Section 5, the KISM, among its other responsibilities, shall establish, monitor, improve and publish the standards of the supplies practitioners profession and safeguard the interest of all supplies practitioners, and shall advise the Examinations Board on matters relating to examination standards and policies.

Gap analysis
Neither the PPADA nor the PPADR say much about professionalisation of the procurement function in the sense of the status, roles and obligations of procurement officials in procuring entities, nor in the form of (references to) position descriptions, competency profiles or qualifications required for engagement as a procurement official. This raises the risk of inadequacies in the selection, engagement, training and supervision of procurement officials.

Recommendations
The professionalisation of the procurement function would merit a broad effort to address the gaps mentioned, harmonised with related capacity building approaches and measures.

Assessment criterion 5(b)(k):
designing and managing centralised online platforms and other e-Procurement systems, as appropriate

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The responsibility for designing and managing centralised online platforms and other e-procurement systems, as appropriate, is regulated as follows.

The PPADA, Section 7 (2), provides that in the performance of its role under subsection (1), the National Treasury shall carry out general research, develop and promote electronic procurement strategies and policies in both the national and county governments including state corporations and other government agencies. The PPADR, Regulation 49, provides further explanation on the operationalisation of this obligation.

The PPADA, Section 9 (1) (k) provides that one of the functions of the PPRA shall be to develop and manage the State portal on procurement and asset disposal and ensure that it is available and easily accessible. Section 67 provides that the Authority shall disseminate and ensure accessibility of all public procurement and asset disposal laws, directive, manuals, guidelines, circulars, market price indices, standard tender and asset disposal documents, public procurement and asset disposal formats in the State portal envisaged under Section 9 (1) (k). In addition, Section 146 (2) provides that all lists of registered enterprises from the national and county levels shall be submitted to the PPRA for consolidation, publication and updating in the State Portal.

Gap analysis
While responsibilities are fairly clearly assigned with respect to aspects that are explicitly covered in the law, it is not entirely clear how they should be assigned with respect to an integrated e-procurement system. Developing and managing such a system would go beyond both the responsibility to "develop and promote electronic procurement strategies and policies" (National Treasury) and that to "develop and manage the State portal on procurement and asset disposal" (PPRA). It is another matter that the development and implementation of a centralised online platform and other e-procurement systems, now led by the Treasury, has been lagging behind.

Recommendations
Review the existing provisions on centralised online platforms and other e-procurement systems for clarity and appropriateness in the context of other, corresponding measures recommended under indicator 7.

Sub-indicator 5(c)
Organisation, funding, staffing, and level of independence and authority

Assessment criterion 5(c)(a):
The normative/regulatory function (or the institutions entrusted with responsibilities for the regulatory function if there is not a single institution) and the head of the institution have a high-level and authoritative standing in government.

Conclusion: No gap

Red flag: No

Qualitative analysis
The PPADA, Section 8 (1), provides that there is established an authority to be known as the Public Procurement Regulatory Authority which shall be a body corporate with perpetual succession and a common seal and shall in its corporate name, be capable of suing and being sued; acquiring, safeguarding, holding, charging and disposing of moveable and immoveable property; and doing or performing all such other things or acts for the proper discharge of its functions under this Act, which may be lawfully done by a body corporate. Further, the PPADA provides that the management of the Authority shall vest in a board to be known as the Public Procurement Regulatory Board (Section 10) and regulates its composition and powers.

As a complement, the PPADA, Section 27, provides that there shall be a central independent procurement appeals review board to be known as the Public Procurement Administrative Review Board.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Assessment criterion 5(c)(b):
Financing is secured by the legal/regulatory framework, to ensure the function's independence and proper staffing.

Conclusion: No gap

Red flag: No

Qualitative analysis
The financing is regulated as follows, with the intention to ensure the regulatory function's independence and proper staffing.

The PPADA, Section 23, provides that the Board may, upon such terms and conditions of service as it may determine, employ management staff of the Authority as may be necessary for the proper performance of its functions taking into account the need for ethnic and regional balance and gender parity.

Section 24 (2) provides that, at least five months before the commencement of each financial year, the Board shall cause estimates of the revenue and expenditures of the Authority for that year to be prepared and submitted to the Cabinet Secretary for approval.

Section 24 (5) states that the funds of the Authority shall consist of money appropriated by Parliament for the purpose of running the Authority; donations or grants received by the Authority for its activities; revenue or fees collected for services rendered by the Authority; and a capacity building levy of such percentage of the procurement contract prices by public entities as may be prescribed by the Cabinet Secretary.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Assessment criterion 5(c)(c):
The institution's internal organisation, authority and staffing are sufficient and consistent with its responsibilities.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The PPRA's internal organisation and staffing are set out in the document "Public Procurement Regulatory Authority Organization, Grading And Staff Establishment" of May 2022. They are largely sufficient and consistent with its responsibilities under the current laws and regulations.

Its responsibilities are set out in the PPADA, Section 9. The PPRA is thus required, among other duties, to

- enforce any standards developed under the PPADA
- investigate and act on complaints that are not subject of administrative review

Its powers to ensure compliance are set out in the PPADA, Sections 34-43A. They include the right to conduct inspections, assessments and review of proceedings. Correspondingly (Section 38), if, after considering the report of an investigator, the Director-General is satisfied that there has been a breach of the PPADA, the PPADR or any directions of the PPRA, the Director-General may, by order, do any one or more of the following:

a) direct the procuring entity to take such actions as are necessary to rectify the contravention;
b) terminate the procurement or asset disposal proceedings;
c) prepare and submit a summary of the investigator's findings and recommendations to the relevant authorities for action; or

d) require the procuring entity to transfer procuring responsibilities of the subject procurement to another procuring entity.

The PPRA also has the authority to debar persons from participating in procurement or asset disposal proceedings, as set out in the PPADA, Section 41 and in the PPADR, Regulation 22.

Gap analysis
The PPRA has limited authority and means to enforce compliance with its decisions in matters which it supervises, in the sense that the legislation is not abundantly clear about how its decisions may be enforced and how failure to comply would be sanctioned and by whom. The only explicit provision to this effect is set out in the PPADA, Section 9 (2), stating that if the PPRA is of the opinion that civil or criminal proceedings ought to be preferred, the matter shall be referred to the relevant authorities.

Recommendations
Raise the ability of the PPRA to ensure that its recommendations and decisions are complied with, by clarifying the authority of the PPRA to enforce its decisions, the means for doing so, and the consequences of failure to comply.

A number of other recommendations in the present MAPS assessment will require corresponding changes in the organisation and work of the PPRA, as would be appropriate in the individual cases concerned.

Sub-indicator 5(d)
Avoiding conflict of interest

Assessment criterion 5(d)(a):
The normative/regulatory institution has a system in place to avoid conflicts of interest.*

Conclusion: No gap

Red flag: No

Qualitative analysis
The risks of conflicts of interest in the work of the PPRA are mitigated as follows.

The PPADA, Section 12, provides that where the involvement of a member of the Public Procurement Regulatory Board in a decision of the Board is likely to result in conflict of interest, the Board member shall disclose such potential conflict of interest, and the Board member shall not take part in such decisions. Likewise, the PPADA, Section 59 of the Act provides for limitations on contracts with state and public officers.

Similar provisions covering the situation in procuring entities are set out in the PPADA, Section 66.

General provisions on conflicts of interest, applicable also to public procurement, are set out in the Conflict of Interest Act 2025.

Quantitative analysis

** Recommended quantitative indicator to substantiate assessment of sub-indicator 5(d) Assessment criterion (a):*
- Perception that the normative/regulatory institution is free from conflicts of interest (in % of responses): 51%.
Source: Data collected from Heads of Procurement interviewed by the MAPS assessment team.

Gap analysis
As formulated, the assessment criterion is met. However, in practice, the provisions and institutional arrangements intended to avoid conflicts of interest do not seem to be fully effective to prevent, identify and sanction cases of non-compliance. Apparently, there is a quite high level of mistrust in the ability of the PPRA and its supervisory authorities to effectively address the need, as 49% of the heads of procurement interviewed did not find that the PPRA is free from conflicts of interest. It should be noted that this is a perception and not a definitive, institutional fact.

Recommendations
Review and revise the mechanisms for ensuring that the provisions addressing conflicts of interest become effective and are seen as being effective, and monitor compliance.

Indicator 6. Procuring entities and their mandates are clearly defined

Sub-indicator 6(a) **Definition, responsibilities and formal powers of procuring entities** The legal framework provides for the following:
Assessment criterion 6(a)(a): Procuring entities are clearly defined.
Conclusion: Minor gap
Red flag: No
Qualitative analysis The PPADA, Section 4 (1), states that it applies to all State organs and public entities with respect to procurement planning, procurement processing, inventory and asset management, disposal of assets and contract management. In turn, Section 2 lists a large number of entities which are to be included in the notion of 'public entities'.
Gap analysis While the assessment criterion is largely met according to its terms, the definition of 'procuring entities' would merit review and revision. Currently, the inclusion of "a public school" in the definition of 'public entity' in Section 2 means that each and every primary and secondary school is considered as a procuring entity, despite rarely having the means to meet the full range of obligations under the PPADA. For evident, structural reasons, they would normally be unable already to fully meet the organisational requirements set out in the PPADA, Sections 44-48, 78 and 151, as well as in the PPADR, Regulation 24 (1) (a)-(c), in addition to lacking the necessary capacity to properly apply the full range of procurement procedures and to comply with all recording and reporting requirements. The PPADA, Section 44 (5) provides that where a public entity lacks capacity to comply with this Act, an accounting officer shall seek assistance from the National Treasury, but this is clearly unworkable for the very large number of primary and secondary schools all over the country. Conversely, even if courts are located in many places around the country, the judiciary and the courts now constitute one, single procuring entity. Furthermore, the definition includes "a company owned by a public entity", irrespective of the nature of its activities. In international practice, if such a company operates independently in a competitive market and is subject to bankruptcy, it would normally not be obliged to apply the full range of public procurement procedures and related obligations prescribed by law. Its proper governance on behalf of the public sector owner would normally be exercised by other means than requiring it to follow the PPADA. Section 4 (2) explicitly excludes certain actions from the scope of application of the PPADA, including procurement and disposal of assets under the Public Private Partnership Act. However, this seems to be in contradiction with the inclusion in the list of public entities in the PPADA, Section 2, of "a body that uses public assets in any form of contractual undertaking including public private partnership".
Recommendations Review and revise the definition of procuring entities with a view to ensure that they all can be reasonably expected to be able to fully apply the PPADA in an effective, efficient and transparent manner. Alternatively, or as a complement, develop mechanisms such as joint procurement (consortium buying) and the use of other forms of centralised purchasing, or the joint use of the services of qualified procurement

officials, or of procuring agents, to be complemented by suitable functionalities in the e-GP system, as a means to ensure that also small procuring entities can fully meet their legal obligations.

In addition, examine ways to ensure that the costs of meeting the obligations of the public procurement function can be met by the resources available for the purpose, whether at the level of each individual procuring entity or that of the public procurement system as a whole.

Assessment criterion 6(a)(b):
Responsibilities and competencies of procuring entities are clearly defined.

Conclusion: No gap

Red flag: No

Qualitative analysis
The responsibilities and competencies of procuring entities are set out in the PPADA as follows.

Section 44 provides for the responsibilities of the Accounting Officer of a procuring entity.

Section 45 provides for corporate decisions and segregation of responsibilities in a procuring entity.

Section 46 provides for the roles and responsibilities of an Evaluation Committee in a procuring entity.

Section 47 regulates the procurement function in the procuring entity.

Section 48 provides for the roles and responsibilities of the Inspection and Acceptance Committee in a procuring entity.

Section 78 provides for appointment and the roles and responsibilities of a tender opening committee in a procuring entity.

Section 151 provides for appointment and the roles and responsibilities of the complex and specialized contract implementation team in a procuring entity.

Further provisions governing the responsibilities and competencies of procuring entities are set out in the PPADR, mainly in Regulations 23-39.

Gap analysis

The assessment criterion is met.

Recommendations
No recommendations needed.

Assessment criterion 6(a)(c):
establish a designated, specialised procurement function with the necessary management structure, capacity and capability.*

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The PPADA, Section 2, defines the procurement function as well as the related notion of procurement professional. As a minimum requirement, the PPADR, Regulation 24 (1) (b) requires each procuring entity to have such a procurement function in place. The PPADA, Section 47 (1), as well as the PPADR, Regulation 24 (1) (b), require the procurement function to be headed and staffed by procurement professionals.

The requirements in the PPADA, Section 47 (1), and the PPADR, Regulation 24 (1) (b), are repeated in the PPADR, Regulation 33 (1) and (2). As a complement, the PPADR, Regulation 33 (3), sets out a long list of items describing the role and responsibilities of the procurement function. The PPADR, Regulation 171 (1), sets out further responsibilities of the head of the procurement function with respect to inventory control, asset and stores management and distribution.

A majority of the procuring entities visited (87%) confirmed the presence of some form of dedicated procurement unit, which reflects broad institutional recognition of the need for specialised procurement functions. However, surprisingly, none of the heads of procurement interviewed stated that they had more than four fully qualified procurement officials engaged, and none had more than four procurement support staff. Many large procuring would be expected to have a higher number of procurement staff but it has not been possible to systematically review and confirm this state of affairs during the assessment.

Quantitative analysis

*// Minimum indicator // * Quantitative indicator to substantiate assessment of sub-indicator 6(a) Assessment criterion (c):*
- procuring entities with a designated, specialised procurement function (in % of total number of procuring entities): 87% of the 63 major procuring entities reviewed stated that they have some form of designated procurement unit. Data from the vast number of smaller procuring entities is not available. However, it is likely that a significant portion of them do not have a procurement function that fully meets the current legal requirements.
Source: Data collected from Heads of Procurement interviewed by the MAPS assessment team

Gap analysis

The existence of formal structures does not always translate into effectiveness. As mentioned in the gap analysis under assessment criterion 6(a)(a), it is unlikely that each and every procuring entity is able to meet the statutory requirements for the procurement function. Again, this highlights the mismatch between those requirements (which, from an international perspective, are fully reasonable) and the definition of what constitutes a procuring entity.

In particular, KISM only has some 3,000 professionals as members from the public sector, which implies that less than 10% of all procuring entities would meet the obligation to have a procurement function staffed by professionals. However, data on the qualifications of officials in charge of procurement in the remaining procuring entities is not available.

In fact, several of the procuring entities visited by the MAPS assessors reported that despite having a procurement unit, operational challenges persist due to inadequate support structures such as staffing, resources or autonomy. In particular, only 48% of the entities reported having a sufficient number of procurement staff. This means that over half of the procuring entities surveyed are likely under-resourced, placing excessive workload and pressure on existing teams. Such staffing gaps can result in procurement delays, errors, and reduced compliance with regulatory frameworks. Equally concerning is the professional competency of procurement staff. Even among the 63 major procuring entities visited, fewer than 50% of staff possess professional certifications such as the Chartered Institute of Procurement and Supply (CIPS) or Certified Procurement and Supplies Professional (CPSP). These qualifications are critical for ensuring that staff can navigate complex procurement regulations, manage supplier relationships effectively, and promote value for money in public spending.

Nevertheless, 76% of the procuring entities visited reported having some form of permanent training programme in place. Of these, 79% cover key procurement and contract management topics.

Only 49% of the procuring entities visited reported having fully adequate financial resources and physical facilities to support procurement functions. Financial constraints often lead to underfunded procurement units that struggle to execute planned activities or procure necessary tools, systems, or services. On the physical side, some procurement units lack basic infrastructure such as dedicated office space, computers, internet connectivity, and secure filing systems. These deficiencies can compromise the confidentiality, efficiency, and accuracy of procurement processes, particularly in high-volume or high-risk environments.

Recommendations
In order to have a proper evidence base for reform, review the actual numbers of professional and support staff in the procuring entities, as well as their qualifications and tasks.

Consider formally requiring the procurement functions to be carried out by a dedicated administrative unit, as should be possible in application of the recommendation under 6(a)(a) above.

Given the large number of unemployed undergraduates in the country, consider measures to provide professional development training as a means for upskilling those with relevant backgrounds to take up public procurement duties (see also the recommendation under 8(a)(a)).

Assessment criterion 6(a)(d):
Decision-making authority is delegated to the lowest competent levels consistent with the risks associated and the monetary sums involved.

Conclusion: No gap

Red flag: No

Qualitative analysis
The PPADA, Section 44 (2) (f), requires the accounting officer to approve and sign all contracts of the procuring entity. The threshold matrix in the second schedule of the PPADR explicitly provides that the Accounting Officer or a person delegated in writing by the Accounting officer shall be responsible for awarding contracts under Request for Quotations and that a person delegated in writing by the Accounting Officer shall be responsible for awarding contracts under Low Value Procurements.

Approximately 80% of the heads of procurement interviewed state that they fully or partially report directly to the accounting officer, both administratively and functionally. This direct reporting line is critical for maintaining oversight, accountability and integrity of procurement operations.

The PPADA, Section 69, sets out rules for procurement approvals and delegation of responsibility.

Gap analysis
Some heads of procurement have noted that, even where reporting lines are direct, the influence of the procurement function within the broader entity remains limited, weakening its role in strategic planning and execution.

Recommendations
None needed.

Assessment criterion 6(a)(e):
Accountability for decisions is precisely defined.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The PPADA, Section 44 (1) states that it is the accounting officer of a public entity who shall be primarily responsible for ensuring that the public entity complies with the Act. Section 45 (1) requires that, for the purpose of ensuring that the accounting officer's decisions are made in a systematic and structured way, an accounting officer shall establish systems and procedures to facilitate decision making for procurement and asset disposal. In the following paragraphs, the principles to be observed in this context are set out, including requirements for segregation of duties as further detailed in the Second Schedule of the PPADR.

In addition to the roles and responsibilities of the accounting officer and of the procurement function, the PPADA requires the creation of separate committees for tender opening (Section 78), evaluation of tenders and negotiations in case of direct procurement (Sections 46 and 104) and disposal of stores, equipment or assets (Section 163). As needed, the accounting officer may also establish an inspection and acceptance committee (Section 48), complementing the general requirement for all asset disposal processes to be handled by different persons in respect of identification, consolidation, preparation of a disposal plan, pricing and the disposal itself (Section 45 (4)). Further details on the work of these committees are set out in the corresponding regulations of the PPADR.

Finally, Section 44 (5) states that all public officers or State officers involved in procurement or asset disposal processes shall bear responsibility for their actions and omissions.

Gap analysis

As mentioned, the law requires segregation of duties and the engagement of several committees at various stages in the procurement cycle. This seems to overlap with much of the roles and responsibilities of the procurement function. It might be seen as a means to raise probity by introducing internal checks and balances in the procuring entity and as an opportunity spread out the workload and to bring in a wider range of skills. However, in international practice, the opening and evaluation of tenders are among the core responsibilities of the procurement function, in the latter case with contributions from the respective user department as may be appropriate, while responsibility for inspection and acceptance of items delivered and for contract management lies with the respective user department, in close communication with the procurement function.

In the current, quite complex approach set out in the PPADA and the PPADR, the smaller the procuring entity, the more difficult it certainly is to find a sufficient number of staff members with the necessary knowledge and experience of public procurement to validly carry out their obligations. On the face of it, it seems highly unlikely that, e.g., primary and secondary schools would ever be able not only to comply with the formal obligations but also to ensure that all persons involved actually have the competence to do what is required from them.

Another effect of the compulsory segregation of duties and the engagement of several committees is that accountability becomes quite diluted, so that, whenever anything goes wrong, anyone involved may find it easy to put the blame on someone else. As a result, the provision in the PPADA, Section 44 (5), runs the risk of becoming ineffective.

Recommendations

Review whether and to what extent the segregation of duties and the engagement of several committees serve their intended purpose and whether the possible benefits outweigh the administrative costs and complications and other drawbacks, and make any changes that may turn out to be necessary and appropriate.

Sub-indicator 6(b)
Centralized procurement body

Assessment criterion 6(b)(a):

The country has considered the benefits of establishing a centralised procurement function in charge of consolidated procurement, framework agreements or specialised procurement.

Conclusion: No gap

Red flag: No

Qualitative analysis

The benefits of establishing a centralised procurement function have been considered and corresponding provisions have been introduced in the legislation. The PPADA, Section 49, and the PPADR, Regulation 36, provide that a procuring entity or procuring entities with common interest may establish a procuring agency at national or county level for the purpose of procurement and distribution of sector-specific goods, works and services on behalf of procuring entities within the respective sector.

Gap analysis

As formulated, the assessment criterion is met. However, the scarcity of entities set up for the purpose seems to indicate that the full, potential benefits of centralised purchasing have not yet been reached, neither in terms of administrative efficiency nor in terms of economy and security of supply. In particular, it would appear that fields like education as well as the provision of standard items commonly used by most procuring entities would benefit from much greater use of centralised purchasing.

Recommendations
Review the potential for wider use of centralised purchasing and, based on the findings, take steps to increase its use.

Assessment criterion 6(b)(b):
In case a centralised procurement body exists, the legal and regulatory framework provides for the following:
• Legal status, funding, responsibilities and decision-making powers are clearly defined.
• Accountability for decisions is precisely defined.
• The body and the head of the body have a high-level and authoritative standing in government.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The PPADA, Section 49, allows for the creation of a procuring agency at national or county level for the procurement and distribution of sector-specific items. The PPADR, Regulation 36, provides a broad, general framework for the activities of such a centralised procurement body (CPB).

An example of a major entity which may be considered as a kind of CPB is the Kenya Medical Supplies Authority (KEMSA), a state corporation under the Ministry of Health. Its functions are to

a) procure, warehouse and distribute drugs and medical supplies
b) establish a network of storage, packaging and distribution facilities for the provision of drugs and medical supplies
c) enter into partnership with or establish frameworks with county Governments for procurement, warehousing, distribution of drugs and medical supplies
d) collect information and provide regular reports to the national and county governments;
e) support county governments to establish and maintain appropriate supply chain systems for drugs and medical supplies

It was established by the KEMSA Act 2013, which governs its legal status, functions (listed above), organisation and funding, and defines the distribution of responsibilities and decision-making powers. The KEMSA Act, Section 21, states that the Cabinet Secretary may, on recommendation of the Authority, make Regulations generally for the better carrying out of the objects of the Act. However, no such regulation seems to have been issued.

Among other State corporations and agencies with similar mandates one may mention the Kenya National Trading Corporation Ltd (KNTC), a state corporation under the Ministry of Investments, Trade and Industry mandated to serve as a procurement agent for the Government; the Government Advertising Agency (GAA) that was established in 2015, through the National Treasury Circular No. 09/2015 pursuant to an approved Cabinet Memorandum on centralisation of public sector advertising; and the Kenya Procurement and Disposal Agency (KEPDA) - formerly the Supplies Branch, currently domiciled in the Ministry of Transport, Infrastructure, Housing and Urban Development, under the State Department of Public Works.

As an alternative or a complement to the work of a CPB, the PPADA, Section 50, allows procuring entities with common interest to enter into consortium buying for the purpose of jointly procuring items that they need. Regulation 37 in the PPADR sets out rules for how such joint procurement should be organised and carried out.

Gap analysis
Subject to considering the KEMSA and the other entities mentioned as CPBs, the assessment criterion seems to be met with respect to the particular case of those entities. However, the provisions in the PPADR,

Regulation 36, only regulate the establishment, status, functions, organisation and operations of CPBs in very general terms.

It is not clear if and to what extent the status and operations of the existing CPBs allow the full, potential benefits of centralised purchasing to be reached.

Consortium buying can now only be carried out for a specific procurement and the arrangements made lapse at the end of the procurement in question. This makes it difficult to establish regular co-operation between procuring entities in a particular area or with particular characteristics for routine procurement of regularly needed standard specification items.

Recommendations
Prepare a complement to the PPADR, Regulation 36, setting out generally applicable provisions for the establishment, status, functions, organisation and operations of centralised procurement bodies in greater detail, with examples and guidance notes that may support the complementary capacity building that is likely to be necessary.

Review if and to what extent the status and operations of the existing CPBs allow the full, potential benefits of centralised purchasing to be reached.

Allow consortium buying to be carried out over a certain period of time and for certain, defined groups of items, instead of just for one, specific procurement.

Assessment criterion 6(b)(c):
The centralised procurement body's internal organisation and staffing are sufficient and consistent with its responsibilities.

Conclusion: No gap

Red flag: No

Qualitative analysis
In the particular case of KEMSA as well as in other entities with similar mandates, the internal organisation and staffing appear to be sufficient and consistent with their responsibilities.

Gap analysis
The assessment criterion is met.

Recommendations
See recommendation under 6(b)(b).

Indicator 7. Public procurement is embedded in an effective information system

Sub-indicator 7(a)
Publication of public procurement information supported by information technology
The country has a system that meets the following requirements:

Assessment criterion 7(a)(a):
Information on procurement is easily accessible in media of wide circulation and availability. Information is relevant, timely and complete and helpful to interested parties to understand the procurement processes and requirements and to monitor outcomes, results and performance.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The legal obligations to publish information on procurement set out under assessment criterion 1(c)(a). To meet these requirements, procuring entities are required to prepare and publish procurement opportunities on their websites, on the national procurement portal, namely, tenders.go.ke, and to channel all open

tenders to the GAA for online publishing on mygov.go.ke and for printed advertisement in a newspaper of nationwide circulation.

The contents of notices are regulated as follows, with a view to ensure that procurement information is relevant, timely and complete and helpful to interested parties.

Invitations to tender (PPADA, Section 74) shall set out

a) the name and address of the procuring entity;
b) the tender number assigned to the procurement proceedings by the procuring entity
c) a brief description of the goods, works or services being procured, including the time limit for delivery or completion
d) an explanation of how to obtain the tender documents, including the amount of any fee, if any
e) an explanation of where and when tenders shall be submitted and where and when the tenders shall be opened
f) a statement that those submitting tenders or their representatives may attend the opening of tenders
g) applicable preferences and reservations pursuant to the PPADA
h) a declaration that the tender is only open to those who meet the requirements for eligibility
i) requirement of serialisation of pages by the bidder for each bid submitted
j) any other requirement as may be prescribed.

Invitations for pre-qualification (PPADA, Section 93) shall contain

a) the name, address and contact details of the procuring entity
b) outline of the procurement requirement, including the nature and quantity of goods, works or services and the location and timetable for delivery or performance of the contract
c) statement of the key requirements and criteria to pre-qualify
d) instructions on obtaining the pre-qualification documents, including any price payable and the language of the documents
e) instructions on the location and deadline for submission of applications to pre-qualify
f) applicable preferences and reservations or any conditions arising from the related policy
g) declaration that it is open to bidders who meet the eligibility criteria
h) requirement that only bidders with capacity to perform can apply

Notices inviting expressions of interest shall set out (Section 119 (2))

a) the name and address of the procuring entity
b) a brief description of the items being procured
c) requirements for eligibility and the qualifications
d) instructions for submission

Contract award notices are published as provided in the PPADA, Section 138, as follows:

1) the accounting officer of a procuring entity shall publish and publicise all contract awards on their notice boards at conspicuous places, and website if available within a period as prescribed
2) an accounting officer of a procuring entity shall report all contract awards to the Authority as prescribed
3) the Authority shall publish on its website notices of the reports on contract awards from procuring entities

This requirement has also been repeated in the President's Executive Order No. 2 of 2018 to the effect that all contract awards must be published, including, among other details, the particulars of suppliers, such as owners, directors, and beneficial ownership.

Gap analysis
While the prescribed contents of notices are appropriate for their purposes, some other aspects require attention.

In practice, among the contract files from the 63 major procuring entities reviewed by the MAPS assessors, only 69.5% were found to have correctly prepared tender invitation notices.

The procurement information currently made available essentially covers tendering, evaluation and award. There are no provisions requiring information on results, outcomes and performance to be made available. The PPADA, Section 154, requires that, where the contract is not complex and specialised, the head of procurement function shall issue a certificate to the contractor confirming delivery and acceptance of goods, works and services. Where a contract is complex and specialized, the technical department will issue a certificate to the accounting officer of the procuring entity confirming the quality and quantity of such goods, works and services. However, none of these certificates are required to be published. This means that other procuring entities have no means to verify if and to what extent a tenderer has successfully carried out past assignments for other procuring entities and that the general public has no possibility to learn about or, even less, scrutinise whether procurement has been effective and efficient.

A particular, substantive gap is that most publications on tenders.go.ke do not meet the currently required parameters regarding uploading of the procurement plans, the procurement requisition, the advertisement (where applicable), the tender document, the tender opening committee appointment memo, the tender opening minutes, the evaluation committee appointment memo, the evaluation report, the letter of intention to award, any regret letters, the letter of award, the signed contract and the contract close-out letter. Additionally, the tenders.go.ke portal does not meet the MAPS requirements on contract implementation, including contract amendments, payments and decisions on complaints.

While the new e-GP system is intended to help ensure complete publication of all required information, this will not become a reality unless and until all procuring entities are registered and use the system.

Recommendations

In the context of developing and introducing e-procurement, take steps to ensure that the information mentioned above becomes published as soon as it has been generated and validated by the procuring entity, by incorporating corresponding functions into the system. In order to help ensure that information is relevant, timely and complete and helpful to interested parties, there could be a strict process prerequisite where publication of the required documents of a current procurement stage is mandatory before any procuring entity can proceed to the subsequent stage.

Assessment criterion 7(a)(b):

There is an integrated information system (centralised online portal) that provides up-to-date information and is easily accessible to all interested parties at no cost.

Conclusion: Minor gap

Red flag: No

Qualitative analysis

The PPIP, at www.tenders.go.ke, provides information that becomes available as soon as it has been submitted by the procuring entities. Until the full implementation of the new e-GP system, the PPRA will continue publishing information on the PPIP, using data generated in the e-GP system or otherwise provided by the procuring entities.

Gap analysis

The PPIP provides information that is reasonably up to date, but only to the extent that procuring entities make full and timely uploads, which is not always the case. However, not all information is easily accessible or open to the public. As an example, during the MAPS assessment, the assessors had to wait for several weeks until they got access to the system in order to be able to review contract files on line, as a complement or an alternative to visiting procuring entities in person.

Also, the low level of compliance with reporting obligations by procuring entities means that the information available is not complete, nor accurate. This sharply reduces the possibility to use it as a sound evidence basis for policy making and procurement monitoring. While the new e-GP system is intended to help ensure complete publication of all required information, this will not become a reality unless and until all procuring entities are registered and use the system.

Recommendations
Raise the level of transparency and accessibility of the PPIP, in the process of integrating its functions with those of the new e-GP system.

Take measures to ensure that the information contained is complete and reliable, in conjunction with related measures recommended under other headings.

Assessment criterion 7(a)(c):
The information system provides for the publication of: *
• procurement plans
• information related to specific procurements, at a minimum, advertisements or notices of procurement opportunities, procurement method, contract awards and contract implementation, including amendments, payments and appeals decisions
• linkages to rules and regulations and other information relevant for promoting competition and transparency.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The PPADA, Section 53 (12), requires the procuring entity to publish its procurement plans on its website. In addition, according to Section 53 (13), upon receipt of the procurement plans submitted by the procuring entities, the National Treasury shall publish and publicize the procurement plans the state tender portal. The PPADR, Section 67, requires that the state portal be used to disseminate and ensure accessibility of all public procurement and asset disposal laws, directives, manuals, guidelines, circulars, market price indices, standard tender and asset disposal documents, public procurement and asset disposal formats.

The PPIP, www.tenders.go.ke, provides information on procuring entities, County ministries, draft tenders, published tenders, published contracts, frameworks, disposal of assets, procurement planning, contract extensions, registered suppliers, compliance module, capacity building levy, notice of intention to use the Restricted Tender method, generation of reports, among other provided information.

The PPIP has been configured to provide contract award data regarding the purpose of the contract, the name of the supplier, the value of the contract, and any contract variations/amendments. The portal provides statistics on number of tenders by financial year and number of contracts by financial year. It also provides numbers and value of contracts based on procurement method and financial year but not as percentages.

The new e-GP system has modules for publication of procurement and disposal plans and for procurement information management. Until the full implementation of the new e-GP system, the PPRA will continue publishing information on the PPIP, using data generated in the e-GP system or otherwise provided by the procuring entities.

Quantitative analysis

// Minimum indicator // Quantitative indicators to substantiate assessment of sub-indicator 7(a) Assessment criterion (c):

• procurement plans published (in % of total number of required procurement plans): 31% stated to have been fully published on the procuring entities' own websites or through media of wide circulation; 50% on the PPIP; among the heads of procurement, 50% stated that they fully publish the procurement plans.

• key procurement information published along the procurement cycle (in % of total number of contracts): no more than 41%, of which most published with some delay.

• invitation to bid (in % of total number of contracts): 96% were preceded by a dated invitation to tender.

• contract awards (purpose, supplier, value, variations/amendments): 28% stated to have been fully published on the procuring entity's website, 30% on the PPIP.

• details related to contract implementation (milestones, completion and payment): no more than 41%.

• annual procurement statistics: as presented in the PPRA's annual reports.

• appeals decisions posted within the time frames specified in the law (in %): 100%, as reported by the PPARB.

Source: Contract files from the 63 major procuring entities reviewed in some detail, except as otherwise indicated. Data from the vast number of smaller procuring entities is not available.

Gap analysis

Publication of procurement plans is incomplete, in that little more than half (52%) of the heads of procurement interviewed state that this is done on the procuring entity's website and the national procurement portal (see also assessment criterion 4(a)(a)). Slightly less disappointingly, 73% state that they publish tender notices, which is essential for promoting competition and reaching a wide supplier base. Around 70% upload tender documents online, enabling suppliers to access the necessary specifications and requirements.

However, only 59% of the respondents stated that they publish contract award notices. Even this percentage seems to give an unduly favourable impression of the actual state of affairs, as only 363 procuring entities submitted reports on contract awards to the PPRA for publication in the PPIP in fiscal year 2022/23.

The portal does not provide data on the number of invitations, allowing them to be put in relation to the number of contracts; it did not contain information on total value all contract variations as compared with initial contract values; it was not configured to provide details related to contract implementation (milestones, completion and payments); it did not provide percentages by number and value of contracts by procurement method and financial year; and did not provide data on any complaints and corresponding decisions by the PPARB and the competent courts. As a consequence, it is difficult for interested parties and the general public to satisfy themselves that procurement is carried out properly and to find good examples to follow and bad examples to avoid or to address.

While the new e-GP system is intended to help ensure complete publication of all required information, this will not become a reality unless and until all procuring entities are registered and use the system.

There are other institutions and systems in place for promoting competition and transparency but the limited possibility to cross-reference and link up with public procurement means that cases of bad practice are difficult to identify and address.

Recommendations

Public procurement reforms have to focus not only on compliance with procedural checklists but also on embedding transparency and accountability approaches and mechanisms throughout the procurement cycle. Accordingly, the PPIP should be customised and configured to meet the MAPS criteria, which should be properly reflected in the applicable legal requirements. This would form an integrating part of the further development and introduction of e-procurement in the form of the new e-GP system.

Build capacity within procuring entities to track, upload and maintain accurate, timely information, and enforce mandatory portal publication more strictly. Offer training to procurement staff on how to ensure full and accurate publication of each event along the procurement cycle, after adjusting the formal reporting requirements for clarity and feasibility, as appropriate.

Assessment criterion 7(a)(d):

In support of the concept of open contracting, more comprehensive information is published on the online portal in each phase of the procurement process, including the full set of bidding documents, evaluation reports, full contract documents including technical specification and implementation details (in accordance with legal and regulatory framework).
Conclusion: Substantive gap
Red flag: No
Qualitative analysis Some procuring entities have uploaded all or almost all key procurement cycle information while others have uploaded very little or no information. The majority of the procuring entities did not publish procurement plans, did not upload key procurement information along the procurement cycle, and most procuring entities that had varied contracts did not provide this data on the portal.
Gap analysis The portal does not outline a mandatory set of requirements and documents to be uploaded step by step before moving to and uploading the next set of information or document. The majority of the procuring entities did not publish procurement plans on their own websites, did not upload key procurement information along the procurement cycle, and most procuring entities that had varied contracts did not provide this data on the portal. With reference to the contract files from the 63 procuring entities reviewed by the assessors, only 31% files indicated that their procurement plans were shared publicly on institutional platforms, such as the procuring entity's website or through media of wide circulation. In contrast, a significant majority (54%) indicated that no such publication occurred, while in 9%, this field was marked as "Partly," implying either incomplete publication or inconsistent access to the information. A higher share (50%) of the procurement plans were fully published on the central procurement portal (PPIP). This data points to a substantial transparency gap. Despite legal and policy frameworks that emphasize public disclosure of procurement information, more than two thirds of procuring entities are not actively publishing their procurement plans in publicly accessible forums. this gap mirrors a broader pattern observed across the dataset: while short-term planning and annual budgeting are relatively well documented, there is consistent underperformance in long-term planning and open disclosure. Contract award notices and implementation details were fully published on the procuring entity's own website in only 28% of the cases. A slightly higher share, 30%, was published on www.tenders.go.ke, with an additional 11% indicated as having been published in part. While procuring entities are adhering to procedural requirements like documenting submissions and evaluations to a somewhat higher extent, they are still underperforming when it comes to post-award transparency. This data reinforces a pattern seen throughout the procurement process: core administrative steps are largely completed, but progressive governance elements, like performance-based requirements, evaluation criteria and contractual clauses, citizen oversight, and sustainability, remain underdeveloped.
Recommendations The e-GP system, including the PPIP functionalities that should be integrated into it, ought to be configured so as to outline the step-by-step requirements along the procurement cycle to be met by the procuring entities, in order to allow publishing information and data on each successive procurement and contract management step/stage. As appropriate, corresponding additions or clarifications should be made in the applicable regulations. As a complement, facilitate compliance by corresponding measures in the development of e-procurement.
Assessment criterion 7(a)(e): Information is published in an open and structured machine-readable format, using identifiers and classifications (open data format).*

Conclusion: Substantive gap
Red flag: No
Qualitative analysis The information published on ppra.go.ke and tenders.go.ke is recorded in formats like JSON, CSV, and Excel. These are machine-readable and align with global standards. This means that, in principle, the data can be downloaded and used for analysis, which is an important step forward for transparency and accountability. All the procuring entity data and information that actually has been submitted is recorded in the system. However, it should be recalled (cf. above) that much of the required information is missing from the portal. It is intended for the PPIP to co-exist with the new e-GP system for the time being, while the two are being interfaced and may be merged. Ultimately, in application of Commitment 5 Open Contracting in Kenya's Open Government Partnership National Action Plan 2023-2027, the e-GP system is intended to fully incorporate the Open Contracting Data Standard (OCDS).
Quantitative analysis ** Recommended quantitative indicator to substantiate assessment of sub-indicator 7(a) Assessment criterion (e):* *- Share of procurement information and data published in open data formats (in %): 100% of data actually published on the PPIP, but large share of incomplete or missing reports from procuring entities.* *Source: Centralised online portal.*
Gap analysis Although the data format is solid, there are issues with how the information is labelled and organised. For example, some datasets are missing valid identifiers for buyers and suppliers, and a few do not even include basic details like names. This makes it difficult to link records or get a complete picture of who is involved in what. In addition, the limited access to a number of data sets and the low number of search functions available mean that, as a whole, the PPIP cannot be considered as truly "open" in the sense of the assessment criterion. As an example, under the 'Contracts' tab, one can search contracts by variation status (amended or not), but the details possible to display for purportedly amended contracts do not include any information about the respective amendments. Further, the procurement method, the category (goods, works, services, etc.) and the defining PE characteristic (State corporation, etc.) are stated, but one cannot search for and even less extract and analyse key data for those contracts, nor find any details about progress, etc., at least not in what is accessible to the general public. The introduction of the OCDS is not yet effective.
Recommendations Consistently use a full range of identifiers and classifications that make the data easier to read, sort, compile, interpret, and trust. Make data fully accessible and searchable, in particular by introducing the OCDS. See also recommendations under 14(e)(b) and 14(g)(e).
Assessment criterion 7(a)(f): Responsibility for the management and operation of the system is clearly defined.
Conclusion: No gap
Red flag: No

Qualitative analysis

The PPADA, Section 9 (1) (k), requires the PPRA to develop and manage the State portal on procurement and asset disposal and ensure that it is available and easily accessible. Section 9 (1) (m) requires it to create a central repository or database that includes

i. complaints made on procuring entities;
ii. a record of those prohibited from participating in tenders or those debarred;
iii. market prices of goods, services and works;
iv. benchmarked prices;
v. State organs and public entities that are non-compliant with procurement laws;
vi. statistics related to public procurement and asset disposal;
vii. price comparisons for goods, services and works; and
viii. any information related to procurement that may be necessary for the public.

Gap analysis

The assessment criterion is met.

Recommendations

No recommendations needed.

Sub-indicator 7(b)
Use of e-Procurement

Assessment criterion 7(b)(a):
E-procurement is widely used or progressively implemented in the country at all levels of government.*

Conclusion: Substantive gap

Red flag: No

Qualitative analysis

As per the approved MAPS Concept Note for the Assessment of the Public Procurement and Asset Disposal System in Kenya, there are an estimated 34,540 public procuring entities. However, only 1,026 procuring entities were listed on tenders.go.ke, representing 2.97% of all procuring entities in the country.

The portal does not provide data on procurements and procedures/methods that fully applied or embraced electronic procurement, whether by number or by value.

Procuring entities may use the Integrated Financial Management Information System (IFMIS), a comprehensive automated platform managed by the National Treasury and designed to streamline financial operations within both the National and County Governments of Kenya. However, this mainly applies to financial transactions, including those in public procurement, and IFMIS cannot be considered as an e-procurement system by itself. At present, IFMIS is only used in Ministries, Counties and Constitutional Commissions and Independent Offices. Data from the heads of procurement interviewed by the MAPS assessment team indicate that that approximately 60% of those procuring entities have adopted an e-procurement system that either partially or fully covers the procurement cycle. Similarly, 48.5% of the procuring entity respondents to the separate survey stated that they use a fully functional e-procurement system, while another 35.3% used such systems only partially. However, in both cases, the references given only point to the use of IFMIS.

The ongoing work on developing and introducing a dedicated, comprehensive e-procurement system is moving ahead. All procuring entities are required to carry out procurement through the e-GP system from 1 July 2025, as stated in the National Treasury circular NT/PPD/1/3/14 Vol. VI 46 of 30 May 2025, and in circular OP/CAB.6/2A from the Executive Office of the President, issued on 5 June 2025. Furthermore, the National Treasury's Guidelines on the use of e-GP Kenya of 23 July 2025 state, among other provisions, that "From 1st July 2025, only procurements undertaken through the e-GP Kenya will be sanctioned and paid for. For avoidance of doubt, The National Treasury shall not exempt any procurement to be carried outside the e-GP Kenya."

Pillar II. Institutional Framework and Management Capacity

Quantitative analysis

*// Minimum indicator // * Quantitative indicators to substantiate assessment of sub-indicator 7(b) Assessment criterion (a):*
uptake of e-Procurement
- number of e-Procurement procedures in % of total number of procedures: 0%.
- value of e-Procurement procedures in % of total value of procedures: 0.
Source: Contract files from the 63 major procuring entities reviewed in some detail. The data may have limited validity for reasons set out elsewhere. Data from the vast number of smaller procuring entities is not available.

Gap analysis

The level of registration and use of the PPIP by procuring entities is very low, even just for publication of notices and reports. There is no readily available data on procurements that were carried out electronically in part or in full. By 4 August 2025, only 1,286 procuring entities had bee duly registered in the new e-GP system and thereby becoming able to use it at the beginning of August 2025, despite the general obligation to do so from 1 July onwards.

This being said, it has been questioned whether the currently published obligation to carry out procurement only through the e-GP system from 1 July 2025 has a proper legal basis, in that it may be in contradiction with the provisions in the PPADA, Section 64, and the PPADR, e.g. in Regulations 50, 56 and 57, which imply that procurement may be carried out manually (on paper) or by electronic means, even if the PPADA, Section 7 (2) (c) also empowers the National Treasury to “design and prescribe an efficient procurement management system for the national and county governments”.

A well functioning e-procurement system would normally allow the use of (reverse) e-auctions as a means to determine the winning tender. However, even if the use of such auctions is listed among the ‘methods of procurement’ allowed (PPADA, Sections 92 and 110-113), no such auctions were reported to have been carried out in fiscal year 2022/23. The new e-GP system includes modules for (reverse) auctions, which will be made available in the second phase of the system roll-out, at a time to be determined.

It is not clear if and to what extent the very large number of small procuring entities do have effective access to the new e-GP system, in terms of hardware, software, connections and trained staff. Any deficiency in these respects would prevent them from fully benefitting from the potential advantages of e-procurement and from meeting the general obligation to use the e-GP system. This being said, any lack of technical means would have to be addressed outside the scope of public procurement.

Phase II of the e-GP system is intended to make modules available for “e-Catalogues & Marketplace”, among other functions. This would be of particular importance for procuring commonly used, standard specification items, as a complement to a simple, competitive procedure for small value procurement that should be incorporated into the e-GP system. However, these functions are not yet available.

Recommendations

Amend the PPADA and the PPADR as appropriate for creating a proper legal basis for the use of the e-GP system.

Bring the work on developing and introducing e-procurement to a timely, dependable conclusion, while ensuring that all e-GP functions and the applicable regulations are fully harmonised.

Unless and until the e-GP systems becomes fully used by all procuring entities and incorporates the current PPIP functions, review and reconfigure the PPIP to provide data on procurements and procedures/methods that fully or partly applied electronic procurement, by number and value, and interface it with the e-GP system as appropriate.

Take steps to ensure that all procuring entities have the necessary means to connect to and use the e-GP system, and that they have the necessary knowledge and skills to use it as intended.

Assessment criterion 7(b)(b): Government officials have the capacity to plan, develop and manage e-Procurement systems.
Conclusion: Minor gap
Red flag: No
Qualitative analysis The current work on developing and introducing e-procurement demonstrates the ability in principle of the Government officials concerned to define, plan, develop and manage e-procurement systems.
Gap analysis The time taken to make progress in the development and introduction of e-procurement indicates a possible lack of capacity in terms of staff numbers and resources of the working party in place, despite the skills and the positive attitudes demonstrated so far. This has been confirmed by the delays in the effective introduction of the new e-GP system and the slow registration of users. The implementation process did not adhere to the initial strategy of a phased roll-out, which would have allowed for the adequate management of change.
Recommendations Add skilled and experienced staff to the working party for the development and introduction of e-procurement and to the entities in charge of e-GP system information and training.
Assessment criterion 7(b)(c): Procurement staff is adequately skilled to reliably and efficiently use e-Procurement systems.
Conclusion: Substantive gap
Red flag: No
Qualitative analysis All procuring entities have been required to be able to access and use the Treasury system for financial management (IFMIS), including its Procure-to-Pay modules, as well as the publication and reporting facilities at tender.go.ke. They are all required to use the new e-GP system.
Gap analysis Not counting the limited and specific applications mentioned above, very little e-procurement has been carried out in the past, meaning that most procuring entities have few or no staff members with corresponding skills. The situation is somewhat better in the 63 major procuring entities visited. As stated by the heads of procurement interviewed, 68% of those entities have adopted an e-procurement system that either partially or fully covers the procurement cycle. However, the system functionalities vary; some cover only the initial tendering stages, while others extend to contract award and management. Evidence from the separate survey of staff in procuring entities indicates that most references to the use of e-procurement concern IFMIS. Staff in 53% of the procuring entities mentioned are stated to have received adequate training to reliably use e-procurement. In an additional 19% of the cases, staff are partially trained, which may limit their confidence or ability to navigate more complex functions. Further, only 41% of the heads of procurement considered that suppliers are adequately trained to use e-procurement correctly. 31% considered suppliers to be only partially trained and 28% stated that they were not adequately trained at all.
Recommendations The wide introduction of a new, comprehensive e-procurement system will require considerable efforts on information and training in order to ensure that all procuring entities have staff with the knowledge and skills

necessary for using the system. Make training and information of users a major element of the introduction of e-procurement, and set aside enough time and assign adequate resources for the purpose.

Assessment criterion 7(b)(d):
Suppliers (including micro, small and medium-sized enterprises) participate in a public procurement market increasingly dominated by digital technology.*

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
Over 5,934 suppliers were stated to be registered on www.tenders.go.ke at the time of the assessment. However, the system does not allow full categorisation of the suppliers registered, nor of those with which contracts have been concluded. It is thus not possible to calculate, e.g., the share of micro, small and medium enterprises participating in public procurement or winning tenders, nor to group them by field of activity or the like.

Information provided by the private sector indicates that all large enterprises, most medium ones and many small enterprises have internet access and are using digital technology in their business activities as a matter of routine.

The

Quantitative analysis

** Recommended quantitative indicators to substantiate assessment of sub-indicator 7(b) Assessment criterion (d):*
- *bids submitted online (in %): no data available.*
- *bids submitted online by micro, small and medium-sized enterprises (in %): no data available.*

Source: e-Procurement system.

Gap analysis
The www.tenders.go.ke and supplier.treasury.go.ke websites have not been linked and do not provide data on the total number of bids submitted online as compared to the total number of submitted bids, and do not provide data on the percentage of bids submitted online by micro, small and medium-sized enterprises compared with the total number of bids submitted online. The successive introduction of the e-GP system should help remedy this shortcoming, but this process continues to suffer delays.

The very limited use of e-procurement until now means that many suppliers are likely to have little knowledge and experience of how to use an e-procurement system, except for those larger enterprises who already use comparable systems for meeting their own purchasing needs. In addition, some small and many micro enterprises will likely have difficulties participating in public procurement using e-procurement facilities.

Recommendations
Review, reconfigure, link or integrate tenders.go.ke with supplier.go.ke as appropriate, to be set in the context of the wider development of e-procurement and the introduction of the e-GP system, and ensure that participation data are collected and analysed.

The wide introduction of the new, comprehensive e-procurement system will require considerable efforts on information and training in order to ensure that all prospective tenderers have staff with the knowledge and skills necessary for using the system. Make training and information of users a major element of the introduction of e-procurement, and set aside enough time and assign adequate resources for the purpose. Examine to what extent private sector operators, particularly smaller ones, have effective access (internet connection, hardware and software, skills) to the e-GP system and take steps to close the gaps likely to be identified.

See also assessment criterion 10(b)(a).

Assessment criterion 7(b)(e):
If e-Procurement has not yet been introduced, the government has adopted an e-Procurement roadmap based on an e-Procurement readiness assessment.

Conclusion: No gap

Red flag: No

Qualitative analysis
The PPADA, Section 9 (1) (k), that one of the functions of the PPRA shall be to develop and manage the State portal on procurement and asset disposal and ensure that it is available and easily accessible.

An e-Procurement readiness assessment was undertaken in March 2018 with the support of the World Bank to establish the level of preparedness of the procuring entities, the private sector and other relevant stakeholders in public procurement sector with focus on the enabling drivers for success of e-GP system implementation. The e-Procurement Readiness Assessment identified nine key components, scoring the current situation using a range from one (lowest) to four (highest). The overall level of readiness was assessed to be satisfactory at 3.06 out of 4.

Another online portal, supplier.treasury.go.ke, has been used, albeit with challenges.

The National Treasury developed the Strategy for the Implementation of an e-GP system for the Government of Kenya in September 2020. The strategy was approved by the Cabinet Secretary, National Treasury and Planning. The Public Procurement Department at the National Treasury has taken the leadership role in the implementation of the strategy in partnership with all other stakeholders in its implementation.

The strategy provides for a governance structure to support the implementation of e-GP through a set of committees and working groups:

- The e-Government Procurement Steering Committee
- The e-Government Procurement Technical Working Group
- The e-Government Procurement Project Implementation Unit (e-GPPIU) in the Public Procurement Department

The e-GPPPIU champions and leads in the development and continuous improvement of an end-to-end e-Government procurement system that captures all the business and functional requirements, as prescribed in the PPADA, during the implementation period, with a new and revamped e-procurement portal, egpkenya.go.ke, now coming on stream.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Sub-indicator 7(c)
Strategies to manage procurement data

Assessment criterion 7(c)(a):
A system is in operation for collecting data on the procurement of goods, works and services, including consulting services, supported by e-Procurement or other information technology.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
As variously set out in the PPADA and the PPADR as well as in directives and circulars issued by the PPRA, procuring entities have been obliged to provide notices and reports to the PPRA for publication and for

review purposes, using the tenders.go.ke portal (PPIP). These functions are being incorporated into the new e-GP system.

Gap analysis
Another portal has been used for collecting data on the procurement of goods, works and services, including consulting services, namely supplier.treasury.go.ke, intended to be transited into egpkenya.go.ke, in addition to tenders.go.ke. This state of affairs has posed a challenge in regard to seamless flow of data and information between the two portals, since they have not been integrated. The portals have also not been configured to fully allow data to be extracted and analysed.

As variously mentioned under other assessment criteria, tenders.go.ke has suffered from a quite low level of compliance by procuring entities with the reporting requirements set out in the legislation. While the new e-GP system is intended to allow comprehensive procurement data to be collected and used, the delays in its introduction mean that this function is not yet fully used.

As a result, it is difficult for the competent authorities, other interested parties and the general public to get a clear, comprehensive and up-to-date view of the situation in public procurement, whether in general terms or with respect to particular cases. This creates a risk of ineffective competition and makes it more difficult to benefit from good practices and stamp out bad ones.

Recommendations
Ensure that the e-GP system becomes fully effective in collecting procurement data, complemented by functions to facilitate data extraction and analysis,.

Assessment criterion 7(c)(b):
The system manages data for the entire procurement process and allows for analysis of trends, levels of participation, efficiency and economy of procurement and compliance with requirements.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The PPIP, tenders.go.ke, is in place for the purpose of meeting the legal requirements to develop and manage the State portal on procurement and asset disposal and to create a central repository or database (PPADA, Section 9 (1) (k) and (m)).

The new e-GP system is intended to manage data for the entire procurement process.

Gap analysis
The tenders.go.ke portal does not contain data for the entire procurement process and is not configured to fully allow data to be extracted and analysed. Since it also suffers from a quite low level of compliance by procuring entities with the reporting requirements set out in the legislation, it cannot be reliably used for analysis of trends, levels of participation, efficiency and economy of procurement and compliance with requirements.

The first phase of the new e-GP system is not yet fully operational, and the second phase has not yet been rolled out. As a consequence, it cannot yet be reliably used for analysis of trends, levels of participation, efficiency and economy of procurement and compliance with requirements. In any case, in the context of qualitative analysis, the e-GP system will provide data, but it does not manage the data itself and has limited facilities for analysis.

Recommendations
Amend tenders.go.ke as appropriate for meeting the assessment criterion, setting this work in the context of the wider development of e-procurement.

Assessment criterion 7(c)(c):
The reliability of the information is high (verified by audits).

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The www.tenders.go.ke portal provides information on procuring entities, County ministries, draft tenders, published tenders, published contracts, frameworks, disposal of assets, procurement planning, contract extensions, registered suppliers, compliance module, capacity building levy, notice of intention to use Restricted Tender Method, generation of reports, among other information. The contract file reviews carried out during the MAPS assessment indicate that the level of reliability of the information is high in the case of the individual records contained in the system.

Gap analysis
The low level of compliance with reporting requirements means that the overall reliability of the information contained in the tenders.go.ke system is low, even if the individual items actually recorded may have a high level of reliability.

Data from the e-GP is not complete, because of the delays in its effective introduction, though individual entries made to date may be quite reliable.

There are no records or reports from the PPRA or the ICT Authority (a State Corporation under the Ministry of Information, Communication and Technology) on verification or audits of the reliability of the information contained.

Recommendations
Raise the level of compliance with reporting requirements, taking steps to facilitate the generation and transmission of information from procuring entities and other sources, the whole to be set in the context of the wider development of e-procurement.

Take steps to ensure independent verification of data reliability.

Assessment criterion 7(c)(d):
Analysis of information is routinely carried out, published and fed back into the system. *

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The information collected by the PPRA in tenders.go.ke and, as may be applicable, by other means is analysed for the purpose of preparing the annual reports of the PPRA and for submitting other reports to the Treasury, as well as for serving as a basis for proposals for improvements to regulations and practices. The annual reports are published on the PPRA website.

Quantitative analysis

*// Minimum indicator // * Quantitative indicators to substantiate assessment of sub-indicator 7(c) Assessment criterion (d):*
• total number and value of contracts: in fiscal year 2022/23, 17,175 contracts of a total value of KES 173,919,197,971.31 reported to the PPRA.
• public procurement as a share of government expenditure and as share of GDP: shares uncertain because of incomplete reporting.
• total value of contracts awarded through competitive methods in the most recent fiscal year: total value not available; open and restricted tendering constituted 26.7% of the number of advertised tenders.
Source: PPIP data as reported in the PPRA's annual report for fiscal year 2022/23.

Gap analysis

The www.ppra.go.ke and www.tenders.go.ke portals fall short of providing complete and continuously updated information on total number and value of contracts, public procurement as a share of government expenditure and as share of GDP, and total value of contracts awarded through competitive methods. In particular, the low level of compliance with reporting obligations means that the information available is not complete. It can therefore not be reliably used by the Treasury and the PPRA for preparing well founded analyses and corresponding recommendations that would be essential for effective development of policies and practices.

At the level of individual procuring entities, ex-post evaluations should be a critical tool for assessing whether procurement processes deliver intended results and for drawing lessons for the future. They should provide insights into efficiency, cost-effectiveness, and alignment with broader institutional objectives. However, even in the 63 major procuring entities visited, only 32% of the heads of procurement interviewed reported that they consistently conduct such evaluations. Another 41% indicated that they conduct these evaluations only partially. This may involve occasional or ad-hoc reviews that lack the structure or consistency needed to influence systemic improvements. Meanwhile, 27% do not conduct any ex-post evaluations at all, pointing to a culture that prioritises compliance over reflection and learning.

Recommendations

The e-GP system has to be configured so that the information collected is complete and that analyses are routinely carried out, published and fed back into the work on improving public procurement.

To institutionalise continuous improvement in procuring entities, each of them needs to embed evaluation frameworks into their procurement cycles, allocate resources for post-procurement reviews, and create feedback loops that link evaluation findings with training, planning, and adjustments to policies and practices.

Indicator 8. The public procurement system has a strong capacity to develop and improve

Sub-indicator 8(a)
Training, advice and assistance
There are systems in place that provide for:

Assessment criterion 8(a)(a):
Substantive permanent training programmes of suitable quality and content for the needs of the system.

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis

The Public Procurement Directorate of the National Treasury runs the Public Sector Public Procurement Management Training Programme that offers diplomas through the Kenya School of Government's Embu Campus, Mombasa Campus and Baringo Campus.

The SPMA, Section 5 (b), provides that the Kenya Institute of Supplies Management shall make provision for the training and instruction of persons seeking registration under the Supplies Practitioners Management Act, 2007]

The Kenya Institute of Supplies Examination Board (KISEB) examines candidates under the following programmes:

- Associate in Procurement and Supply of Kenya (APS-K)
- Certified Procurement and Supply Professional of Kenya (CPSPK)
- Chartered Institute of Procurement and Supply (CIPS) – United Kingdom
- Chartered Institute of Logistics & Transport (CILT)

The KISEB has accredited a total of 84 training institutions in Kenya for the purpose of providing training for the CPSPK and APS-K exams, prescribing the curricula and the lists of publications to be studied by candidates. As an example, the Kenya College of Supply Chain Management (KCSCM), a college established under the Kenya Institute of Supplies Management (KISM) and registered under the Technical and Vocational Education and Training (TVET) Authority, provides qualifications such as the Certified Procurement and Supply Professional of Kenya (administered under the KISEB), the Chartered Institute of Procurement and Supply (CIPS), and the Chartered Institute of Logistics & Transport (CILT) International.

The Kenya National Examination Council examines candidates on supplies management courses under the following supply chain management related programmes:

- Craft Certificate in Supply Chain Management
- Craft Certificate in Road Transport Management
- Craft Certificate in Maritime Transport Operations
- Craft Certificate in Maritime Transport Logistics
- Diploma in International Freight Management
- Diploma in Supply Chain Management
- Diploma in Road Transport Management
- Diploma in Maritime Transport Logistics

In addition, the PPRA and the Treasury organise awareness raising and information events for disseminating information about regulations and good procurement practice.

At the level of individual procuring entities, no more than 65% of the 63 major ones visited had some form of permanent training programme in place, and 25% had no programme covering public procurement and contracts management.

Gap analysis

All procuring entities are required to employ suitably competent officials in their procurement functions, implying an obligation for them to be certified professionals. However, the KISM only has some 3,000 public sector members, implying that more than 90% of the procuring entities (their number is estimated to be over 34,500) may lack staff with the formal qualifications required. For this reason, the current training can hardly be considered to sufficiently meet the needs.

Only part of the training institutions accredited by the KISEB actually deliver training in supply chain management and public procurement

There seems to exist an overlap and a possible conflict between the roles of the KISEB and the KNEC in regard to the examination of public procurement professionals.

Apart from the work of specialised institutions mentioned in the gap analysis, there is only a limited offer of public procurement related subjects in the public administration curricula of universities and other institutions of higher education.

In individual procuring entities, only 38% of the heads of procurement interviewed rated the quality and content of the training programmes as fully suitable. This points to a possible mismatch between what is offered and what staff actually need.

Likewise, 38% reported regularly evaluating and adjusting their training programs. However, a higher share indicated that they make adjustments based on these evaluations, when made at all. Nevertheless, without continuous improvement, training programs risk becoming procedural box-ticking exercises rather than meaningful capacity-building efforts. Entities that fail to assess and refine training may find themselves with staff who are nominally trained but practically underprepared.

Recommendations

Expand the provision of public procurement training at all levels and, subject to availability of funds for their employment, seek to widen the pool of candidates, including, e.g., currently unemployed undergraduates (cf. recommendations under 6(a)(c)).

Review, clarify and harmonise the requirements for examination and certification of public procurement officials in the PPADA, the PPADR and the regulations etc. of the respective examination and certification bodies, and adjust the institutional set-up correspondingly.

Assessment criterion 8(a)(b):
Routine evaluation and periodic adjustment of training programmes based on feedback and need.

Conclusion: No gap

Red flag: No

Qualitative analysis
The Kenya Institute of Supplies Examination Board (KISEB) is established by Section 12 of the Supplies Practitioners' Management (SPM) Act No. 17 of 2007 of the laws of Kenya.

The Board is mandated to prescribe and regulate syllabuses of instruction for professional certification, prepare and conduct examinations for persons seeking registration as procurement and supply chain management professionals, issue professional qualifying certificates and other awards, in liaison with the Ministry of Education, accredit institutions offering the examination of the Board, and promote recognition of its examination in foreign countries

KISEB provides a Client Feedback Form on its website for purposes of serving clients better and with indication that it is committed to continuously improving the client service standards. Feed-back is also collected during training. The Treasury's public procurement department and the PPRA regularly review training needs and the contents and outcomes of the training delivered and strive to make corresponding adjustments to the approach to training.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Assessment criterion 8(a)(c):
Advisory service or help desk function to resolve questions by procuring entities, suppliers and the public.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
KISM, PPRA, KISEB, KNEC and the National Treasury provide online advisory service and help desk functions to resolve questions by procuring entities, suppliers and the public or for reporting malpractices as follows:

- KISM: Physical Address: KISM Towers, 12th floor Ngong road, Nairobi, Postal address: P.O. Box 30400-00100 Nairobi, e-mail address: admin@kism.or.ke; through an online query/comment form or telephone: 0111024800
- KNEC: Physical Address: Head Office New Mitihani House, South C, Postal address: P.O. Box: 73598 00200, Nairobi, Kenya, e-mail address: info@knec.ac.ke; through an online query/comment form or telephone: Switch Board 0720741001, 0720741003, 0720741094, 0732333530, 0732333780
- KISEB: Physical Address: KISM Towers, 11th Floor, Ngong Rd, Postal address: P.O. Box 22873-00505, Nairobi, e-mail addresses: examinations@kiseb.or.ke, info@kiseb.or.ke, ethics@kiseb.or.ke; through an online client feedback form or telephone: 0726244828/ 0769878228/0111051840
- PPRA: Physical Address: KISM Towers, 6th Floor, Ngong Road, Postal address: P.O Box 58535- 00200, Nairobi Kenya, e-mail address: info@ppra.go.ke; through an online contact form or telephone: 020 3244000, 020 2213106/7

- Treasury: Physical Address: Treasury building, Harambee Ave, Postal address:, P.O. Box 40530 – 00100. Nairobi, e-mail address: integrity@treasury.go.ke, info@treasury.go.ke, an online contact form, Telephone: 020 2227436

As an example of the kind of support offered to procuring entities, suppliers and the public, the PPRA's Ethics, & Standards Development and Advisory Services Department provides advisory services on public procurement policies, standards, strategies to enable effective and efficient service delivery and achievement of the core mandate of the Authority. The answers to any questions received are sent directly to the interested parties. Those which may have general application are compiled into circulars which are regularly issued by the PPRA and published on its website.

An online list of frequently asked questions and corresponding answers is being prepared, with a view to make it available on the website and through social media. In addition, the findings from the various queries received inform the capacity building work of the PPRA and are presented in sectoral forums and at other awareness raising and information events. They also serve as the basis for recommendations to the Treasury's public procurement department for changes to the legal and institutional framework.

Gap analysis

Despite the official presence of advisory services and help desk functions, just 22% of the heads of procurement interviewed said that they have full access to procurement advisory services, while 49% said access was only partial and 29% had no access at all. Many of them also stated that requests for advisory take long to get answers to and that the quality of the advice given sometimes does not help in resolving the concerns at hand.

Recommendations
Review the actual access to and the use of the existing advisory services, and address any shortcomings identified.

Assessment criterion 8(a)(d):
A strategy well-integrated with other measures for developing the capacity of key actors involved in public procurement.

Conclusion: No gap

Red flag: No

Qualitative analysis
KISEB has developed a Supply Chain Management Professional Framework, Capacity Building and Reforms on Public Procurement framework.

PPRA has developed and published a circular on implementation of the public procurement capacity building levy order.

KISM has a comprehensive continuous professional development in place, regulated by the Supplies Practitioners Management (Continuous Professional Development) Guidelines under the Supplies Practitioners Management Act.

Gap analysis
The assessment criterion is met.

Recommendations
While the approaches currently in place may match the assessment criterion, the need remains to expand capacity building and other, accompanying measures in a way that allows all procuring entities to meet the requirements to employ suitably competent public procurement staff.

Sub-indicator 8(b)
Recognition of procurement as a profession
The country's public service recognises procurement as a profession:

Pillar II. Institutional Framework and Management Capacity

Assessment criterion 8(b)(a): Procurement is recognised as a specific function, with procurement positions defined at different professional levels, and job descriptions and the requisite qualifications and competencies specified.
Conclusion: Minor gap
Red flag: No
Qualitative analysis The PPADA, Section 2, defines a "procurement function" as a division within a procuring entity staffed with procurement professionals who are officially concerned with managing the procurement and asset disposal process and reports directly to the head of procuring entity functionally and administratively. Section 2 also defines a "procurement professional" as a person who has professional qualifications in procurement or supply chain management from a recognised institution and is a member of the Kenya Institute of Supplies Management or any other procurement or supply chain professional body recognised in Kenya. Section 16 of the Supplies Practitioners Management Act (SPMA) states that (1) A person shall be entitled to registration if he satisfies the Council that he is of good conduct and has paid the registration fee and that (a) he has successfully undergone a prescribed certificate, diploma, degree or research course of instruction and has passed the appropriate examination conducted or prescribed by the Institute; or (b) has undergone a certificate, diploma, degree or research course of training and passed an examination elsewhere than in Kenya, which the Institute recognizes as equivalent to the training and instruction required in the case of persons trained in Kenya and as equivalent to the qualification by examination required under the Act. The PPADA, Section 47 (1), provides that a procurement function shall be handled by procurement professionals whose qualifications are recognized in Kenya. However, the qualification system has been in place for around 15 years, meaning that any person who joined public service more than 15 years ago is likely not to have obtained the required qualification, adding to the need to provide complementary training for such procurement officials. The PPADR, Regulation 24 (1), provides that for the purpose of Section 45 of the Act and for a procuring entity to be able to make corporate decisions and for purposes of internal controls, the procuring entity shall have segregated responsibilities including a procurement function headed and staffed by procurement professionals. The PPADR, Regulation 33 (2), provides that the procurement function shall be handled by the procurement professionals whose qualification and experience are recognized in Kenya. The Revised Scheme of Service for Supply Chain Management Personnel, applicable from 1 April 2009, recognises public procurement as a specific function, with procurement positions defined at different professional levels and with job descriptions and the requisite qualifications and competencies specified. The PPADA, Section 7 (2) (e), provides that the National Treasury shall manage and administer the scheme of service of the procurement and supply chain management services cadre for the national government. Correspondingly, Section 33 (2) (h) provides that the County Treasury shall establish a procurement function which shall administer the scheme of service for county government procurement and supply chain management officers and capacity building. The National Treasury and Planning has developed the National Supply Chain Management Professional Framework of September 2021 to guide procuring entities in recruitment, training, registration and certification of supply chain management professionals in accordance with the relevant legislation. The Framework will also guide in the accreditation of institutions offering Procurement and Supply Chain Management (PSCM) related courses. The National Government, County Governments, and Private Sector organisations have therefore been requested [sic!] by the Treasury to adopt, customize and utilise the framework alongside existing legislations and policies.
Gap analysis Although subject to the guidance of the Public Service Commission, every public service sector is within its

right to craft and put in place its own scheme of service for supply chain professionals, thereby potentially leading to conflicting schemes of service.

Despite the various legal obligations, 19% of the heads of procurement interviewed stated that procurement positions in their entities were not defined through official job descriptions or the like, setting out the tasks and responsibilities and defining the qualifications and competencies required, with another 25% stating that this was only partially the case.

Recommendations
The Public Service Commission in collaboration with the National Treasury, the Kenya National Examinations Council, the Kenya Institute of Supplies Management, the Kenya Institute of Supplies Examination Board and the Public Procurement Regulatory Authority should develop a cross-cutting supply chain management officers' scheme of service for general application by procuring entities.

Procuring entities should receive advice and assistance with ensuring that positions in their procurement units have appropriate job descriptions.

Assessment criterion 8(b)(b):
Appointments and promotion are competitive and based on qualifications and professional certification.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The Scheme of Service for Supply Chain Management Personnel includes standards for recruitment and promotion.

Gap analysis
The assessment criterion cannot be considered as met, already because most procuring entities do no not employ any duly qualified procurement professionals at all. Even for those procuring entities that do employ duly qualified procurement professionals, there is no conclusive evidence whether and to what extent appointments and promotion are competitive and based on qualifications and professional certification.

In fact, even in the 63 major procuring entities visited, 27% of the heads of procurement stated that they did not consider that appointments and promotions were competitive and based on qualifications and professional certifications.

Recommendations
Review to what extent appointments and promotion are competitive and based on experience, qualifications and professional certification, and raise the ability of procuring entities to employ duly qualified procurement professionals.

Assessment criterion 8(b)(c):
Staff performance is evaluated on a regular and consistent basis, and staff development and adequate training is provided.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The responses from the Heads of Procurement interviewed by the MAPS assessors indicate that staff performance is often but not always evaluated on a regular and consistent basis and that staff development and adequate training is not always provided. In addition, many small procuring entities do not find themselves able to allow staff members to take time off for training and other professional development activities and cannot afford to pay for such training and other professional development.

Gap analysis
The requirement for staff performance to be evaluated on a regular and consistent basis and for staff development and adequate training to be provided is not always met but it is not fully clear for what reasons. Even in the 63 major procuring entities visited, 32% of the heads of procurement stated that staff performance is not evaluated on a regular and consistent basis, and 31% did not find that performance evaluation is carried out fairly and that the conclusions are given appropriate effect.

Recommendations
Monitor how and to what extent staff performance is evaluated and how staff development and adequate training is provided. Define and disseminate good practice in these respects and seek ways to ensure that procuring entities can find means to provide staff development and adequate training.

Sub-indicator 8(c)
Monitoring performance to improve the system

Assessment criterion 8(c)(a):
The country has established and consistently applies a performance measurement system that focuses on both quantitative and qualitative aspects.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
Apart from staff performance, covered under criterion 8(b)(c) above, the requirements for measuring the performance of the public procurement system are as follows.

The PPADA, Section 9 (1), requires the PPRA to

a) monitor, assess and review the public procurement and asset disposal system to ensure that they respect the national values and other provisions of the Constitution, including Article 227 and make recommendations for improvements;
b) monitor the public procurement system and report on the overall functioning of it and present to the Cabinet Secretary and the county executive member for finance in each county, such other reports and recommendations for improvements
d) monitor classified procurement information, including that of specific items of security organs and make recommendations to the Cabinet Secretary
e) monitor the implementation of the preference and reservation schemes by procuring entities
i) research on the public procurement and asset disposal system and any developments arising from the same
l) monitor and evaluate the preference and reservations provided for under the PPADA and provide quarterly public reports
q) in undertaking its functions, cooperate with state and non-state actors with a view to obtaining recommendations on how public procurement and disposal can be improved

The PPADA, Section 33 (2) (e), provides that the County Treasury shall establish a procurement function which shall, among other duties, co-ordinate county government monitoring and evaluation of the supply chain function of county government entities including ensuring compliance.

Gap analysis
While a comprehensive performance measurement system is prescribed and provided for in applicable regulations, its actual application is deficient in that the reporting obligations of procuring entities are not well met. Consequently, it is not possible to draw relevant conclusions on the performance of the public procurement system as a whole, and only partly with respect to individual transactions.

Recommendations
Take steps to raise the level of compliance with reporting obligations and ensure that the new e-procurement system has adequate functionalities for this purpose.

Assessment criterion 8(c)(b): The information is used to support strategic policy making on procurement.
Conclusion: No gap
Red flag: No
Qualitative analysis The information actually collected by the PPRA, as mentioned under assessment criterion 8(c)(a), is used to support strategic policy making on procurement. The PPADA, Section 7 (2), mandates the National Treasury to (a) formulate, evaluate, promote and research on national and county public procurement and asset disposal policy and standards (b) develop policy guidelines for the efficient procurement management and disposal system for national executive (f) carry out general research, develop and promote electronic procurement strategies and policies in both the national and county governments including state corporations and other government agencies (g) carry out review of procurement and supply chain management system to assist procuring entities (h) develop and review policy on procurement of common user items in the public sector both at national and county government levels (i) develop policy on the administration of preference and reservations scheme and registration of target groups (k) develop and review policies and guidelines on the management of assets (l) issue guidelines to public entities with respect to procurement matters The available evidence indicates that the Treasury is actively working to comply with these requirements, despite the weakness of the evidence base (cf. the gap analysis under the preceding assessment criterion).
Gap analysis The assessment criterion is met.
Recommendations No recommendations needed.
Assessment criterion 8(c)(c): Strategic plans, including results frameworks, are in place and used to improve the system.
Conclusion: No gap
Red flag: No
Qualitative analysis The National Public Procurement and Asset Disposal Policy spells out guidelines to govern Public Procurement and Asset Disposal system in areas of procurement planning, procurement processing, inventory and asset management, disposal of assets and contract management geared towards achieving value for money and promote good governance in public procurement system. The National Treasury Strategic Plan for Year 2023 to 2027 Strategic Objective 3.3 provides for strengthening public procurement and asset disposal in the public sector. The PPRA Strategic Plan for Year 2023 to 2027 provides for an implementation and coordination framework, monitoring, evaluation and reporting framework and implementation matrix.
Gap analysis The assessment criterion is met.
Recommendations The National Public Procurement and Asset Disposal Policy, dated November 2020, is due to be reviewed.

Revisions should reflect the agreed findings and recommendations of the MAPS assessment and subsequently be reflected in corresponding amendments of the PPADA, the PPADR and related legal instruments as well as in the development of the institutional framework and the public procurement practices.
Assessment criterion 8(c)(d): Responsibilities are clearly defined.
Conclusion: No gap
Red flag: No
Qualitative analysis In order to support strategic policy making on procurement, the PPADA, Section 7 (2), mandates the National Treasury to (a) formulate, evaluate, promote and research on national and county public procurement and asset disposal policy and standards (b) develop policy guidelines for the efficient procurement management and disposal system for national executive (f) carry out general research, develop and promote electronic procurement strategies and policies in both the national and county governments including state corporations and other government agencies (g) carry out review of procurement and supply chain management system to assist procuring entities (h) develop and review policy on procurement of common user items in the public sector both at national and county government levels (i) develop policy on the administration of preference and reservations scheme and registration of target groups (k) develop and review policies and guidelines on the management of assets (l) issue guidelines to public entities with respect to procurement matters
Gap analysis The assessment criterion is met.
Recommendations No recommendations needed.

Pillar III. Public Procurement Operations and Market Practices

Indicator 9. Public procurement practices achieve stated objectives

Sub-indicator 9(a) **Planning**
Assessment criterion 9(a)(a): Needs analysis and market research guide a proactive identification of optimal procurement strategies.
Conclusion: Substantive gap
Red flag: No
Qualitative analysis The PPADA, Section 54 (2A), requires the head of the procurement function to carry out market surveys to inform the placing of orders or decision making on a procurement by the relevant awarding authority. The PPADR, Regulation 41, requires the procurement plan for each procuring entity to include, among other elements, a detailed breakdown of the goods, works, or services required as well as an estimate of the value of each package of goods, works or services required. The PPADA, Section 60, requires accounting officers to prepare specifications relating to the goods, works or services being procured that are clear, that give a correct and complete description of what is to be procured and that allow for fair and open competition among those who may wish to participate in the procurement process.
Gap analysis The PPADA, the PPADR and the various manuals issued frequently mention market knowledge and market prices as the basis for planning and preparing public procurement. However, references to market surveys in the legal framework are mainly made in the context of establishing market prices. There are no principles or procedures for researching the market in order to ensure that requirements set out in procurement documents not only match the underlying needs but can also reasonably be met by several competing tenderers. As a consequence, there is little scope for proactively identifying optimal procurement strategies, neither for meeting the general needs of the procuring entity nor for incorporation in individual tenders. In practice, for 46% of the contract files reviewed, a needs analysis was undertaken before the procurement process. This indicates that only a small majority of even just the major procuring entities are making efforts to align procurement activities with actual service or operational demands, which is a fundamental best practice in public procurement. Needs analysis is essential because it helps define the problems, determine whether procurement is necessary, and shape the most appropriate scope, specifications, and method for the contract. Proceeding without this step increases the risk of misaligned procurement, for example, acquiring goods or services that do not fully meet the intended purpose or, worse, are redundant or wasteful. Lack of needs assessment also weakens the justification for budget allocation and makes it harder to measure the contract's impact or value for money. Only 161 contract files (26%) had documented evidence of some market research having been conducted. In contrast, for 338 contracts (54%), no such research was undertaken, while the remaining 20% of the cases were unclear. The heads of procurement interviewed paint a similar picture: 41% of them stated having a system to conduct market survey to guide the decision on the method and establish market prices for goods and estimated cost of works and services, 27% had no such system, and the remaining 32% only partially had something of the kind in place. Planning and preparation of public procurement would normally benefit from the use of lists of registered suppliers. However, only 55% of the heads of procurement interviewed stated having a current, regularly updated and approved list of registered suppliers, with another 23% indicating partial application of this practice. Similarly, only 52% of them confirmed full publication on the entity’s website or notice board. While some level of needs assessment and market study may thus have been carried out, in nearly two thirds of cases, that information was either not leveraged or only loosely applied when choosing procurement methods or designing contract structures. The disconnect implies a procedural or institutional weakness;

either a lack of internal capacity to translate research into strategy or a lack of accountability mechanisms to enforce it.
Recommendations Require procuring entities to carry out needs analyses and market studies, ensuring that their results are documented, discussed, and reflected in decision-making about procurement design, evaluation criteria, and risk management. To this end, prepare and issue guidance materials on needs analysis and market consultations and their use for determining optimal procurement strategies and for preparing tender documents that incite effective competition for meeting the procurement needs, and provide corresponding capacity building.
Assessment criterion 9(a)(b): The requirements and desired outcomes of contracts are clearly defined.
Conclusion: Substantive gap
Red flag: No
Qualitative analysis The legal framework requires that all procurement processes clearly define the requirements and desired outcomes of contracts. This is to ensure that all parties involved understand their obligations and the expectations from the procurement activities. The PPADA, Sections 134-154, outlines preparations, contract creation, criteria for signing, contract responsibilities, publications, amendments, contract security, subcontracting, administration, monitoring and termination of contracts.
Gap analysis In practice, as evidenced in interviews with heads of procurement, preparation and creation of contracts is often done casually, without concern to detail as to the expected outcomes. There are gaps in ensuring that all contracts have clearly defined requirements and desired outcomes. This is because most contracts are prepared by the legal department, as opposed to procurement practitioners as required by law. This can lead to disputes and inefficiencies in the procurement process. In fact, among the contracts from 63 procuring entities reviewed by the MAPS assessors, no more than 65% were found to have requirements and desired outcomes clearly indicated. In the remaining cases, requirements were only partly defined (15%) or not clearly defined at all (15%). This being the situation in major procuring entities, it seems likely that the situation is less favourable in many smaller procuring entities with less administrative and technical resources. Any weaknesses in the contracts with respect to the definitions of requirements and desired outcomes are likely to make it difficult or impossible to enforce performance and thereby to achieve the objectives of the procurement at hand in a timely manner and with adequate economy, efficiency and transparency.
Recommendations Prepare and issue guidance materials on how to ensure consistency between the requirements in the tender documents, the criteria applied in the evaluation of tenders and their clear and complete reflection in the contracts to be signed, and provide corresponding capacity building. The e-procurement system should allow requirements and specifications to be easily carried over, as suitable, from the tender documents to the tenders to be prepared and submitted and from there to the contract concluded with the winning tenderer.
Assessment criterion 9(a)(c): Sustainability criteria, if any, are used in a balanced manner and in accordance with national priorities, to ensure value for money.
Conclusion: Substantive gap
Red flag: No

Qualitative analysis
The applicable regulations seek to foster sustainable consumption and production patterns. The PPADA, Section 60 (3), requires technical requirements to include, where appropriate, items like life cycle cost, socio-economic impacts and environmental effects. The tender documents listed in the Eighth Schedule of the PPADR intend to facilitate the corresponding use of sustainability criteria.

Gap analysis
Although sustainability is an official priority, the application of economic, environmental, and social criteria is not consistent across all procurement activities. In practice, the application of sustainability criteria is not fully understood by practitioners, hence a need for preparation of easily applicable criteria in the standard tender documents. There is also need for capacity building on the procedure for tender document preparation. More effort is needed to ensure these criteria are applied uniformly to achieve value for money and sustainable development.

In practice, it was only in 23% of the contract files reviewed that some sustainability criteria were confirmed to have been used during the procurement process. The overall finding here is that sustainability is not yet embedded as a standard requirement in procurement processes. This is a missed opportunity, particularly given the long-term costs and environmental implications of public spending.

An important reason for the low application of sustainability criteria may be found in the limited access to corresponding training. Among the 63 major procuring entities visited, 30% reported providing training on sustainable procurement. In the current circumstances, this may be a surprisingly high figure, but it also means that more than two thirds of the procuring entities had no such training for their staff. Without targeted training, procurement staff are less likely to incorporate sustainability considerations into specifications, supplier evaluations, or contract execution. This oversight represents a missed opportunity to leverage procurement as a tool for achieving broader development goals.

Recommendations
Prepare and issue guidance materials on the use of sustainability criteria in all phases of the procurement cycle, and provide corresponding capacity building.

Sub-indicator 9(b)
Selection and contracting

Assessment criterion 9(b)(a):
Multi-stage procedures are used in complex procurements to ensure that only qualified and eligible participants are included in the competitive process.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The PPADA and the PPADR contain requirements for using multi-stage approaches and suitably structured criteria to manage complex procurement processes. This includes prequalification (PPADA, Sections 93-95), usually combined with restricted tendering (PPADA, Section 102), where subsequent tendering is allowed only to those contractors who have adequate experience, capabilities and resources. Procurement plans for larger projects can be prepared on a multi-year basis and integrated into the medium-term budgetary expenditure frameworks.

Gap analysis
Multi-stage procurement procedures are not systematically applied in practice. Complex procurements frequently proceed without appropriate, case-specific prequalification. Monitoring of the application of these procedures is lacking. These gaps negatively affect the effectiveness and integrity of procurement practices in complex procurements.

While the regulations foresee the use of multi-stage procedures in certain cases, this is expressed in rather general terms and there is no systematic monitoring of the extent to which the regulations are appropriately applied. In practice, the use of two-stage tendering for complex procurements is limited to a few procuring entities while restricted tendering is done using a list of tenderers for which pre-qualification has been carried out annually. Prequalification for complex procurements is therefore not done on a case-by-case basis as required by law.

Available data indicate that less than half of the contracts in 'complex procurements' were concluded following multi-stage procedures in the 63 major procuring entities, even if these would be expected to have ample skills and resources to do so.

Recommendations
Add language to the PPADR and to procurement manuals and other guidance and training materials in order to clarify when multi-stage procedures may be appropriate and how the choices of the procuring entities in this respect should be made, recorded and applied. Include compliance with any such recommendations in the PPRA's monitoring of public procurement.

Assessment criterion 9(b)(b):
Clear and integrated procurement documents, standardised where possible and proportionate to the need, are used to encourage broad participation from potential competitors.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The PPADA and the PPADR include regulations intended to ensure proper management of procurement by requiring tender documents to provide bidders with adequate information, to be clear and accessible, to be standardised where possible to promote transparency and competition, as well as guidelines on the preparation and content of procurement documents, ensuring they are clear and integrated. The PPADR, Regulation 68, requires that standard tender documents envisaged under Sections 9(1)(f) and 70(1) of the PPADA, shall be developed by the PPRA for use by all procuring entities as set out in the Eighth Schedule. It now lists 20 standard tender documents as well as 21 other, complementary forms, including contracts. The PPRA has around 20 standard tender documents available on its website, for various procurement procedures and for certain types of goods, works and services.

Gap analysis
The standard documents on the PPRA website do not fully match those listed in the Eighth Schedule of the PPADR.

71% of the contract files reviewed by the MAPS assessors contained clear and proportionate tender documents. The presence of such documentation in three quarters of the files signals that, in more than a quarter of the cases, procurement teams are not taking care to prepare structured and complete tender materials.

Nevertheless, clarification requests were recorded in 27% of the total number of contract files. This rate of clarification activity opens up multiple interpretations. On the positive side, it could suggest that the tender documents were generally well-prepared, clear, and comprehensive, reducing the need for bidders to seek additional information. In such cases, high document quality streamlines the procurement process, saves time, and reduces back-and-forth communication. However, the data may also reflect potential weaknesses in bidder engagement or in the procurement environment's openness to feedback. In competitive procurement, especially for high-value or complex tenders, it is expected that bidders will seek clarifications to better understand the scope, requirements, evaluation criteria, or technical specifications. A lack of clarifications might indicate limited bidder confidence, poor communication channels, or a rigid process that discourages queries. Additionally, the 7% blank or unclear responses could point to incomplete documentation or poor record-keeping, which itself is a red flag for transparency and accountability. In environments where clarifications are not properly tracked or formally responded to, the risk of misinterpretation, disputes, or unfair evaluations increases.

Recommendations

Standardised templates, internal quality checks, and pre-tender reviews could help raise compliance, strengthening transparency and bidder confidence, thereby encouraging participation and making evaluation and award. To this end,

- prepare and issue any prescribed standard documents that may be missing and make them easily accessible
- revise their form and contents as appropriate in order to make them compatible with the e-procurement system now being developed, and make the e-procurement system able to handle them
- ensure that standard documents are regularly updated and complemented by more specific guidance for the preparation of requirements and specifications for a wider range of specific types of goods, works and services and for better reflecting sustainability requirements

For ease of reference, standard forms may be included in the respective standard tender documents rather than being listed in the Schedule.

Examine the reasons behind the low share of requests for clarifications and take action according to the findings.

Assessment criterion 9(b)(c):

Procurement methods are chosen, documented and justified in accordance with the purpose and in compliance with the legal framework.

Conclusion: Minor gap

Red flag: No

Qualitative analysis

The PPADA, Sections 91 and 92, and the PPADR outline the methods of procurement and require documentation and justification for the chosen method, in order to ensure compliance and transparency, and mandate that procuring entities record the reasons for choosing any other procedure than open tendering (PPADA, Section 68 (2) (b)). In practice, the required documentation is sometimes incomplete or not fully explicit.

For direct procurement, the PPADR, Regulation 90 (1) (a), requires a procuring entity to record the reasons upon which it decides that the relevant condition set out in the PPADA, Section 103, has been satisfied. In addition, Section 90 (1) (b) requires an accounting officer, within fourteen days after the notification of the award of the contract, to report any direct procurement of a value exceeding five hundred thousand shillings to the PPARB. However, there is no obligation to publicly disclose the basis for using a non-competitive procedure. Furthermore, the choice of a procurement method may not be appealed against. The combination of these provisions means that procuring entities may feel able to use less competitive procedures more freely and without actual need. This lowers competition, creates grounds for corruption and conflict of interest, and creates a possibility for misuse, whereby procuring entities may seek to use direct procurement in order to Favor a particular economic operator.

Gap analysis

Procuring entities may find it difficult to chose, document and justify the procurement method because of the wide range of possible procedures and a lack of skills in making the appropriate choice. In practice, the justification of procurement method should be captured in the professional opinion issued to the accounting officer by the head of procurement as a routine step in the process. However, many practitioners do not expressly give justification for the choice of method, thereby often leading to awards which were not competitively sourced.

Out of the contract files from the 63 major procuring entities, 74% were found to be chosen, documented and justified in full accordance with the intended purpose and the legal framework, while another 9% were at least partially so.

Recommendations

Prepare and issue guidance materials on the choice, justification and documentation of procurement procedures in the context of other aspects of procurement planning, and provide corresponding capacity building.

Introduce a legal obligation for procuring entities to disclose the basis for using a non-competitive procedure/direct procurement and allow the choice of procedure to be appealed against.

Assessment criterion 9(b)(d):

Procedures for bid submission, receipt and opening are clearly described in the procurement documents and complied with. This means, for instance, allowing bidders or their representatives to attend bid openings, and allowing civil society to monitor bid submission, receipt and opening, as prescribed.

Conclusion: Minor gap

Red flag: No

Qualitative analysis

The PPADA, Section 77, contains regulations related to bid submission and receipt. Procedures specific to particular procurement methods are detailed in the corresponding sections of the PPADA and the PPADR, with additional rules for the submission of e-tenders in the PPADR, Regulation 55. The instructions to tenderers in the tender documents give further details for application in each individual tender. In actual practice, these instructions are clear enough to serve their purpose and are generally applied by the procuring entities.

Opening of tenders is covered in the PPADA, Section 78, while further details regarding e-tenders are regulated in the PPADR, Regulation 57. The PPADA, Section 78 (4) states that those submitting tenders or their representatives may attend the opening; this seems to be interpreted as meaning that no other parties are allowed to be present.

The formalities of bid submission, receipt and opening are normally followed, according to information collected in the contract file reviews and in the interviews with the Heads of Procurement.

Gap analysis

Among the contract files from the 63 major procuring entities, in 76% of the cases, procedures for bid submission, receipt and opening were found to have been clearly described in the documents. The prescribed use of standard documents and the current, detailed reporting obligations imply that an even higher level of compliance should be expected.

Similarly, for 76% of the contract files, the stated procedures for bid submission, receipt and opening were found to have been fully complied with. Also here, an even higher level of compliance would be expected.

In both cases, incomplete compliance constitutes bad practice that could hide fraud and corruption, discourage fair and effective competition, and thereby increase the risk of not getting value for money. This area, while relatively strong compared to certain others in the dataset, must not be overlooked in reform efforts, as even a few unclear procedures can also lead to disputes, disqualifications, or legal challenges that undermine procurement outcomes.

Tenderers were recorded as having attended tender openings in 57% of the cases.

There are no provisions in the regulations specifically allowing civil society to monitor bid submission, receipt and opening other than through the review of corresponding documentation, once prepared and made public. Nevertheless, in practice, as stated by the heads of procurement interviewed, public participation in procurement oversight is to some extent possible at the opening of tenders, with 49% of entities fully allowing such observation and 21% stating a limited possibility. However, only 18% of the contract files had indications of citizen involvement in monitoring submission, receipt or opening of tenders.

Recommendations
As for several other, related shortcomings, strengthen capacity building, the use of standardised templates, and more rigorous quality checks and monitoring, both internally in each procuring entity and by supervisory authorities.

Review if and how civil society as well as any other interested party could appropriately be given opportunities to more directly and concurrently monitor bid submission, receipt and opening, and make corresponding recommendations for changes to policies and practices.

Assessment criterion 9(b)(e):
Throughout the bid evaluation and award process, confidentiality is ensured.

Conclusion: No gap

Red flag: No

Qualitative analysis
The applicable regulations put an emphasis on the importance of maintaining confidentiality during the evaluation of tenders, as detailed in, e.g., the PPADA, Section 67.

Gap analysis
No major gap seems to exist with respect to this assessment criterion.

Recommendations
While the assessment criterion may be met, the confidentiality clauses and their application should nevertheless be reviewed; it is possible that they may be too imprecise to serve their purpose and to help ensure their consistent application, or too restrictive with respect to the public interest in ensuring that public procurement is carried out with appropriate transparency and probity.

Assessment criterion 9(b)(f):
Appropriate techniques are applied, to determine best value for money based on the criteria stated in the procurement documents and to award the contract.

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis
Maximisation of value for money is one of the guiding principles for public procurement set out in the PPADA, Section 3, and is clearly implied in PPADA, Section 60 (3), which requires technical requirements to include, where appropriate and among other requirements, items like life cycle cost, socio-economic impacts and environmental effects, as well as fitness for purpose in terms of design, specification, functionality and performance.

Gap analysis
The review of contracts carried out by the MAPS assessment team has identified a number of cases when there is no or only weak evidence that procuring entities have actively and skilfully aimed to achieve value for money; in most cases, the purchase price has been the main award criterion, subject to tenders meeting the technical specifications. In turn, in the case of goods and works, these often mainly indicate the physical characteristics and quantities of the items to be procured, rather than their required performance in serving the purpose for which they are procured.

Recommendations
Intensify and expand capacity building for procuring entity staff with respect to ways and means for analysing needs, consulting the markets and setting requirements that can reasonably be expected to allow the needs to be met, and determining and applying corresponding selection and award criteria during the evaluation of tenders.

Assessment criterion 9(b)(g): Contract awards are announced as prescribed
Conclusion: Substantive gap
Red flag: No
Qualitative analysis Contract awards have to be published as set out in the PPADA, Section 138. It requires each procuring entity to publish its contracts awards on its own notice board and website, if any, "within a period as prescribed", and to report them to the PPRA, which in turn is required to publish them centrally. These contract awards can be found on the tenders.go.ke website. A similar provision is set out in the PPADR, Regulation 50. This requirement has also been repeated in the President's Executive Order No. 2 of 2018 to the effect that all contract awards must be published, including, among other details, the particulars of suppliers, such as owners, directors, and beneficial ownership.
Gap analysis Both the PPADA and the PPADR seem to lack a clear time limit for publishing contract awards. The contract awards information on the website includes the award date, the start date and the end date of the contracts but the date of publication is not indicated. A cursory review seems to indicate that many contracts are reported late, and it is difficult to judge to what extent the publication requirement is fully met.
Recommendations Set a clear time limit for the publication of contract awards, include the publication date in the information published, and monitor compliance. Consider setting timelines for award and contract signing and tying the contract effective date to the date of publication. Examine if and to what extent contract awards are not published, e.g., by measuring the average time taken to announce contract awards after decision and take measures as required by the findings.
Assessment criterion 9(b)(h): Contract clauses include sustainability considerations, where appropriate
Conclusion: Substantive gap
Red flag: No
Qualitative analysis The PPADA does not explicitly mandate sustainability clauses but allows for such considerations where appropriate. The standard conditions of contract included in the tender documents published by the PPRA do not seem to include any clauses with an explicit reference to sustainability, even if the standard tender documents listed in the Eighth Schedule of the PPADR allow the inclusion of some sustainability aspects among the evaluation criteria and in the instructions to tenderers. Sustainability considerations would therefore only be included in the contracts if and to the extent that they have been clearly set out in requirements and specifications and those have been met in the winning tender, and correspondingly incorporated in the contract. Such clauses have hardly been seen in any of the contracts reviewed by the MAPS assessment team.
Gap analysis The assessment criterion does not seem to be met. In the absence of compelling, workable requirements in the legislation and clear guidance on their application, few contracts include any sustainability considerations such as environmental safeguards, social equity, or long-term cost-effectiveness. Only 18% of the contracts reviewed were found to contain such clauses. This suggests that sustainability is not yet embedded as a standard feature in public procurement contracts, despite global and national commitments to sustainable development goals. This state of affairs could be attributed to a lack of standard templates, limited capacity among procurement officers, or low prioritisation of sustainability in sector-specific procurement. It may also

reflect a possible disconnect between policy-level sustainability ambitions and the operational details of setting requirements and evaluation criteria, applying them when evaluating tenders and preparing contracts and monitoring and enforcing performance during execution.

Recommendations
Procuring entities need clear guidance, sample clauses, and mandatory policy triggers that make sustainability a routine consideration, particularly in sectors like infrastructure, health or agriculture, where environmental and social impacts are significant. To this end, take steps to require sustainability considerations to be systematically included at all stages of the procurement cycle, so as to be suitably reflected in the obligations set out in the contract, and provide corresponding capacity building.

Assessment criterion 9(b)(i):
Contract clauses provide incentives for exceeding defined performance levels and disincentives for poor performance

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The PPADA does not specifically address the inclusion of performance incentives and disincentives in the contracts, although it allows for disincentives for poor performance in the form of seizure of the performance security (if issued), as per Sections 142 and 144, or termination of the contract, as per Section 153. The PPADR, Regulation 142, foresees the possibility of partial or provisional acceptance if the goods, works or services delivered do not fully meet the requirements, combined with an obligation for the contractor to remedy any defects or other deficiencies,

Gap analysis
The use of contract clauses for providing incentives for exceeding defined performance levels and disincentives for poor performance is not clearly regulated and little practised.

Recommendations
Examine the potential use of contract clauses for providing incentives for exceeding defined performance levels and disincentives for poor performance, with its advantages and disadvantages, and make corresponding recommendations as may be appropriate. Any such clauses would need to be based on corresponding requirements and evaluation criteria in the tender documents, and their proper application would require corresponding guidance and training.

Assessment criterion 9(b)(j):
The selection and award process is carried out effectively, efficiently and in a transparent way*

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The review of contracts carried out by the MAPS assessment team has found that the formal requirements for the selection and award process are usually met by the procuring entities.

Quantitative analysis

**Recommended quantitative indicators to substantiate assessment of sub-indicator 9(b) Assessment criterion (j):*
- *average time to procure goods, works and services: see next item.*
- *number of days between advertisement/solicitation and contract signature (for each procurement method used): data incomplete.*

- average number (and %) of bids that are responsive (for each procurement method used): average of 3.2 for 630 contract files; details incomplete. *- share of processes that have been conducted in full compliance with publication requirements (in %): 24%, as reported by the Heads of Procurement interviewed by the MAPS assessment team.* *- number (and %) of successful processes (successfully awarded; failed; cancelled; awarded within defined time frames): data incomplete.* *Source: Contract files from the 63 major procuring entities reviewed in some detail, except as otherwise indicated. Data from the vast number of smaller procuring entities is not available.*
Gap analysis A number of cases have been observed when the selection and award process has not been effective for ensuring that the outcome of the procurement matches the needs it was intended to meet. Qualification requirements are often excessive or unrelated to the needs in the individual case or incomplete or missing. Demonstrating compliance with them is cumbersome and procuring entities often lack the skills to apply them. Requirements and specifications for the items to be procured are often unclear, incomplete or biased and are often not matched by the corresponding evaluation criteria which, in turn, are incompletely or inappropriately applied. Formal requirements for the contents and presentation of tenders are often applied with excessive zeal, leading to the rejection of otherwise perfectly appropriate tenders. The process is administratively complicated both in theory, as required by the applicable regulations, and in practice, as carried out by the procuring entities, leading to low efficiency. The procedural complexity makes it difficult to achieve a meaningful level of transparency. Many procuring entities, especially smaller ones, lack the means to be suitably thorough in the planning, preparation and execution of public procurement and to comply with the very wide and detailed recording, reporting and publication requirements, further reducing effectiveness and transparency. The lack of comprehensive, reliable reporting by procuring entities makes it very difficult to put any meaningful figures to the quantitative indicators under this assessment criterion.
Recommendations Simplify the procurement procedures, expand capacity building, take steps to further professionalise public procurement, seek to reorganise procuring entities in ways that allows each of them to have better capacity of staff and more administrative resources, in combination with the introduction of comprehensive means for e-procurement.
Sub-indicator 9(c) **Contract management**
Assessment criterion 9(c)(a): Contracts are implemented in a timely manner.*
Conclusion: Substantive gap
Red flag: Yes
Qualitative analysis The PPADA, Section 152, mandates the preparation of monthly progress reports for all contracts, for submission to the accounting officer, as one of the means to ensure timely contract implementation. Section 151 adds specific contract management obligations for complex and specialised contracts. Contracts normally include a start date and an end date and may contain intermediate milestones or time schedules for the deliverables. Regulations 137-142 of the PPADR contain further requirements related to the timely implementation of contracts.
Quantitative analysis

Recommended quantitative indicator to substantiate assessment criterion (a): time overruns (in %): 14%; and average delay (in days): 14.

Source: Contract files from the 63 major procuring entities reviewed in some detail, except as otherwise indicated. Data from the vast number of smaller procuring entities is not available.

Gap analysis
The review of contracts carried out by the MAPS assessment team has found that the timeliness of contract implementation is a frequent problem. It appears to be caused by a wide range of factors, which may include unrealistic delivery schedules, insufficient skills and resources of the contractor, insufficient administrative skills and resources of the procuring entity, external factors such as availability of raw materials, components, support services or other inputs, to name just a few. Delays may also be caused by belated interim payments from the procuring entity, again for various reasons both within and outside the control of the entity.

Among the heads of procurement interviewed, no more than 33% reported that their contracts were implemented on time.

Recommendations
Prevent or minimise delays by providing further capacity building for procuring entities with focus on setting requirements and specifications that can reasonably be met by any of several competing tenderers, with regard both to the items to be procured and to the qualifications that a successful tenderer must have, making realistic assumptions about the time needed for production and delivery, setting delivery timetables or milestones for all contracts where delivery is not made in one go, monitoring deliveries and taking immediate action in case of shortages or delays, and ensuring that the procuring entity has the means to make payments and meet its other obligations on time.

Assessment criterion 9(c)(b):
Inspection, quality control, supervision of work and final acceptance of products is carried out.*

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The PPADA, Sections 150 and 151, regulates inspection, quality control, supervision of work and final acceptance of products. Further details are set out in the PPADR, Regulations 137-142. They contain good practice approaches to the topic, with emphasis on the specific needs in the management of complex or specialised contracts.

Quantitative analysis

Recommended quantitative indicator to substantiate assessment criterion (b): quality-control measures and final acceptance are carried out as stipulated in the contract (in %): 96%, but only as evidenced by the presence of 'goods received' notes in the contract files reviewed, while only 54% of the heads of procurement indicated that inspections, quality control, supervision of work and final acceptance of the product were systematically carried out.

Source: Contract files from the 63 major procuring entities reviewed in some detail as well as interviews with their heads of procurement. Data from the vast number of smaller procuring entities is not available.

Gap analysis

Core contract management functions, essential for procurement effectiveness, are not adequately performed. The majority of the procuring entities do not appear to consistently perform inspections, quality assurance or acceptance processes, nor to evaluate the outcomes of the procurement. Limitations in capacity, monitoring and record keeping prevent systematic compliance.

The applicable regulations seem to make a clear distinction between complex and specialised contracts, on the one hand, and all other contracts, on the other. Such a distinction may be unfortunate, as it is not entirely clear on what grounds a contract would fall in one or the other category and many approaches now explicitly required only in the former case would often be useful also in the latter case. The findings of the contract reviews indicate that procuring entities frequently lack the skills and resources for effective and efficient inspection, quality control, supervision of work and final acceptance of products.

Among the 63 major procuring entities visited, 85% of the heads of procurement interviewed confirmed that they have processes to certify the receipt of goods and services, indicating a certain gap in the actual practices. A smaller share (54%) confirmed that inspections, quality assurance, and acceptance processes were actually conducted for delivered goods, works, or services, with another 25% indicating that this was partially done.

On the other hand, only 40% reported generating feedback reports that compare planned versus actual procurement performance; see further the gap analysis under assessment criterion 4(a)(c).

As a result, there is a considerable risk that contracts are not being fully implemented or to lower standards than required, creating significant further risks to value for money, accountability and legal compliance.

Also, while 32% reported having procurement statistics related to contract performance as well as a system to measure and improve procurement practices, the remainder either lacked such data or had only partial access. This limits their ability to analyse trends, address recurring issues, or improve procurement outcomes over time. Even more concerning is that only 38% reported having complete and accessible contract management records. Without comprehensive files, entities risk losing critical information needed for audits, performance evaluations, and legal compliance.

To sum up:

- the gaps concern core contract management functions essential for procurement effectiveness
- the majority of the procuring entities are not consistently performing inspections, quality assurance or acceptance processes
- capacity, monitoring and record keeping limitations prevent systematic compliance
- the gaps create significant risks to value for money, accountability and legal compliance affecting the integrity of the procurement system

Addressing this will require strengthened institutional capacity, mandatory procedures, better record keeping and systematic performance monitoring across all procuring entities.

Recommendations

Revise the regulatory provisions for inspection, quality control, supervision of work and final acceptance of products in order to make them more universally applicable, complement them by issuing guidelines and best practice examples, deliver corresponding capacity building, and monitor compliance. Issue regulations for harmonising the contents and the issue of certificates.

Cf. recommendations under 1(i)(a).

Assessment criterion 9(c)(c):

Invoices are examined, time limits for payments comply with good international practices, and payments are processed as stipulated in the contract.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
According to the PPADA, Section 176, delaying "payment of contractors beyond contractual period and contractual performance obligations" is an offence. The PPADR, Regulation 150 (1) requires procuring entities to make payments within 60 days in the general case and to make "prompt payments for all performed contracts including enterprises owned by youth, women or persons with disabilities". Regulation 150 (4) obliges procuring entities to "submit a quarterly payment performance statistics to the National Treasury and the Authority demonstrating compliance with the obligation to pay invoices within sixty days for publication". Regulation 139 (4) and (5) requires the procuring entity to pay interest on overdue amounts in accordance with the prevailing commercial bank rates.

Complementing the PPADA and the PPADR, several versions of a Prompt Payment Bill have been submitted to Parliament for review and adoption in recent years, with the maximum time for payment set to 90 days unless otherwise indicated in the contract.

Quantitative analysis

Recommended quantitative indicator to substantiate assessment criterion (c): invoices for procurement of goods, works and services are paid on time (in % of total number of invoices): 46% of the heads of procurement indicated that invoices were examined, time limits for payments complied with good international practices, and payments were processed as stipulated in the contract. On the other hand, 92% of the respondents in the private sector survey stated that invoices were not paid on time as required by the contract.
Source: As mentioned. Data from the vast number of smaller procuring entities is not available.

Gap analysis
Delayed payments due to administrative bottlenecks remain a challenge. Delays in the publication and review process are occasionally reported, affecting transparency and efficiency. As observed during the MAPS assessment team's contract reviews and further detailed in the quantitative analysis, actual payments are often late. Delays in payment processing can stem from issues like poor budget execution, delays in invoice approval, or lack of co-ordination between procurement and finance departments. These delays can damage the entity's reputation, discourage competition, and even expose the Government to legal or penalty risks from aggrieved suppliers. For any supplier, and particularly smaller ones and those owned by youth, women or persons with disabilities, undue delays in receiving payments create problems that are not at all sufficiently mitigated by paying interest on overdue amounts and may make it impossible to continue delivering items under the contract or even to simply stay afloat as a business, thereby depriving the procuring entities of a potential, future supplier.

However, since the obligation to provide quarterly payment performance statistics to the National Treasury and the Authority demonstrating compliance with the obligation to pay invoices within sixty days is rarely met, evidence on the actual payment delays is scarce and uncertain.

Among the heads of procurement interviewed, no more than 76% indicated that they consistently adhered to agreed payment timelines and conditions.

Good international practice would require much shorter time limits for payments than the current 60 days.

See also the gap analyses under 4(a)(b), 4(b)(a), 4(b)(b) and 9(c)(c).

Recommendations
Consider reducing the time limit for payments to no more than 30 days. Correspondingly, amend the obligation to provide quarterly payment performance statistics to the National Treasury and the Authority to demonstrate compliance with the obligation to pay within 30 days or the time limit set out in the contract,

whichever is shorter. Enforce the obligation, analyse the excessive payment delays likely to be observed, and take action to address their causes.

See also the recommendations under 4(a)(b), 4(b)(a), 4(b)(b) and 9(c)(c).

Assessment criterion 9(c)(d):
Contract amendments are reviewed, issued and published in a timely manner.*

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis
Contract amendments are regulated in the PPADA, Section 139, which sets limits to the nature and extent of any amendments and requires separate, new tendering if a variation would exceed 25%. It also requires quarterly reporting of all varied or amended contracts to the PPRA. Further instructions are provided in the PPADR, Regulation 132.

Quantitative analysis

Recommended quantitative indicator to substantiate assessment criterion (d): contract amendments (in % of total number of contracts): 44%; average increase of contract value (in %): 1%.
Source: Sample of procurement cases.

Gap analysis
The review of contracts by the MAPS assessment team has found a number of cases when contract amendments and variations have not been duly justified or not properly reported.

Inputs from the construction industry indicate that the possibility to increase the value of a works contract by up to 25% is often abused, to the detriment both of the procuring entity and to losing tenderers who may have been able to carry out the contract on time and on budget, although at a slightly higher initial price.

The Public Procurement Information Portal allows contracts to be identified by amendment status (amended or not) but no details about the nature and extent of the amendments are directly accessible. This makes it very difficult to identify and analyse cases of unwarranted amendments and, in general, to ensure fair and consistent enforcement of procurement contracts. The apparent lack of transparency creates a risk that bad practices can remain hidden or even become incentivised.

The rules on contract amendments in public procurement have to be harmonised with corresponding provisions in other applicable laws and regulations.

See also criterion 1(i)(b).

Recommendations
Revise the regulations covering contract amendments and variations for greater consistency and completeness. Improve the standard of preparations to eliminate or at least reduce the risk of scope creep. Enhance the use of prequalification and give tenderers ample time to prepare complete, responsive and competitive tenders. Amend contract conditions, both in the general and in the individual case, to limit the possibilities to amend or vary contracts, e.g. by including an amount for contingencies in the form of unforeseen or unforeseeable events or changes in conditions (as opposed to requirements), to be used only if such events or changes actually occur. Complement the reporting obligations with corresponding publication of the nature and extent of the amendments as well as the reasons behind them. Enforce compliance with the reporting requirements, monitor and analyse amendments made and take corresponding action as appropriate.

Assessment criterion 9(c)(e):
Procurement statistics are available and a system is in place to measure and improve procurement practices.

Conclusion: Substantive gap
Red flag: No
Qualitative analysis Procurement statistics are prepared and published by the PPRA in its regular reports, based on data submitted by procuring entities in accordance with the obligations set out in the PPADA, the PPADR and other applicable regulations. This data is also analysed to serve as an evidence basis for improvements to the public procurement system. However, the availability and accessibility of comprehensive, up-to-date procurement data can be improved to enhance accountability and performance tracking. As a complement to the collection and analysis of statistical data, the PPRA organises consultations with public procurement participants as a means to measure and improve procurement practices.
Gap analysis The data set accessible to the occasional, external user is limited. Data is incomplete and skewed because of partial, erroneous, missing or delayed reports from many procuring entities. As a result, the information available is not well representative of the actual situation in public procurement. Instances of lost, incomplete or poorly maintained records in procuring entities have been reported, which hampers effective monitoring and evaluation. Gaps with respect to statistics and systems for improving practices at the level of procuring entities are covered under assessment criterion 9 (c) (b) above.
Recommendations Review the precision, validity and reliability of the procurement statistics available and seek to take measures for compensating any deficiencies, in order for the evidence basis for reforms to become more solid. Use alternative means for collecting information, analyse any inconsistencies between the different means used, and revise the approaches for data collection and analysis accordingly. Ensure that the new e-procurement system helps generate comprehensive, reliable data.
Assessment criterion 9(c)(f): Opportunities for direct involvement of relevant external stakeholders in public procurement are utilised.*
Conclusion: Substantive gap
Red flag: No
Qualitative analysis In the legal framework for public procurement, there are no explicit provisions giving the right to external stakeholders, such as civil society representatives, to be directly involved in the processes and procedures used during any of the phases of the procurement cycle. In several cases, such as tender opening and lodging of complaints, only participating tenderers are given a right of involvement. At the same time, as allowed by the PPADA in Section 92 (1) (m), the PPADR has introduced community participation as a procurement approach, set out in Regulation 108. It involves the participation of the beneficiary community in the delivery of services, either directly or through the appointment of community-based service providers. In the general case, there are provisions regulating the possibilities for citizens to be involved in public affairs in various ways. However, it is not clear if, in what way and to what extent these may apply to the specific characteristics of public procurement.
Quantitative analysis *Recommended quantitative indicator to substantiate assessment criterion (f): percentage of contracts with direct involvement of civil society: planning phase: 13%; bid/proposal opening: 18%; evaluation and contract award, as permitted: participation allowed for 12% of the contracts, no data on actual participation; contract*

implementation: 44% fully, 24% partly, 32% not at all (percentages reported by the heads of procurement interviewed).
Source: Contract files from the 63 major procuring entities reviewed in some detail, except where otherwise indicated. Data from the vast number of smaller procuring entities is not available.

Gap analysis
There are no specific opportunities for direct involvement of relevant external stakeholders in public procurement, and it is not clear how other, general provisions for citizen participation may apply in public procurement. There is also no clear evidence of the usefulness or otherwise of the current approaches for community participation. In fact,

- the procurement system does not provide clear opportunities for direct stakeholder involvement as required
- general provisions for citizen participation do not adequately cover procurement, creating an implementation void
- the gaps directly affect transparency, accountability and responsiveness which are central to effective public procurement

These gaps should be possible to address by requiring explicit regulatory mechanisms, structured engagement processes and guidance on stakeholder roles and responsibilities.

Recommendations
Clarify, as appropriate, the rights or the limits to participation by external stakeholders in public procurement, in particular for determining how any general provisions for citizen participation may apply.

Examine how community participation works in practice and whether and how it meets its objectives, or not, and for what reasons.

See also assessment criteria 11(c)(a) and 11(c)(b).

Assessment criterion 9(c)(g):
The records are complete and accurate, and easily accessible in a single file.*

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis
Proper documentation of procurement and contract management is fundamental to transparency, accountability and institutional learning at the level of each individual procuring entity, and for creating a reliable evidence base for the development of policies and practices. The PPADA, Section 68, requires complete, accurate, and accessible procurement records, ideally maintained in a single file. These records are crucial for audits and performance reviews. The PPADR, Regulation 66, provides further requirements concerning the format and contents of procurement records. While simplified requirements apply to small value procurement, a complete set of records for a regular open tender may contain some three dozen items, already before including those generated during contract implementation.

There is a circular currently in effect that mandates procuring entities to appoint an officer specifically responsible for managing procurement records.

Quantitative analysis

*// Minimum indicator // * Quantitative indicators to substantiate assessment of sub-indicator 9(c) Assessment criterion (g):*
- share of contracts with complete and accurate records and databases (in %): 32%.

Source: Data collected from Heads of Procurement interviewed by the MAPS assessment team

Gap analysis

Instances of lost, incomplete or poorly maintained records have been reported, which hampers effective monitoring and evaluation. The contract reviews by the MAPS assessment team have revealed cases of incomplete, missing, spread out or inaccessible procurement records. Physical records are not always kept in a single file, so only those actually submitted to the PPRA are accessible in one place (the PPIP) for each procurement. In fact, all contracts plus relevant supporting documents for each contract should be uploaded in the Public Procurement Information Portal (PPIP) as required by PPRA Circular No. 04/2022 and PPRA Circular No. 05/2022. However, not all of them are, as evidenced in the PPRA's list of non-compliant procuring entities in fiscal year 2023-24.

This being said, unless and until a well functioning e-procurement system is in place, the number of records to be prepared and submitted for each transaction create a considerable administrative burden for small procuring entities with limited resources. Even among the 63 major procuring entities visited, only 32% of the heads of procurement interviewed reported maintaining complete contract files, while no more than 49% indicated that procurement records are readily available when needed. The fact that so many entities face accessibility challenges may point to poor organisation, inadequate archiving systems, or over-reliance on paper-based records which may be difficult to handle.

Regarding the obligation for procurement records to be securely stored for a minimum of six years, just 52% of the respondents affirmed full compliance with this requirement. Only 35% of the respondents indicated that there is a clearly assigned officer responsible for managing procurement and contract documentation. The low level of compliance could then stem from inadequate physical storage facilities, lack of secure digital repositories, or weak internal enforcement of archiving policies.

Record keeping in public procurement would need to be harmonised with rules and practices for record keeping in other fields of public administration.

Recommendations

Review, revise and complement the regulations on record keeping and reporting, harmonising them with rules and practices for record keeping in other fields of public administration. Ensure that the further introduction of e-procurement is used to make record keeping and reporting simpler, easier and more reliable, while facilitating identification and access to relevant records for various purposes.

Monitor the observation of record keeping obligations and enforce compliance.

Indicator 10. The public procurement market is fully functional

Sub-indicator 10(a)
Dialogue and partnerships between public and private sector

Assessment criterion 10(a)(a):

The government encourages open dialogue with the private sector. Several established and formal mechanisms are available for open dialogue through associations or other means, including a transparent and consultative process when formulating changes to the public procurement system. The dialogue follows the applicable ethics and integrity rules of the government.*

Conclusion: Minor gap

Red flag: No

Qualitative analysis

The PPADA, Section 179, requires the National Treasury to convene consultations with external stakeholders at least once a year, without further details, and a set procedure for conducting such a consultative meeting. The PPRA organises regular meetings for heads of procurement and sets up ad-hoc meetings with other interested parties. In addition, training events are used to collect information from participants about their views and suggestions regarding the functioning of the public procurement system.

The general provisions on public consultations about changes to laws and regulations are applied also to public procurement.

Quantitative analysis

** Recommended quantitative indicator to substantiate assessment of sub-indicator 10(a) Assessment criterion (a):*
- perception of openness and effectiveness in engaging with the private sector (in % of responses): 35% ("fully") and 40% ("partly").
Source: Data collected from Heads of Procurement interviewed by the MAPS assessment team.

Gap analysis
It is not abundantly clear if and to what extent all changes in procurement regulations are subject to prior consultations and communicated clearly and the feedback process is well-documented and duly acted upon. While mechanisms exist, there may be a need to increase the frequency and inclusiveness of consultations to ensure all relevant stakeholders have a voice. Among the heads of procurement interviewed in the 63 major procuring entities visited by the MAPS assessors, only 35% felt that the public sector is open and effective in its dealings with suppliers, but a sizable 40% only partially agreed and the rest outright disagreed. The perceptions in the private sector are somewhat more favourable, with about half of the respondents in the private sector survey indicating that the Government always or mostly communicates on changes to the public procurement framework and that they are always or mostly able to follow these changes. On the other hand, only a quarter of the respondents stated that they were aware of any Government-organised procurement training programmes.

There is no evidence of any prescribed procedure for conducting a consultative meeting, required by the PPADA, Section 179 (2).

The weaknesses in the effective engagement of the private sector are likely to deprive procurement entities of the benefits of strong participation and fair competition and fail to raise the level of trust in the public procurement system.

Recommendations
Develop a more detailed and specific policy for stakeholder consultations on public procurement, reflecting the requirements implied by the assessment criterion. Prepare and issue a standard procedure for conducting a consultative meeting.

Set up a consultation mechanism between, at least, the National Treasury, PPRA and KISM for harmonising the approach and the contributions to activities and events like the Heads of Procurement and Supply Chain Forum and corresponding private sector events. Develop the opportunities for joint participation by all public procurement stakeholders in consultative activities and events.

Assessment criterion 10(a)(b):
The government has programmes to help build capacity among private companies, including for small businesses and training to help new entries into the public procurement marketplace.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The PPADA, Section 9 (1) (ra), requires the PPRA to "develop, promote and support the training and capacity development of persons involved in procurement and asset disposal". The expression "persons involved"

could be taken to imply an obligation to include also the supply side (in particular, prospective tenderers) in training and capacity building organised or delivered by the PPRA.

As a complement, the KISM provides public procurement related information and training to both its public and its private sector members, around 10’000 persons in total.

At a more general level, the Kenyan government has initiated various programs to build capacity among private companies, especially small and medium enterprises. For example, the proposed Public Procurement Capacity Building Levy Order, 2023, seeks to introduce a levy that would fund training and development programs for suppliers engaged in public procurement. This initiative is part of a broader effort to ensure that all businesses, including SMEs, have the necessary skills and knowledge to participate effectively in public procurement.

The PPADA, Section 157, sets out a number of measures intended to help Kenyan participants, especially disadvantaged groups, to more successfully enter the public procurement market. According to Section 157(4), these measures apply to groups like women, youth and persons with disabilities, to micro, small and medium enterprises, to defined categories of works, services and goods, to identified regions and to such other categories as may be prescribed.

Section 157 (5) and (10) require disadvantaged groups (more specifically, women, youth and persons with disabilities) to access no less than 30% of the Government procurement opportunities. Section (8) calls for exclusive preferences to be given to citizens of Kenya for publicly funded contracts below a threshold amount. In addition, Section 157 (9), mandates the inclusion in the tender documents issued by a procuring entity of a requirement that all foreign tenderers must source at least 40% of their supplies from persons or firms wholly owned and controlled by persons who are citizens of Kenya.

Further details are set out in the PPADR, Regulations 143-149. As a particular case, Regulation 40(5) requires a procuring entity of a county government to set aside at least 20% of its procurement budget for preferences and reservations for resident tenderers.

As a complement, The National Treasury and the PPRA have issued directives in the form of circulars to Accounting Officers on implementation requirements as part of the operationalisation of preferences and reservations. Further, the two institutions have continued to build the capacity of procuring entities and suppliers to enhance uptake the programme.

In practice, the legal requirement for the various preferences under Section 157 to be applied is being implemented by the individual procuring entities, which have to submit corresponding reports to the PPRA (PPADA, Section 157 (12-14). On the basis of the information received from the procuring entities, the PPRA prepares semi-annual reports to Parliament. There, they are reviewed by the committee responsible for equalisation of opportunities for youth, women and persons with disabilities. These are supposed to be be published on the Parliament’s website, where the latest one found is for January-June 2022. Headline figures can nevertheless be found in e.g. table 18.6 in the Economic Survey 2025 published by the Kenya National Bureau of Statistics, based on data from the PPRA and the National Treasury.

The PPADA, Section 157 (17), states that the National Treasury shall operationalise a preference and reservations secretariat which shall be responsible for registration, prequalification and certification; training and capacity building; providing technical and advisory assistance to procuring entities; and monitoring and evaluating the implementation of the preferences and reservations under the PPADA. Its aim is to facilitate the youth, women and persons with disabilities owned enterprises to be able to participate in government procurement. The Access to Government Procurement Opportunities (AGPO) scheme now serves to register beneficiaries of the preference and reservations schemes, in the first place women, youth and persons with disabilities. The other mandates indicated in Section 157 (17) are still being implemented by the AGPO unit in the Public Procurement Department of the National Treasury.

Among the 63 heads of procurement interviewed, 49% confirmed that they conduct meetings, dialogue and training of business firms, aimed at promoting their participation in public tenders, while another 21% indicated that they do so partially.

Gap analysis
Capacity building among private companies in order to help them participate in public procurement is less developed than corresponding measures for procuring entities and their staff.

Support for participation in public procurement by small and micro enterprises and other disadvantaged groups, citizen contractors, women, youth, persons with disabilities, minorities and marginalised groups now comes in the form of preference and reservations schemes, instead of measures to raise their knowledge and skills, facilitate their access to financing and to advisory support and address any other needs, and thereby to increase their ability to more successfully compete not only in the public procurement market but also in the broader economy.

To some extent, preference and reservations schemes limit competition, thereby reducing value for money for the procuring entity. They also come with administrative costs which are likely to be considerable, as the great complexity of the requirements in the PPADA and the PPADR require considerable efforts not only to apply them but also to verify and demonstrate compliance. There is little evidence whether the schemes meet their objectives and even less whether the benefits outweigh the costs. The only specific reports on their implementation seem to be the ones prepared by the PPRA on the use of preferences and reservations for women, youth and people with disabilities. However, these do not become public unless and until they are published by Parliament, currently with considerable delay.

Apart from the registration, prequalification and certification services provided by the AGPO, there is not yet any dedicated entity in place for providing the other services of the “Preference and Reservations Secretariat”. The PPRA’s report to Parliament for the period January-June 2025 on the application of the preferences and reservations for disadvantaged groups, submitted in September 2025 but not yet published, identifies a number of issues which remain similar to the state of affairs presented in earlier periods:

- only 196 procuring entities submitted reports; the vast majority of procuring entities have persistently failed to submit reports to the PPRA as required by the PPADA and this state of affairs is pronounced across all categories of procuring entities
- a number of the 196 procuring entities reserved less than the required minimum of 30% of their annual procurement budget for the preference and reservations scheme; while the reservation policy is being factored into procurement planning as required by PPDA, the actual implementation remains far below expectations
- persons with disabilities were awarded the least contracts, by number and value, by all the procuring entities that reported, with some of these not awarding any contracts at all to this target group

Recommendations
Revise approaches and contents of public procurement training to make it more useful also for private sector entities, and encourage their participation. Complement such public procurement related capacity building by making procedures and related formal requirements simpler and more understandable and easier to comply with.

Ensure that business opportunities in public procurement are duly reflected in more general schemes of, e.g., SME support and industrial and regional development aimed at improving enterprise competitiveness and raising the level of participation of individuals and firms in the economy.

On the PPRA website, publish the reports on the use of preferences and reservations for women, youth and people with disabilities as soon as they are prepared and submitted to Parliament for its consideration. Prepare and publish specific reports on the other forms of preferences and reservations, preferably covering not only the level of compliance with the obligation to apply them but also the cost of compliance and their benefits.

Evaluate whether, to what extent and for what reasons the preference and reservations schemes meet their ultimate objectives, such as providing employment opportunities for disadvantaged groups and helping them successfully enter and remain in the market economy, developing the local and national supplier base, and allowing procuring entities to meet their needs for goods, works and services, and whether these schemes could usefully be complemented or replaced by other forms of targeted support or other interventions. Determine the actual administrative costs for fully applying them and the scope for facilitating their implementation, and quantify their benefits. Based on the evidence so collected, consider restructuring or replacing the schemes as may be appropriate. As a complement, examine the underlying reasons why procuring entities fail to award contracts under the schemes, even when they have been budgeted, looking at both the supply and the demand sides of the public procurement market, and take steps to facilitate their application and monitoring. Operationalise the "Preference and Reservations Secretariat" accordingly.

Sub-indicator 10(b)
Private sector's organisation and access to the public procurement market

Assessment criterion 10(b)(a):
The private sector is competitive, well-organised, willing and able to participate in the competition for public procurement contracts.*

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis
The part of the private sector composed by established enterprises is well organised, with a number of associations representing the interests of their members. Compared with neighbouring countries, the economy is relatively diversified, offering a potential to meet many public procurement needs from domestic sources. However, competition in the public procurement market is limited in practice.

The answers by the 63 heads of procurement interviewed indicate that 86% of the total number of contracts awarded went to domestic firms. However, the average value of contracts issued to domestic firms was KES 1,071,511, with a maximum of KES 8,951,974, while the average value of contracts issued to foreign firms was much higher, KES 4,050,000, with a maximum of KES 171,510,095.

Quantitative analysis

** Recommended quantitative indicator to substantiate assessment of sub-indicator 10(b) Assessment criterion (a):*
• number of registered suppliers as a share of total number of suppliers in the country (in %): data not available; however, please note the figures reported under assessment criterion 1(b)(b).
• share of registered suppliers that are participants and awarded contracts (in % of total number of registered suppliers): 6%, based on inputs from the heads of procurement interviewed.
• total number and value of contracts awarded to domestic/foreign firms (and in % of total): 86% to domestic firms, 14% to foreign ones, by numbers, as stated by the heads of procurement interviewed.
Figures are not available from the suggested source: E-Procurement system/Supplier Database.

Gap analysis
Because of the lack of complete, reliable data, it is difficult to analyse to what extent and for what reasons the private sector is competitive as well as willing and able to participate in public procurement. Already an elementary measure like the level of participation, expressed as the number of tenders received per procurement operation, is difficult to determine with any level of certainty.

The informal sector constitutes a quite important part of the national economy, particularly in rural areas. Here, the possibilities to effectively participate in the formal procedures of public procurement remain very limited.

On the demand side, procuring entities were asked to assess the overall competitiveness of the supply market. No more than about 41% of the heads of procurement interviewed found that the level of competition was sufficient to achieve value for money. This suggests that in many areas, multiple suppliers are actively bidding and offering competitive prices. However, this is the situation of the 63 major procuring entities visited; smaller ones are likely to have different views. Further, 37% of respondents only partially agreed, and 22% felt that competition was lacking entirely. These perceptions may be tied to sector-specific challenges, such as monopolies, geographic limitations, or lack of supplier diversity.

In terms of the quality and range of goods, works, and services available, well less than half (41%) of the heads of procurement stated that their procurement needs were adequately met by the supply market. 24% of respondents indicated no satisfaction with market offerings, hinting at unmet needs in, e.g., specialised or high-standard service delivery.

Regarding the quantitative indicators under this assessment criterion, the first two presuppose the existence of an e-procurement system where potential tenders can register themselves in order to facilitate or enable participation in public procurement. However, in the absence of such a country-wide system, no valid figures can be indicated. At present, those interested in participating can register with individual procuring entities for the purpose of receiving requests for quotations but only a small share of the suppliers are making use of this possibility. Another form of registration is that required for the purpose of benefitting from the preferences given to disadvantaged groups, such as youth and women. However, also here, the share of those registered among those potentially eligible is small.

Kenyan suppliers benefit from certain preferences available to foreign companies only under certain conditions. However, corresponding public procurement data is not readily available.

Recommendations

Determine ways to collect and analyse data that would make it possible to assess the level of competition and the willingness and ability of the private sector to participate in public procurement; carry out such assessments; and design and carry out actions on the basis of the findings.

Incorporate public procurement related considerations in efforts to structure the informal sector and raise its competitiveness.

Expand co-operation between the public procurement authorities and the trade associations in order to raise enterprises' awareness of the public procurement market and facilitate their access to it. Conversely, this measure would also serve to raise knowledge and understanding among public procurement authorities, in particular contracting entities, of the opportunities and the limitations for the private sector to participate in public procurement in ways that benefit all parties concerned.

See also assessment criterion 7(b)(d).

Assessment criterion 10(b)(b):

There are no major systemic constraints inhibiting private sector access to the public procurement market.

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis

Already the long-term policy framework for public procurement of 2009 noted a number of shortcomings, most of which still, to some extent, constitute disincentives to private sector participation in public procurement. Key systemic constraints such as bureaucratic inefficiencies and lack of transparency inhibit private sector access to public procurement markets. Complicated and administratively demanding procurement processes and insufficient information for potential bidders form specific barriers to access. While PPRA strives to ensure transparency and fairness, systemic issues such as bureaucratic red tape, lack of awareness of opportunities, and inconsistencies in applying procurement laws create difficulties. The challenges particularly affect SMEs and new entrants into the market, limiting their access to public procurement opportunities.

Quantitative analysis

** Recommended quantitative indicator to substantiate assessment of sub-indicator 10(b) Assessment criterion (b):*
- perception of firms on the appropriateness of conditions in the public procurement market (in % of responses): 36% indicating that none of ten conditions for facilitating private sector access to the public procurement market was met.
Source: private sector survey.

Gap analysis
In addition to the general shortcomings just mentioned, persistent delays in payments from public entities remain a major constraint, affecting the cash flow of suppliers, particularly SMEs, thereby reducing their competitiveness, sometimes even threatening their existence, discouraging them from participating in public procurement, and creating incentives for fraud and corruption in the form of "facilitation" payments for getting invoices paid quicker. Limited access to affordable financing options for SMEs constrains their ability to participate in large-scale tenders. Complex and time-consuming procurement procedures can discourage participation from smaller firms and new entrants, who may lack the resources to navigate these processes efficiently.

Among the respondents to the private sector survey, 36% stated that none of the expected enabling conditions are met. Several barriers were cited, including non-transparent tender evaluation processes, unresolved contract disputes, systemic payment delays, and contractual terms that disproportionately expose suppliers to risk. These challenges not only deter participation but also increase the cost of doing business with government entities, reducing supplier motivation to engage repeatedly in public procurement.

Recommendations
Eliminate delays in the payment of invoices from suppliers and contractors. Other systemic constraints within the public procurement system would need to be addressed by simplifying and clarifying procedures, carrying out information and training, and making the procurement process more transparent through the expansion of e-procurement functions. Several enabling conditions for improved participation in public procurement would have to be created by measures outside the public procurement system, such as access to financing, among many others.

Sub-indicator 10(c)
Key sectors and sector strategies

Assessment criterion 10(c)(a):
Key sectors associated with the public procurement market are identified by the government.

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis
It is not clear whether any other national policy or report or the like has specifically identified and analysed the sectors associated with the public procurement market.

Gap analysis
The National Public Procurement and Asset Disposal Policy of 2020 hardly mentions the public procurement markets, neither on the demand side (needs of procuring entities) nor on the supply side (sectors of the economy offering goods, works and services to meet those needs).

While key sectors may have been identified in the general context of economic development policy, there is sometimes inconsistency in prioritisation across different government agencies and regions. This can lead to

inefficiencies in resource allocation and missed opportunities for strategic investments. In addition, comprehensive strategies that align procurement with broader economic and social objectives are often lacking. This results in fragmented efforts that do not fully leverage the potential of public procurement as a tool for national development and limits the supply of items for meeting public procurement needs.
Recommendations Policies for development of trade and industry, support to SMEs and to innovation, regional development, education and training in business related fields should be reviewed with respect to their relevance for public procurement and revised accordingly, as may be needed. The national public procurement policy should be complemented by an overview of both the demand and the supply sides of the public procurement market and an analysis of how and in what ways public procurement may be dovetailed with and contribute to development policies in other fields, as just mentioned.
Assessment criterion 10(c)(b): Risks associated with certain sectors and opportunities to influence sector markets are assessed by the government, and sector market participants are engaged in support of procurement policy objectives.
Conclusion: Substantive gap
Red flag: Yes
Qualitative analysis There is little evidence of government level assessments or policies where public procurement related considerations of risks and opportunities are fully integrated with other policy considerations regarding the status and the development options for this or that sector of the economy. Risk management strategies and approaches in public procurement are regulated with respect to the situation of individual contracts, rather than to the general situation of any particular sector. While certain systemic risks are identified at the national level, the implementation of effective risk mitigation strategies is often weak. Corruption remains a significant challenge, with limited success in curbing it despite various initiatives. This affects the overall efficiency and integrity of the procurement process. Sector market participants are engaged in support of procurement policy objectives within the context of the regular and ad-hoc consultations with the private sector organised by the PPRA, as well as through inputs from trade associations and the like during public consultations on new or amended laws and regulations.
Gap analysis Assessments of risks associated with certain sectors and opportunities to influence sector markets appear to be missing and the level of engagement of sector market participants in support of procurement policy objectives has room for improvement. Although some general, systemic risks are identified, the implementation of effective risk mitigation strategies is often weak. Corruption remains a significant challenge, with limited success in curbing it despite various initiatives. This affects the overall efficiency and integrity of the procurement process. The engagement with sector market participants is often superficial, with consultations and forums sometimes not translating into actionable outcomes. There is also a tendency to focus on large, established companies, with SMEs often being left out, despite their potential to contribute to innovation and economic diversity. The absence or weakness of critical functions to improve market performance and to facilitate and promote market engagement as well as of sector risk assessments and of corresponding remedial measures affect core strategic and operational objectives of public procurement. These gaps can be partly addressed through institutionalising risk assessment and engagement mechanisms and by matching general measures to improve market performance with the needs of the public procurement market.

Recommendations

Include assessments of risks associated with certain sectors and opportunities to influence sector markets in the integrated review and revision of policies recommended under the preceding assessment criterion.

Broaden consultations on public procurement between and among private and public sector participants to include related issues in other, related fields, as a means to facilitate policy harmonisation and achieve stronger synergies.

Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

Indicator 11. Transparency and civil society engagement strengthen integrity in public procurement

Sub-indicator 11(a) Enabling environment for public consultation and monitoring
Assessment criterion 11(a)(a): A transparent and consultative process is followed when formulating changes to the public procurement system.
Conclusion: No gap
Red flag: No
Qualitative analysis Legal frameworks and reports exist as evidence to support a transparent and consultative process when formulating changes to the public procurement system in Kenya. Various stakeholders and the general public are invited to comment on draft amendments to the PPADA. In addition, the PPADA, Section 179, requires the Treasury to consult with stakeholders at least once yearly, while Section 33 (2) (c) requires county authorities to co-ordinate consultations with county stakeholders of the public procurement and asset disposal system in liaison with the National Treasury and the PPRA. Such consultations remain important for providing inputs that may influence the formulation of possible changes to the public procurement system. General guidelines for public consultations on changes to legislation and on other matters are included in the Kenya Policy On Public Participation of December 2023, issued by the Office of the Attorney-General and the Department of Justice, among other relevant documents.
Gap analysis The assessment criterion is met. This being said, it is not clear whether the procedure for conducting consultative meetings at national level has been prepared as prescribed, nor are records from past meetings easy to find, whether at national or at county level.
Recommendations Expand the use of consultations at national and county level, particularly in the context of the proposed updating of the National Public Procurement and Asset Disposal Policy, and publish relevant materials.
Assessment criterion 11(a)(b): Programmes are in place to build the capacity of relevant stakeholders to understand, monitor and improve public procurement.
Conclusion: Minor gap
Red flag: No
Qualitative analysis There are programmes to build the capacity of public procurement practitioners to understand, monitor and improve public procurement in Kenya, mainly through the PPRA and the KISM as well as through the institutions accredited by the KISEB. In addition, 59% of the heads of procurement interviewed indicate that they conduct meetings, dialogues, or training sessions aimed at engaging businesses in the tendering process. Such forums can help demystify procurement requirements, improve competition and enhance compliance, especially for SMEs that may be new to public procurement.
Gap analysis Despite laudable efforts by the various parties involved, there is still a certain shortage of effective tools and programmes to build the capacity of other stakeholders than procurement practitioners to understand,

monitor and improve public procurement in Kenya. Training needs assessments are little used by the bodies mandated to build the capacity of relevant stakeholders in Kenya in order to identify the skill gaps. Even training of procurement professionals is not necessarily carried out after identifying the key areas of weaknesses and strengths. In many cases, the focus on training is for practitioners in the procuring entities. This leaves out other stakeholders like members of the public, civil society and private sector (suppliers).

Recommendations
There is a need to engage stakeholders beyond just offering training. This engagement should aim to enhance their capacity to monitor the public procurement system and projects within their local area and to verify performance against requirements and objectives as well as against the relevant contract management criteria.

There should be a legal provision or policy framework to undertake needs assessment before any training or programme is undertaken to build the capacity of relevant stakeholders.

Assessment criterion 11(a)(c):
There is ample evidence that the government takes into account the input, comments and feedback received from civil society.

Conclusion: No gap

Red flag: No

Qualitative analysis
As reported by the PPD and the PPRA, questions and suggestions on public procurement topics are regularly received from civil society through various channels, including formal, public consultations on new legislation and other matters. The inputs received are compiled and analysed and used for informing the development of policies, procedures and practices.

Gap analysis
As formulated, the assessment criterion is met. Nevertheless, civil society representatives consulted indicate that even publicly acknowledged shortcomings in policies and practices often take a long time to be adequately addressed, if at all.

Recommendations
Use the follow-up of the MAPS assessment, in particular any coming consultations on public procurement policy, to seek agreement on pending issues in order to properly reflect these in amendments to the PPADA and applicable regulations and secure broad commitment by those concerned.

Sub-indicator 11(b)
Adequate and timely access to information by the public

Assessment criterion 11(b)(a):
Requirements in combination with actual practices ensure that all stakeholders have adequate and timely access to information as a precondition for effective participation.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
Participation is enabled by legal requirements for publication of notices and for making procurement documents available for review by the public; as an example, in the case of open tendering, the PPADA, Section 98 (1) requires that tender documents be uploaded to the website immediately upon advertisement, implying that they would normally be accessible to anyone consulting the website in question.

Procuring entities may charge a fee for making tender documents available and not all such documents have been downloadable. Procurement records are notionally available through the PPIP, but its search function is not yet working properly. Despite the availability of timely access to information by the public there is lack of full disclosure as some clauses in the legal framework mention confidentiality of information, and this is often narrowly interpreted.

Gap analysis

The availability of information in actual practice is more limited than provided in applicable regulations, some of which would need to be amended for increased openness.

The approach for open tenders is more open than the general case, set out in the PPADA, Section 74, which requires invitations to tender to state how tender documents can be obtained but foresees that they be sent "to eligible bidders by recorded delivery". This is not abundantly clear: a restrictive interpretation would be that only eligible bidders are entitled to receive the tender documents (although it is not stated how this eligibility would be determined) and this only by 'recorded delivery' (which may be taken to refer to hard copy documents only).

The PPADA, Section 138, requires contract awards to be published but there is no time frame given for this and some procuring entities to not provide the necessary information for publication in the PPIP. There is no obligation to publish the contracts themselves. Section 139 regulates amendments and variations of contracts but does not include any obligation to publish them, not even the mere fact that such an amendment or variation has been made.

As further detailed under assessment criterion 7(a)(d), actual practices do not yet ensure that all stakeholders have adequate and timely access to information.

As in other, similar cases, the shortcomings with respect to transparency create a risk that competition becomes limited and that bad practices can go unnoticed.

Recommendations

Set a time frame for the publication of contract awards, say, no later than five days after signature, with details about the contractor (including ownership), the goods, works or services to be provided, the value and the duration. Require amendments and variations to be published in a similar fashion.

To lay a stronger foundation for the planned transition to e-procurement, a serious discussion needs to be launched on the issue, taking into account the experience of other countries. Since the PPADA already obligates procurers to keep records of many important pieces of procurement information, adding the transparency component would be a relatively simple undertaking once a consensus is achieved among key stakeholders.

Require all tender documents to be easily and freely downloadable, e.g. through a link in the procurement notice on the portal.

In the medium term, as part of the development of e-procurement, ensure that all procurement documents are available in a machine-readable format.

Sub-indicator 11(c)
Direct engagement of civil society

Assessment criterion 11(c)(a):

The legal/regulatory and policy framework allows citizens to participate in the following phases of a procurement process, as appropriate:

- the planning phase (consultation)
- bid/proposal opening (observation)
- evaluation and contract award (observation), when appropriate, according to local law
- contract management and completion (monitoring).

Conclusion: Substantive gap

Red flag: No

Qualitative analysis

The legal framework for public procurement contains no provisions explicitly allowing citizens to participate in any of the main phases of the regular public procurement procedures carried out by a procuring entity.

In the PPADR, Regulations 108-112, 'community participation' is the expression used to denote a particular procurement method, consisting in the engagement, by a procuring entity, of a certain local community for carrying out works for the benefit of that same community, with the procuring entity remaining in charge of design and management. As an alternative, 'community participation' can also be carried out through the appointment of community-based service providers.

A number of legal instruments, not specific to public procurement, appear to allow and promote various forms of citizen engagement in public affairs in general or, at least, to require the citizens' views and interests to be heard and considered.

Gap analysis

The subject of possible citizen participation in regular public procurement proceedings is not clearly and comprehensively addressed in the existing legal and institutional framework. General provisions enabling citizen engagement are not effective in the public procurement context to the extent that their application is not clear and access to relevant information is limited. This situation risks limiting the potential benefits of public participation in the procurement process: greater adequacy of the needs and requirements to be met and to be reflected in the tender documents; improved trust in the probity of public procurement; and stronger focus on ensuring that the right items, of the right quantity and quality, are provided on time, in accordance with the contract, and put to good use. These gaps would require fundamental regulatory and institutional reforms.

See also the gap analysis under the next assessment criterion and under criterion 9(c)(f).

Recommendations

The participation of civil society organisations or of individual citizens in the public procurement process should be more clearly regulated and, as appropriate, facilitated, promoted and supported, and complemented by more effective access to information.

Assessment criterion 11(c)(b):

There is ample evidence for direct participation of citizens in procurement processes through consultation, observation and monitoring.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis

Apart from the particular case of 'community participation' as a specific procurement method, there is some evidence of cases when the members of public have participated in the procurement processes, particularly when local communities have been involved in defining needs and requirements and in monitoring execution of e.g. works contracts for local roads or other public infrastructure.

In the most recent consultations by the National Treasury on some proposed amendments to the PPADA, several stakeholders have submitted their comments and suggestions.

There is some evidence of direct participation of citizens in procurement processes in the form of occasional monitoring of contract awards and contract execution by some civil society organisations and by the press.

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Gap analysis
Direct participation of citizens in procurement processes through consultation, observation and monitoring is little developed at present. Out of 630 contract files reviewed, just 13% recorded any form of citizen participation during the procurement planning phase. The lack of engagement seen here implies that procurement processes may be designed and executed in isolation, without fully understanding or responding to the needs of those they're meant to serve. It also suggests missed opportunities for public oversight, which could otherwise act as a deterrent to mismanagement or corruption. In addition, low citizen involvement in planning might affect project relevance and uptake, especially in local infrastructure or service delivery contracts. This is despite the somewhat less restrictive practices reported by the heads of procurement interviewed, in that 63% of them indicate that public participation at tender opening is allowed. However, transparency declines significantly further along the procurement cycle: only 34% permit public observation during bid evaluations and just 25% during contract monitoring. The condition in PPADA, Section 68 (3) ("where such information is aligned to the principle of public interest"), is likely to unduly limit access to information. Apart from redrafting this element of the legislation, the gaps mentioned would need to be addressed by formal mechanisms, guidance and institutional support. See also the gap analysis under the preceding assessment criterion and under criterion 9(c)(f).
Recommendations Civil society participation would likely be most important and effective in the form of public consultations during identification of needs and definition of general requirements; review of procurement plans and tender documents and feed-back to the procuring entity; and monitoring of contract implementation and the use of the items procured. This would require moving beyond compliance checklists, instead embedding genuine citizen engagement into planning and prioritisation processes. To this end, consider introducing more systematic consultations with citizens when needs are identified and requirements are formulated; making contract implementation more transparent; and facilitating effective access to procurement records. Delete the condition in PPADA Section 68 (3) ("where such information is aligned to the principle of public interest") – in public procurement, a 'public interest' should always be presumed to exist. This being said, there also needs to be a balance between accountability and fair competition and the need to safeguard the rights of participants with respect to intellectual property as well as to consider Articles 35 and 227 of the Constitution and the provisions in the Access to Information Act on limitation of access to information. It may also have to be considered that procurement records include the basis of determining the price, which in essence would be a price schedule or a costed bill of quantities, which might stifle competition if published, at least in the case where termination of procurement proceedings has occurred and there is a likelihood of a retender.

Indicator 12. The country has effective control and audit systems

Sub-indicator 12(a) **Legal framework, organisation and procedures of the control system** The system in the country provides for:
Assessment criterion 12(a)(a): laws and regulations that establish a comprehensive control framework, including internal controls, internal audits, external audits and oversight by legal bodies
Conclusion: Substantive gap
Red flag: Yes

Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

Qualitative analysis

There is evidence that Kenya has laws and regulations that establish a comprehensive control framework, including internal controls, internal audits, external audits and oversight by legal bodies. External audit is codified in the Public Audit Act, 2015. Internal audit is regulated through the "Internal Audit Guidelines For National Government Entities" and the "County Government Internal Audit Manual". Complementary regulations and guidelines issued by the Public Sector Accounting Standards Board prescribe principles and practices to be applied in financial reporting, internal auditing, and risk management in the public sector.

The application, in the field of public procurement, of the policies and procedures set out in the regulatory documents mentioned above is regulated by the PPADA, Sections 8, 27, 40, 44, 45, 48 and 68. The PPADA also contains provisions defining the roles and responsibilities for oversight and administrative review that fall under the PPRA and the PPARB, respectively, as set out in, e.g., the PPADA, Sections 9 (1) (h) and 34-43A. The PPRA has a number of powers to ensure compliance with the requirements of the PPADA and the PPADR, as set out in Part IV of the PPADA. They include the right to undertake a wide range of investigations and the obligation to do so if requested by a procuring entity or other party concerned having standing to make such a request. As indicated in the PPRA's annual report 2022/2023, 265 such requests (reported on as "complaints") were made, of which 120 were resolved during the year. (There is no set time limit for dealing with those.)

Gap analysis

There are several important gaps that exist in the regulations. More particularly, in the case of the PPADA:

- Section 8 (Oversight by the PPRA): This section establishes the PPRA but does not fully provide it with commensurate enforcement powers, and limited enforcement powers and resource constraints hinder effective oversight. Considerable gaps and delays are thus stated to have occurred in the PPRA's review of procurement in projects with development bank funding.
- Section 27 (Oversight by the PPARB): This section establishes the PPARB and its roles and responsibilities but does not address the efficiency and capacity to handle disputes promptly (i.e., within the time limits set out in the PPADR, Part XV), thus failing to prevent inefficiencies in handling procurement related complaints and disputes.
- Section 44 (Responsibility of Accounting Officers): This section outlines the need for internal controls but does not set out any penalties for non-compliance, nor is there evidence of any other, specific enforcement mechanism.

These gaps suggest that while the PPADA and other regulations establish a comprehensive legal framework for public procurement, there are significant areas where the provisions, as well as their implementation and enforcement, need strengthening. This includes better training for internal auditors, more stringent enforcement mechanisms, timely and comprehensive external audits, and enhanced resources and powers for oversight bodies.

The regulation of internal and external audit also lacks precision regarding aspects which are specific to public procurement and suffers from a focus on legal and short-term financial compliance, to the detriment of aspects like fitness for purpose and value for money.

Finally, the PPADA lacks provisions on ex-post evaluation of public procurement outcomes, particularly for examining if, how and to what extent the original needs have been met and the objectives have been fulfilled, how any deficiencies could be remedied, and how future procurement should be improved, based on the lessons learned.

Taken together, the gaps mentioned create a risk that public procurement fails to fully deliver intended outcomes in terms of economy, effectiveness, efficiency and transparency, and that bad practices go unnoticed.

Recommendations
Establish a comprehensive control framework encompassing:

- Internal controls: Implement robust internal controls to ensure compliance and efficiency in procurement processes.
- Internal audits: Conduct regular internal audits to identify and mitigate risks, ensuring transparency and accountability.
- External audits: Facilitate independent external audits to provide an unbiased review of procurement activities and financial integrity but with relatively greater emphasis on performance and on value for money.
- Oversight by legal bodies: Strengthen oversight mechanisms by legal bodies to enforce adherence to procurement laws and regulations, addressing any violations or irregularities promptly.
- Ex-post review of public procurement: Institute mechanisms for reviewing public procurement outcomes against the original needs and objectives, addressing deficiencies and applying lessons learned.

Add powers to the PPRA for ordering administrative sanctions or other means of enforcement, commensurate with its rights and obligations to undertake a wide range of investigations, and ensure that corresponding resources are made available.

See also the recommendations under 12(a)(f).

Assessment criterion 12(a)(b):
internal control/audit mechanisms and functions that ensure appropriate oversight of procurement, including reporting to management on compliance, effectiveness and efficiency of procurement operations

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The PPADA, Part V, sets out the internal organisation of procuring entities and identifies a number of functions and obligations aimed at ensuring appropriate oversight of procurement, including reporting to management on compliance, effectiveness and efficiency of procurement operations. Many of those fall upon the accounting officer of the procuring entity, who has to set up mechanisms, appoint committees and assign tasks to staff in ways that distribute roles and responsibilities and create internal checks and balances covering the whole public procurement cycle. Part V of the PPADR and their Second Schedule set out these functions and obligations in greater detail, providing practical guidance for the steps to be taken to ensure compliance with the provisions in the PPADA, including detailed indications of the roles and responsibilities of the accounting officer, the procurement function and the various committees. The main means to ensure appropriate internal oversight and the probity of the procurement operations are the following:

- segregation of responsibilities between the accounting officer; the procurement function, headed and staffed by procurement professionals; establishment of the committees required by the PPADA (tender opening committee, evaluation committee, inspection and acceptance committee, disposal committee);
- segregation of duties for different officers and committees in the procurement cycle;
- detailed instructions for how the different steps in the procurement cycle should be carried out by the respective persons or functions;
- obligations to record and report on the actions taken in the various steps of the procurement cycle.

In addition, the Public Finance Management Act emphasizes the general responsibility of accounting officers to implement systems that promote efficient resource use while safeguarding assets.

To this end, the Treasury circular “Internal Audit Function” mandates all public entities to maintain robust internal audit procedures, particularly for procurement audits. It calls for the establishment of written procedures for auditing procurement processes, ensuring these audits evaluate both compliance and performance metrics. Further guidance on internal audit is given in the Internal Audit Guidelines for National Government Entities issued by the National Treasury.

Gap analysis

Several important gaps exist in the mechanisms for application of the regulations: key internal control and audit functions are incomplete or ineffective and there are weaknesses in oversight, compliance monitoring and reporting to management. They undermine the integrity, efficiency and accountability of the procurement system and addressing them requires institutional and operational strengthening.

The PPADA, Section 68, mandates proper record-keeping but there are issues in practice where records are poorly maintained, which renders audits difficult or impossible and undermines transparency and accountability. In many cases, which are regularly recorded by the PPRA, procuring entities fail to meet their obligations to submit reports and other procurement documents.

The Internal Audit Guidelines for National Government Entities make a few references to public procurement but refer to outdated legislation, viz. the Public Procurement And Disposal Act, 2005, and Regulations, 2006, even as the Guidelines themselves were issued in March 2016. The requirement in the Treasury circular "Internal Audit Function" for procuring entities to have written procedures for auditing procurement processes does not seem to be widely met, except for larger procuring entities.

In practice, among the 63 major procuring entities visited, 60% of the heads of procurement reported having internal audit units that specifically cover procurement activities. Similarly, 43% of entities have internal audit units whose functions include performance audits, demonstrating a fairly weak focus on not just compliance but also on the effectiveness and efficiency of procurement processes. Audit capacity remains an issue. Only 32% consider their audit staffing levels sufficient to meet their needs. This staffing shortfall suggests that many audit units may be overstretched or under-resourced, potentially limiting the depth, frequency, and scope of audits. Without adequate personnel, even the best frameworks can fall short in identifying risks, enforcing accountability, or providing timely feedback to improve procurement performance.

Recommendations

Strengthen the application of existing internal control/audit mechanisms by ensuring that procuring entities have the necessary skills and resources to give effect to them and by monitoring and enforcing compliance.

Assessment criterion 12(a)(c):

internal control mechanisms that ensure a proper balance between timely and efficient decision-making and adequate risk mitigation

Conclusion: Substantive gap

Red flag: No

Qualitative analysis

The main, internal control mechanisms in procuring entities are those described under assessment criterion 12(a)(b) above. In addition, internal audit regulations and manuals are issued by the Treasury and apply also to the public procurement function.

The Public Finance Management Act mandates internal controls intended to ensure proper risk management in financial operations, including procurement.

Gap analysis

Internal control mechanisms do not effectively balance efficiency and risk mitigation in most entities. Role segregation and lack of capacity undermine timely decision making and accountability. Risk management is underutilised**,** limiting the effectiveness of controls. Resolving the gaps requires institutional, procedural and capacity improvements.

Within each procurement entity, the segregation of roles and responsibilities throughout the procurement cycle has the advantage in principle to create checks and balances that are intended to prevent fraud and corruption and ensure that any mistakes or omissions are rapidly and effectively spotted and addressed in the normal sequence of administrative steps. At the same time, they raise the administrative burden and add time to the process because of the need to transfer files and tasks from one function to the other. They also require that a not insignificant number of officials in several functions have the necessary procurement related knowledge and skills to properly carry out the duties that are distributed among them. This quickly becomes a problem when the procuring entity is not large enough to have a pool of such specialists to draw from, which is the case for the vast majority, by number, of Kenya's procuring entities.

Furthermore, the distribution of roles between several persons and functions also means that responsibility is diluted and that it becomes easier to blame someone else as soon as something inappropriate happens.

Effective and efficient risk management seems to be little used in practice, except in the most diligent procuring entities.

Recommendations
In the context of a broader review of how procuring entities should organise their procurement work and mainstreaming best practices for good governance, internal controls and risk management in the public sector, carefully assess the advantages of segregation/checks and balances against the penalties incurred in terms of dilution of responsibilities, need for a larger number of fully qualified staff members and general administrative complexity and costs.

Put in place a risk management framework for procuring entities, covering all aspects of public procurement, including procurement planning and preparation, tendering, evaluation and award, contract management, inventory management and asset disposal.

Assessment criterion 12(a)(d):
independent external audits provided by the country's Supreme Audit Institution (SAI) that ensure appropriate oversight of the procurement function based on periodic risk assessments and controls tailored to risk management

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
As set out in the Public Audit Act, the Auditor-General may examine the public procurement and asset disposal process of a state organ or a public entity with a view to confirm whether procurement was done lawfully and in an effective way.

As evident from the reports issued by the Office of the Auditor-General, the current emphasis of external audit seems to be on financial and legal compliance in the first place.

Gap analysis
Independent external audits of procurement are not effectively conducted. Procurement risks, compliance and controls are not systematically audited, reducing oversight effectiveness. This undermines transparency, accountability and risk management in public procurement. Addressing it requires strengthening procurement audit capacity, expanding coverage, and integrating risk-based approaches.

Despite a well-established institutional framework to undertake external audit in Kenya, little emphasis has been put on public procurement audits. Most of the internal and external auditors are financial auditors and not procurement auditors. In practice, the independent external audits provided by the Office of the Auditor-General do not seem to ensure appropriate oversight of the procurement function. As an example, the term 'procurement' is not found anywhere in e.g. the Auditor-General's report on national government

2022/2023, even if the Auditor-General's report "Compliance and Performance Audits in Procurement" details the procedures followed by the Auditor-General when conducting procurement audits. While the Auditor-General has authority to audit, the annual reports of the Office of the Auditor-General frequently mention delays and limited scope in auditing various public entities, which hinders timely identification of issues and the sanctioning of bad practices.
Recommendations Ensure public procurement is explicitly addressed in external audits of procuring entities, both in individual cases and across a range of public entities. Thoroughly revise the approach to auditing public procurement, putting the focus on performance and value for money.
Assessment criterion 12(a)(e): review of audit reports provided by the SAI and determination of appropriate actions by the legislature (or other body responsible for public finance governance)
Conclusion: No gap
Red flag: No
Qualitative analysis There is a provision in law (Constitution of Kenya, Section 229 (8)) that mandates Parliament and county assemblies to review audit reports and take appropriate action on public finance governance in relation to procurement of goods, services and works.
Gap analysis The assessment criterion is met.
Recommendations No recommendations needed.
Assessment criterion 12(a)(f): clear mechanisms to ensure that there is follow-up on the respective findings.
Conclusion: Substantive gap
Red flag: Yes
Qualitative analysis The final audit reports prepared and signed by the Auditor–General are submitted to Parliament or the relevant county assembly for discussion and action. See also the qualitative analyses under sub-indicator 12(c).
Gap analysis The actions to be taken by Parliament or county assemblies are not well defined by law and are thus left at the discretion of the committees of the National Assembly or of the county assemblies. As a result, there is little evidence of systematic, effective action in response to audit findings and recommendations. See also the gap analyses under sub-indicator 12(c).
Recommendations The legal framework should be amended to more clearly and strongly reflect the need for actions to be taken for every respective finding after Parliament and county assemblies have discussed and approved the report, with clear timelines. The actions to be taken and the responsibilities for taking them should be regulated in law, with details as may be deemed appropriate depending on the nature and magnitude of the errors or

omissions at hand. The actions taken should be published in a way that facilitates cross-referencing with audit findings and recommendations.

See also the recommendations under 12(a)(a).

Sub-indicator 12(b)
Coordination of controls and audits of public procurement

Assessment criterion 12(b)(a):
There are written procedures that state requirements for internal controls, ideally in an internal control manual.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The Public Finance Management Act sets overarching principles for internal control in the management of public resources, including procurement. It also requires accounting officers to establish internal controls to ensure transparency and accountability in procurement processes. These controls should be documented and institutionalised within the entity.

The County Government Act contains corresponding sections on financial management and internal control for county governments that include internal controls for procurement processes.

Internal Audit Guidelines for National Government Entities were issued by the National Treasury in March 2016.

The PPADR require that public procurement entities establish written internal procedures that are documented and available for staff and relevant stakeholders. This includes a requirement for an internal control system within the procurement process. In order to allow such systems to function, procuring entities are required to maintain procurement documentation, as a key internal control element, in order to ensure transparency and creating audit trails.

Correspondingly, a policy statement issued by the Treasury requires that all public procurement entities shall establish and maintain a comprehensive internal control system as part of their operational procedures. It emphasises segregation of duties and proper authorisation and approval levels, which must be defined in internal manuals.

Gap analysis
Although internal control in procurement is stipulated by the legal framework and best practices, there are gaps within the procurement entities where established written internal procedures are lacking or incomplete. As a result, there is a risk that internal control becomes ineffective and that possible shortcomings are not properly identified, recorded and addressed.

Recommendations
Procuring entities should ensure full compliance to the legal framework by developing internal control systems within the procurement process and establishing written internal procedures as required by law. Guidance for this should be issued at Government level in order to harmonise procedures and practices. Alternatively, the Government should develop standard procedures for the purpose, that would have to be applied by all procuring entities, as appropriate.

As a complement, there is need for procuring entities to prioritise the automation of documentation management system by introducing e-procurement in public procurement structures and processes and by other, suitable means.

Assessment criterion 12(b)(b):

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There are written standards and procedures (e.g. a manual) for conducting procurement audits (both on compliance and performance) to facilitate co-ordinated and mutually reinforcing auditing.
Conclusion: Minor gap
Red flag: No
Qualitative analysis The Public Audit Act of 2015 provides for the functions and powers of the Office of the Auditor-General in accordance with the Constitution, and for connected purposes. The Public Sector Audit Manual includes sections on how procurement audits should be conducted, with a focus on whether public entities are adhering to procurement laws, rules, and regulations. It covers standards for assessing whether procurement processes are achieving value for money and delivering results efficiently. The Auditor-General's report "Compliance and Performance Audits in Procurement" details the procedures followed by the Auditor-General when conducting procurement audits. It outlines the importance of following the Public Sector Audit Manual, which provides detailed procedures for both compliance and performance audits. The PPRA's Guidelines for Procurement Audits standardise the process for conducting procurement audits, emphasizing written procedures for compliance audits to ensure adherence to procurement regulations and standards and performance audits which evaluate the efficiency, effectiveness, and economy of the procurement process.
Gap analysis Among the 63 major procuring entities visited, as stated by the heads of procurement interviewed, about 46% have an internal audit manual that explicitly includes procurement processes and performance audits. This is a critical element for standardizing audit practices, ensuring clarity in scope, and guiding auditors through complex procurement cycles. Its absence creates a risk that internal audits are incomplete or incoherent and that, accordingly, bad practices are not adequately identified and addressed.
Recommendations Special training for public sector auditors on procurement of goods, services and works should be undertaken as a matter of urgency, with focus not simply on compliance but more on performance.
Assessment criterion 12(b)(c): There is evidence that internal or external audits are carried out at least annually and that other established written standards are complied with.*
Conclusion: Substantive gap
Red flag: No
Qualitative analysis The Treasury circular "Annual Audits of Public Entities" requires all public entities to conduct annual audits of their procurement processes, ensuring compliance with written standards, including segregation of duties, approval hierarchies, and documentation requirements. The County Government Act requires county governments to conduct annual audits of their financial and procurement activities. These audits must be conducted by internal auditors, with external audits carried out by the Auditor-General's office. Both audits must adhere to established written standards. Reports published indicate that these general requirements are regularly met for larger procuring entities, while smaller ones have only recently started to be audited regularly but still only in limited numbers.

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As a means to fulfil its oversight mandate, the PPRA reviews all aspects of a quite large number of individual procurement processes, on its own initiative or upon request by a procuring entity. However, these reviews are not carried out in ways that correspond to any general requirement for internal or external audits be carried out at least annually and that other established written standards be complied with.

Quantitative analysis

** Recommended quantitative indicator to substantiate assessment of sub-indicator 12(b) Assessment criterion (c):*
- number of specialised procurement audits carried out compared to total number of audits (in %): 79%.
- share of procurement performance audits carried out (in % of total number of procurement audits): 79%.
Source: Data on internal audits, as collected from Heads of Procurement interviewed by the MAPS assessment team.

Gap analysis
Annual audits of procurement are not systematically performed**,** especially in small entities. Performance, compliance and adherence to standards are insufficiently monitored, limiting oversight effectiveness. These gaps threaten accountability, transparency and value for money in public procurement. Addressing them requires institutionalising regular procurement audits and expanding coverage beyond financial compliance.

Not considering the PPRA's ad-hoc reviews, there is little evidence to what extent specialised procurement audits are carried out regularly and whether they cover performance, in additional to financial and legal compliance. Nevertheless, in the particular case of the 63 major procuring entities visited by the MAPS assessors, 60% of the heads of procurement report that external, annual procurement audits are conducted and that formal audit reports are issued to the procuring entity. However, this also means that 40% of entities may be audited only partially, irregularly or not at all, raising concerns about consistency and the ability to identify and address systemic procurement issues. Where manuals exist but are not followed, or where audits are sporadic, the effectiveness of the internal audit function is significantly undermined.

Further, for no more than 46% of the entities assessed, the respondents confirmed that they undergo annual internal audits and receive formal reports.

At the level of individual contracts, 62% of the heads of procurement indicated that contract specific audits were conducted and were found useful.

Recommendations
Revise audit principles, procedures and practices to include public procurement, with emphasis on performance, and carry out such audits annually.

Assessment criterion 12(b)(d):
Clear and reliable reporting lines to relevant oversight bodies exist.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
Article 227 of the Constitution provides the foundation for a fair, transparent, competitive, and cost-effective procurement system. It also implies a need for clear accountability, including reporting lines, by mandating oversight from the national government, county governments, and other authorities.

The Controller of Budget Act (2016) provides for the independent office of the Controller of Budget (CoB), who monitors, oversees, and reports on the use of public funds. Part of this role involves oversight over procurement expenditure, where the CoB reports to Parliament on compliance with procurement laws and regulations.

The Public Audit Act (2015) establishes the Office of the Auditor-General, who audits public entities' procurement processes and reports to Parliament. It creates an indirect but significant reporting line by mandating audits that track compliance with procurement regulations.

The Public Finance Management Act (2012) emphasises financial accountability and proper management of public funds, including procurement. Section 39 highlights the reporting requirements for public entities, including procurement procedures. It links procurement with financial reporting to oversight bodies like the National Treasury and the Controller of Budget.

The PPADA, Section 9, requires the PPRA to monitor the public procurement system and prepare reports on the overall functioning of it and to present, those reports and recommendations for improvements to the Cabinet Secretary and the county executive member for finance in each county, and to generally report to Parliament and the relevant county assembly. In addition, Section 9 (2), states that if, in the course of monitoring in accordance with Section 9(1)(a), the PPRA is of the opinion that civil or criminal proceedings ought to be instigated against a State Organ, public entity, state officer or public officer, the PPRA shall refer the matter to the relevant authorities.

The PPADR, Regulation 34, requires that a user department of a procuring entity shall be responsible for managing, monitoring and reporting any departure from the terms and conditions of the contract to the head of procurement function.

The Acts mentioned and the regulations for their application detail the procedures to be followed for reporting to the respective oversight bodies.

See also the discussion under assessment criterion 14(f)(a).

Gap analysis
The Acts and regulations set out the formal requirements for regular reporting. However, it is not clear that this is sufficient for dealing with urgent issues or with problems that are not captured by the regular reporting. In particular, the rights and duties of individuals to report cases of apparent problems are not abundantly clear. Consequently, there is a risk that problems are not identified and reported to the competent authorities.

Recommendations
Review the effectiveness of the legal provisions and amend those accordingly; revise the institutional set-up in order to reduce gaps and overlaps; set up mechanisms for reporting possible cases of fraud and corruption, combined with suitable whistleblower protections.

Sub-indicator 12(c)
Enforcement and follow-up on findings and Recommendations

Assessment criterion 12(c)(a):
Recommendations are responded to and implemented within the time frames established in the law.*

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis
The Public Audit Act (2015), sections 31 and 53, oblige the entity audited and its accounting officer to take steps to implement the recommendations made and to report on how it has addressed any recommendations and findings of the previous year's audit.

Quantitative analysis

** Recommended quantitative indicator to substantiate assessment of sub-indicator 12(c) Assessment criterion (a):*
- Share of internal and external audit Recommendations implemented within the time frames established in the law (in %): 44% and 52%, respectively.
Source: Data collected from Heads of Procurement interviewed by the MAPS assessment team.

Gap analysis
The legal requirements for acting on recommendations and reporting on their implementation do not seem to require immediate action in response to any recommendations made by the auditors, nor to report on those actions as soon as the recommendations have been implemented. As an example, in the Public Audit Act (2015), section 53, reference is made not directly to the findings and recommendations communicated directly by the auditors to the entity having been audited but to the recommendations from Parliament made on the basis of Parliament's consideration of the annual report from the Auditor-General.

In practice, among the major procuring entities visited, 67% indicated that they implement internal audit recommendations within designated timelines. However, nearly one-third of entities either fail to implement recommendations on time or do not implement them at all, pointing to potential resistance to change, resource constraints, or a lack of enforcement mechanisms. Sustained follow-up and integration of audit recommendations into performance management processes are essential if audits are to result in long-term improvements in procurement governance.

A majority (68%) confirmed that they received audit reports following external reviews. This implies that nearly one-third of entities may not receive or access their audit outcomes, limiting opportunities for correction and learning. Around 60% of the respondents reported that external audit recommendations are followed up and implemented within stipulated timelines. However, this still leaves a significant portion, nearly four out of ten entities, that either only partially comply or fail to act on findings. This gap suggests that although external audits are being carried out with some frequency, the extent to which they lead to actual corrective action or policy change is inconsistent. This undermines the potential effectiveness of audits as tools for continuous improvement and institutional learning.

Recommendations
Make it clear that audit findings and recommendations should be acted on immediately (after due process in case of contestation), set out corresponding reporting requirements, monitor compliance, and investigate and sanction failures to act.

Assessment criterion 12(c)(b):
There are systems in place to follow up on the implementation/enforcement of the audit Recommendations.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The Public Audit Act, Section 53 (1), sets out general obligations for an accounting officer to act on audit recommendations and exposes the accounting officer to sanctions in case of non-compliance. In addition, where there is a serious material breach or there are persistent material breaches of the provisions of the Act, the Auditor-General may recommend the withholding of funds to any State Organ or public entity.

Gap analysis
The monitoring of the implementation of audit recommendations is weak and the mechanisms for enforcement do not appear to be fully effective. Corrective actions are not consistently implemented,

undermining accountability. The gaps affect the integrity, transparency and performance of the procurement system. Resolution requires systemic reforms.

Recommendations
Institute effective mechanisms for monitoring and enforcement, and monitor and publish how they are applied.

Sub-indicator 12(d)
Qualification and training to conduct procurement audits

Assessment criterion 12(d)(a):
There is an established programme to train internal and external auditors to ensure that they are qualified to conduct high-quality procurement audits, including performance audits.*

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis

The Public Finance Management Act emphasizes prudent public financial management, which includes procurement audits. Section 160 tasks the National Treasury with building capacity within public entities, including providing necessary training programs for auditors. The training is intended to ensure that auditors have the skills to perform financial and procurement audits.

The Institute of Certified Public Accountants of Kenya (ICPAK) is the professional body for accountants and auditors in Kenya, and it plays a critical role in the training and certification of both internal and external auditors. ICPAK offers continuous professional development courses that cover public procurement auditing, including performance audits.

The Kenya School of Government (KSG), through its training programs for public sector officials, provides courses on procurement and auditing. The school ensures that auditors who undergo training gain the necessary skills for conducting procurement audits.

Quantitative analysis

** Recommended quantitative indicator to substantiate assessment of sub-indicator 12(d) Assessment criterion (a):*

- number of training courses conducted to train internal and external auditors in public procurement audits: data not available.

- share of auditors trained in public procurement (as % of total number of auditors): data not available.

Source for all: Ministry of Finance/Supreme Audit Institution.

Gap analysis
Despite the presence of established programme to train internal and external auditors, the majority of auditors lack the skills to conduct procurement audits, especially performance audits. This deficiency prevents effective oversight, compliance monitoring and accountability and thus threatens adherence to procurement rules and the integrity of the system. Resolving it requires establishing comprehensive auditor training programmes.

The Public Audit Act, Section 8, requires the Auditor-General to “recruit and promote qualified and competent staff” but does not otherwise contain any reference to required competences or to training.

The Internal Audit Guidelines for National Government, Section 181, contain a general obligation for the accounting officer to "provide capacity building to all public national government entity Audit Committees" but the corresponding institutional set-up is not detailed.

While the manuals and guidelines put some emphasis on procurement audits, not many procurement auditors have been correspondingly trained to undertake procurement audits on compliance and performance. The majority of the auditors are only trained to conduct financial audits. This creates a huge gap in adhering to procurement rules and regulations.

Recommendations
Review and revise existing programmes for training auditors and ensure that requirements for qualifications and competence are matched by corresponding education and training facilities.

Assessment criterion 12(d)(b):
The selection of auditors requires that they have adequate knowledge of the subject as a condition for carrying out procurement audits; if auditors lack procurement knowledge, they are routinely supported by procurement specialists or consultants.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The Public Finance Management Act requires that individuals involved in financial management, including auditing, have the necessary qualifications and expertise to carry out their duties effectively. Section 166 mandates the establishment of professional qualifications for internal auditors, including procurement auditors. If auditors lack specialized knowledge in procurement, they are encouraged to seek expert support to ensure proper audits are conducted.

Additionally, ISSAI 5300 emphasises that auditors conducting procurement audits must have the technical knowledge or should seek assistance from experts in procurement when necessary. These standards are adopted by Kenya's Auditor-General and are supposed to guide the selection and deployment of auditors with adequate knowledge or support.

Gap analysis
While the regulations appear to align with the assessment criterion, it is not fully clear if, how and to what extent they are applied in practice across all procuring entities. In the light of statements by heads of procurement, not all auditors appear to have adequate knowledge and understanding of the specifics of public procurement; no more than 38% of the respondents believed that auditors fully understood the particularities of public procurement such as market dynamics, competitive bidding nuances, and framework contracting. Without specialized knowledge or training, auditors may struggle to assess procurement operations meaningfully, resulting in generic or less actionable recommendations. The lack of deep sectoral insight reduces the credibility and influence of the audit process within procurement teams.

Nevertheless, only in 37% of the 63 major procuring entities visited, it was reported that financial auditors are supported by procurement specialists during performance audits. This shortfall can directly impact the quality and relevance of audit findings. Procurement is a specialized area with unique regulations, standards, and risks that differ from general financial operations. Without domain-specific expertise, audits may overlook procurement-specific issues such as bid rigging, improper supplier rotation, or non-compliance with tender procedures. The lack of integration between finance and procurement expertise not only reduces the credibility of audit reports but also limits their usefulness in informing corrective actions and policy decisions.

Recommendations
Assess the needs for public procurement related skills of auditors and revise selection and training approaches as may be needed.

Assessment criterion 12(d)(c):
Auditors are selected in a fair and transparent way and are fully independent.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The Constitution underscores the principles of transparency, accountability, and fairness in all public service processes, including auditing. Article 10 outlines national values, including good governance, integrity, and transparency, which must be applied when selecting auditors. Furthermore, Article 226 grants public officers the responsibility of keeping accurate records, and auditors are required to operate independently in verifying these records, particularly concerning public procurement.

The Office of the Auditor-General operates under the Public Audit Act (2015). The Act clearly outlines the role of the Auditor-General in selecting auditors through fair and transparent processes. It is also intended to safeguard the independence of the Auditor-General and the audit teams, aiming to ensure that they are not subject to any form of interference during the audit process.

Gap analysis
The general requirements for fairness, transparency and independence of auditors are clear but the evidence of the extent to which this is the case in practice is scant and weak. The shortcomings observed in actual audit practice, as described under other assessment criteria in Indicator 12, lead to the conclusion that the selection and the independence of auditors have weaknesses which may seriously jeopardise audit effectiveness, efficiency and probity.

Recommendations
Assess the fairness, transparency and independence of auditors, determine the extent to which they may be subject to any form of interference and take steps to address any shortcomings that may exist.

Indicator 13. Procurement appeals mechanisms are effective and efficient

Sub-indicator 13(a)
Process for challenges and appeals

Assessment criterion 13(a)(a):
Decisions are rendered on the basis of available evidence submitted by the parties.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
As apparent from the published decisions, the PPARB bases its decisions on the evidence submitted by the complaining party and by the procuring entity or any other parties involved, and in accordance with circulars that have been provided on the rules and procedures. Principles and policies for this are set out in the articles of the PPADA and the PPADR regulating the work of the PPARB.

Gap analysis
There is a separate contract that is being undertaken to develop and formulate the PPARB’s rules and procedures to be gazetted by the Cabinet Secretary, National Treasury. They have not yet been published but the process is reported to be in its final stages. As required by the criterion, the PPARB bases its decisions on

available evidence submitted by the parties. This being said, comments from international financial institutions indicate that the PPARB seems to review cases with reference to national legislation only while ignoring the tender conditions of international competitive procedures based on the financier's procurement guidelines.

Recommendations
As provided for in the PPADA, Section 28 (2), develop, formulate, gazette and publish the PPARB's internal rules and procedures and make them accessible on the PPIP or another central portal, or on its own website, if and when it is established. Review and clarify the legal basis for the PPARB's considerations when examining and deciding on complaints.

Assessment criterion 13(a)(b):
The first review of the evidence is carried out by the entity specified in the law.

Conclusion: No gap

Red flag: No

Qualitative analysis
The PPARB is the first instance review body and aggrieved parties can always seize it directly, without having to first address the issue to the procuring entity concerned or to any other party, and the PPARB will then review the case. At the same time, there is always the possibility to resolve perceived problems concerning, e.g., incomplete, unclear or biased specifications appearing in tender documents, by requesting clarifications from the procuring entity before the deadline for this purpose set out in the tender documents.

Gap analysis
There are no apparent gaps with respect to this assessment criterion.

Recommendations
No recommendations needed.

Assessment criterion 13(a)(c):
The body or authority (appeals body) in charge of reviewing decisions of the specified first review body issues final, enforceable decisions. *

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The decisions of the PPARB may be challenged at the High Court, within 14 days from the delivery of the PPARB's decision. If no such challenge is made within the deadline, the PPARB's decisions become final, binding and enforceable. In turn, the High Court's decision is final, binding and enforceable if not appealed against at the Court of Appeal within 7 days of its delivery.

The High Court is obliged to make its determination within 45 days of such proceedings being filed but can refrain from requiring the procurement proceedings to be suspended, as a means to avoid unnecessary delays in the procurement of urgent and important items. The Court of Appeal on the other hand is obliged to make a decision on an appeal before it within 45 days of filing of such an appeal and which decision is final.

Quantitative analysis

*// Minimum indicator // * Quantitative indicator to substantiate assessment of sub-indicator 13(a) Assessment criterion (c):*
- number of appeals: 104 in fiscal year 2022/23.
Source: Appeals body, as stated in the PPRA's annual report.

** Recommended quantitative indicator to substantiate assessment of sub-indicator 13(a) Assessment criterion (c):*
number (and percentage) of enforced decisions: data not available.
Source: Appeals body.

Gap analysis
There are no apparent gaps with respect to this assessment criterion as formulated, except that data on enforcement is not available. The apparent lack of reporting and, presumably, of monitoring is a serious cause for concern.

Recommendations
Monitor and report on how and when the review board decisions are implemented.

Assessment criterion 13(a)(d):
The time frames specified for the submission and review of challenges and for appeals and issuing of decisions do not unduly delay the procurement process or make an appeal unrealistic.

Conclusion: No gap

Red flag: No

Qualitative analysis
Complaints to the PPARB must be lodged no more than 14 days after the event which is being complained against, but within the 14 days stand-still period before a contract is signed. The same time frame applies to appeals to the High Court against PPARB decisions. When the PPARB receives a complaint, it notifies the procuring entity concerned, which then has to suspend the public procurement proceedings until the PPARB has issued a decision. It must do so within 21 days, which has always been the case to date, with only two exceptions in the past. Neither procuring entities nor tenderers appear to consider these time frames to cause undue delays or make complaints or appeals unrealistic.

The PPADA requires the High Court to take its decisions within 45 days. It can refrain from requiring the procurement proceedings to be suspended, as a means to avoid unnecessary delays in the procurement of urgent and important items.

Gap analysis
There are no apparent gaps with respect to this assessment criterion. However, there is no flexibility to adjust the timeline for taking decisions in complex or difficult cases, e.g. those requiring contributions from external, technical experts. This creates a risk that some decisions may be taken within the deadline but on an insufficient basis.

Recommendations
Consider giving some flexibility to adjust the timeline for issuing decisions in complex or difficult cases.

Sub-indicator 13(b)
Independence and capacity of the appeals body
The appeals body:

Assessment criterion 13(b)(a):
is not involved in any capacity in procurement transactions or in the process leading to contract award decisions

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The PPARB only acts upon receipt of formal complaints and is not involved in any capacity in procurement transactions or in the process leading to contract award decisions.

Gap analysis
There are no apparent gaps with respect to this assessment criterion regarding the PPARB as a body. However, it should be noted that its members are only working part-time with PPARB cases, and that their other, regular occupations may create a perception of conflicts of interest potentially leading to a risk of bias in their decisions. This being said, the matter has not been explicitly mentioned by any of the stakeholders consulted during the assessment

Recommendations
Consider ways to address the possible perception that the PPARB members' other occupation may cause their decisions to be biased, including by engaging them on a full-time basis, as elsewhere suggested for capacity reasons.

Assessment criterion 13(b)(b):
does not charge fees that inhibit access by concerned parties

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The PPADA, Section 167 (2), requires the party lodging a complaint to pay a deposit of no less than 10% of the estimated value of the contract concerned, while the PPADR, Regulation 204 (1), requires that the filing of a request for review shall be accompanied by a refundable deposit valued at fifteen percent (15%) of the applicant's tender sum[!], with the exception that, if the tender sum is not determinable[sic!] at the time of filing of the request for review, the amount of deposit shall be two hundred thousand shillings. However, the Supreme Court has ruled that the application of this rule be suspended, on the grounds that it prevents access to justice.

Nevertheless, when lodging a complaint, the PPADR, Regulation 203 (2) (d), states that non-refundable fees must be paid, composed by an administrative fee of KES 5,000 as well as an additional fee of an amount that depends, on a regressive scale, on the estimated value of the contracts, as set out in the PPADR, Fifteenth Schedule. Likewise, if a PPARB decision is appealed against to the High Court, a fee must also be paid.

Gap analysis
It is understood that one of the purposes of the required deposits and non-refundable fees is to discourage frivolous complaints, an aspect where procuring entities and other participants share the same interest. However, the PPADA, Section 172, gives the PPARB ample room to dismiss, with costs, any frivolous complaints. The requirements for a deposit and for the payment of non-refundable fees in the amounts set out in the legislation are likely to strongly discourage participants from lodging complaints, even in situations where a procuring entity is in quite clear breach of its legal obligations. The effect is to strongly reduce the incentives to effectively combat fraud and corruption in public procurement.

The fees appear to be fairly high in comparison with international practice (where, quite often, there are no fees at all). In addition, in most other countries where administrative fees are charged, they are refunded if the review body rules in favour of the complainant. Experience from the European Union and other countries indicates that high fees discourage complaints, reducing the contribution of the work of the review board to the improvement of the compliance environment in the country and the integrity of the public procurement system.

Recommendations
Abolish the obligation to pay a deposit according to the PPADA, Section 167 (2), and the PPADR, Regulation

204 (1). Consider reducing the amounts of the fees and making at least the variable portion refundable if the PPARB rules in favour of the complainant.

Assessment criterion 13(b)(c):
follows procedures for submission and resolution of complaints that are clearly defined and publicly available

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The principles, policies and basic procedures regulation the submission of complaints and the work of the PPARB are clearly set out in the PPADA and the PPADR, as are requirements for procuring entities to submit relevant information. In addition, the PPARB has prepared its own internal rules and procedures, in accordance with the PPADA clause providing that it organises its work itself.

Gap analysis
The internal rules and procedures of the PPARB, based on its long-established practice, were recently finalised and are applied and are in the process of being published.

Among the 63 major procuring entities interviewed, 24% stated that they had no internal procedures related to the handling of complaints. This creates a risk that the provision of evidence becomes incomplete or delayed.

Recommendations
Publish the PPARB's internal rules and procedures and make them accessible on the PPIP or another central portal, or on its own website, if and when it is established.

Assessment criterion 13(b)(d):
exercises its legal authority to suspend procurement proceedings and impose remedies

Conclusion: No gap

Red flag: No

Qualitative analysis
Upon receiving a complaint, the PPARB notifies the procuring entity concerned, requesting it to suspend the proceedings in question. The PPARB has a wide range of remedies at its disposal; according to the PPADA, Section 173, it may do any one or more of the following:

a) annul anything the accounting officer of a procuring entity has done in the procurement proceedings, including annulling the procurement or disposal proceedings in their entirety
b) give directions to the accounting officer of a procuring entity with respect to anything to be done or redone in the procurement or disposal proceedings
c) substitute the decision of the Review Board for any decision of the accounting officer of a procuring entity in the procurement or disposal proceedings
d) order the payment of costs as between parties to the review in accordance with the scale prescribed
e) order termination of the procurement process and commencement of a new procurement process

Gap analysis
There are no apparent gaps with respect to this assessment criterion.

Recommendations
No recommendations needed.

Assessment criterion 13(b)(e):
issues decisions within the time frame specified in the law/regulations*

Conclusion: Minor gap
Red flag: No
Qualitative analysis The PPARB is required to take its decisions within 21 days, which has always been the case to date, with only two exceptions in the past.
Quantitative analysis *Quantitative indicator to substantiate assessment of sub-indicator 13(b) assessment criterion (e):* *• appeals resolved within the time frame specified in the law/exceeding this time frame/unresolved (Total number and in %): 100% in fiscal year 2022/23.* *Source: Appeals body, as stated in the PPRA's annual report.*
Gap analysis There is no flexibility to adjust the time for the PPARB to issue decisions in complex or difficult cases, which creates a risk that important cases cannot be resolved properly. In fact, in the case of Republic v Public Procurement Administrative Review Board & another *ex parte* Noble Gases International Limited [2017], the High Court has emphasised that failure to meet the stipulated timeframes in rendering a decision can lead to the quashing of the PPARB's decision as a violation of due process.
Recommendations Give some flexibility for the PPARB to adjust the time to issue decisions in complex or difficult cases. Cf. related analyses and recommendations under 1(h)(d) and 13(a)(d).
Assessment criterion 13(b)(f): issues decisions that are binding on all parties
Conclusion: No gap
Red flag: No
Qualitative analysis The PPADA, Section 175 (1) makes clear that, unless there is an appeal to the High Court within 14 days, the PPARB's decisions are final and binding on all parties involved.
Gap analysis There are no apparent gaps with respect to this assessment criterion.
Recommendations No recommendations needed.
Assessment criterion 13(b)(g): is adequately resourced and staffed to fulfil its functions.
Conclusion: Substantive gap
Red flag: No
Qualitative analysis The PPARB has currently 13 members out of its statutory complement of 15 members, as well as a small secretariat and administrative support provided by the PPRA. Staffing and resources for this purpose are

allocated by the Director-General of the PPRA and the PPARB is known to have considered them to be insufficient at times. The members are not working full time in the PPARB.

A case management system has been developed but is not yet fully used. There is not yet any data base of past decisions in a machine readable, fully searchable format. Although the PPARB prides itself on basing its decisions on existing case law, it is therefore obliged to rely on the good memory of its members and staff and the services of research assistants to identify past decisions having a bearing on new complaints that are lodged. Even if decisions are duly published, it is therefore not easy also for other interested parties to determine how the PPARB could be expected to rule, as a guidance when considering or formulating a complaint. The possibilities for electronic submission and handling of complaints are therefore limited at present.

The PPARB has also no own funds management function and no own website, so its notices are published by the PPRA on its website. There is no deadline for publication set out in the law but the PPRA's performance contract with the Government obliges it to do it within five days, which is normally the case.

The PPARB has its own line in the State budget and collects administrative fees when complaints are lodged. These revenues are used for paying allowances to its members as a function of when and for how long they meet as well as for communications with the parties and for office supplies, etc. However, its reliance on the support services of the PPRA, which are financed under the PPRA's budget, means that the PPARB is not financially independent.

Gap analysis
The PPARB has insufficient administrative and financial resources for fully meeting its needs on its own.

It lacks a well working case management system, including a freely available and searchable data base of past decisions, as well as a website.

The current operations of the PPARB appear to be dimensioned for handling some 100-200 complaints per year, which is a very low figure by international standards, taking into account the number and value of public procurement proceedings in the country. As a result, there is a risk that the PPARB will not have enough resources if the number of complaints increases.

Recommendations
Review the resource needs of the PPARB and allocate funds and other resources accordingly. Ensure that the case management system becomes fully operational, with a full range of functions, including a freely accessible, fully searchable data base of decisions, including past ones, in order to ensure certainty, consistency and impartial development of the procurement law, and with interfaces to other systems, in particular those for e-procurement. Consider engaging the PPARB members on a full-time basis, possibly reducing their numbers accordingly if the case load would so allow.

Sub-indicator 13(c)
Decisions of the appeals body
Procedures governing the decision making process of the appeals body provide that decisions are:

Assessment criterion 13(c)(a):
based on information relevant to the case.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The PPARB basis its decisions on the full range of evidence requested from and submitted by the parties and obtained from other sources, as may be appropriate.

Gap analysis
Comments from international financial institutions indicate that the PPARB seems to review cases with reference to national legislation while ignoring the tender conditions of international competitive procedures based on the financier's procurement guidelines..

Recommendations
Review and clarify the legal basis for the PPARB's considerations when examining and deciding on complaints.

Assessment criterion 13(c)(b):
balanced and unbiased in consideration of the relevant information.*

Conclusion: No gap

Red flag: No

Qualitative analysis
Cases are examined in consideration of the full range of evidence submitted by the parties and other relevant information available. The PPARB members are selected on the basis of their competence and independence. Their decisions are taken by forming panels of no less than three members. Cases are allocated and panels are composed based, in the first place, on the particular skills and experience required in the individual case, and else on a rotational basis, so as to spread the workload and help ensure timely and competent resolution of the cases at hand.

Quantitative analysis

Recommended quantitative indicator to substantiate assessment of sub-indicator 13(c) Assessment criterion (b):
- share of suppliers that perceive the challenge and appeals system as trustworthy (in % of responses): 49% stating that the system always or mostly works in a fair, transparent and predictable manner". Source: Private sector survey.
- share of suppliers that perceive appeals decisions as consistent (in % of responses): Data not clear.
Source: Private sector survey.

Gap analysis
There are no apparent gaps with respect to this assessment criterion as formulated. Nevertheless, a slight majority (51%) of the respondents to the private sector survey stated that the system never or only rarely works in a fair, transparent and predictable manner, indicating room for improvement. However, the sample is small and only few of the respondents had direct experience of dealing with the PPARB.

Recommendations
No recommendations needed.

Assessment criterion 13(c)(c):
result in remedies, if required, that are necessary to correcting the implementation of the process or procedures.*

Conclusion: No gap

Red flag: No

Qualitative analysis
The full range of remedies available (see assessment criterion 13(b)(d)) allow all measures to be taken that are necessary for correcting the implementation of the process or procedures.

Quantitative analysis ** Recommended quantitative indicator to substantiate assessment of sub-indicator 13(c) Assessment criterion (c): - outcome of appeals (withdrawn: 6%; decision in favour of procuring entity: 20%; decision in favour of applicant: 74%) (in fiscal year 2022/23).* *Source: Appeals body, as stated in the PPRA's annual report.*
Gap analysis There are no apparent gaps with respect to this assessment criterion.
Recommendations No recommendations needed.
Assessment criterion 13(c)(d): decisions are published on the centralised government online portal within specified timelines and as stipulated in the law.*
Conclusion: No gap
Red flag: No
Qualitative analysis All PPARB decisions are published on the PPRA website. There is no deadline for publication set out in the law but the PPRA's performance contract with the Government obliges it to do it within five days, which is normally the case.
Quantitative analysis *// Minimum indicator // *Quantitative indicator to substantiate assessment of sub-indicator 13(c) Assessment criterion (d):* *- share of appeals decisions posted on a central online platform within timelines specified in the law (in %): 100%.* *Source: PPRA annual report for fiscal year 2022/23.*
Gap analysis There are no apparent gaps with respect to this assessment criterion.
Recommendations Consider adding to the regulations a suitable deadline for publishing the PPARB's decisions.

Indicator 14. The country has ethics and anticorruption measures in place

Sub-indicator 14(a) **Legal definition of prohibited practices, conflict of interest, and associated responsibilities, accountabilities, and penalties** The legal/regulatory framework provides for the following:
Assessment criterion 14(a)(a): definitions of fraud, corruption and other prohibited practices in procurement, consistent with obligations deriving from legally binding international anti-corruption agreements.
Conclusion: No gap

Red flag: No

Qualitative analysis
The PPADA, Section 66, defines fraud, corruption, and other prohibited practices in procurement, consistent with international anti-corruption agreements.

The Anti-Bribery Act (Act no. 47 of 2016) outlines comprehensive strategies to prevent, investigate, and prosecute corrupt practices. It includes definitions of fraud, corruption, and other prohibited practices, consistent with international anti-corruption agreements.

The Anti-Corruption and Economic Crimes Act, Section 2, provides detailed definitions of corruption, fraud, and other prohibited practices. It also outlines the responsibilities, accountabilities, and penalties for individuals and entities involved in corrupt activities.

The Conflict of Interest Act includes definitions of conflict of interest and of related notions in Sections 2 and 8.

The Ethics and Anti-Corruption Commission (EACC) is the primary body responsible for combating corruption and promoting ethical conduct in Kenya. It provides definitions of prohibited practices and conflicts of interest, sets out associated responsibilities and penalties and provides guidelines for addressing problems encountered.

Gap analysis
The assessment criterion is met.

Recommendations
No recommendations needed.

Assessment criterion 14(a)(b):
definitions of the individual responsibilities, accountability and penalties for government employees and private firms or individuals found guilty of fraud, corruption or other prohibited practices in procurement, without prejudice of other provisions in the criminal law.

Conclusion: No gap

Red flag: No

Qualitative analysis
The Public Officer Ethics Act, Section 11, specifies the responsibilities and accountabilities of government employees. Section 12 includes provisions concerning conflict of interest and mandates a cooling-off period for former public officials. Section 34 outlines penalties for those found guilty of fraud, corruption, or other prohibited practices in procurement.

The Anti-Corruption and Economic Crimes Act, Section 45, outlines the responsibilities, accountabilities, and penalties for individuals and entities involved in corrupt activities.

The Conflict of Interest Act, Sections 9-28, 30, 31 and 34, sets out the responsibilities of public officers with respect to the broad definition of conflict of interest. Section 45 sets out general penalties for contravening the Act. Having come into force on 19 August 2025, the Conflict of Interest Act repeals the Public Officer Ethics Act. However, any statutory instruments made under the Public Officer Ethics Act remain in force (Section 52) of the Conflict of Interest Act) until implementing regulations and corresponding administrative mechanisms under the Conflict of Interest Act will be in place, within one year after the entry into force of the Act (Section 40).

The PPADA, Section 66 (1), states that a person to whom the PPADA applies shall not be involved in any corrupt, coercive, obstructive, collusive or fraudulent practice; or conflicts of interest in any procurement or asset disposal proceeding, while Section 66 (2) states that a person who contravenes those provisions commits an offence and shall then (sub-section (3)) shall be disqualified from entering into a contract for a procurement or asset disposal proceeding; or, if a contract has already been entered into with the person, the contract shall be voidable.

The PPADA, Section 176, prohibits a number of actions related to public procurement and sets out penalties for breaching these obligations. Section 177 requires that persons convicted of other offences under the PPADA be liable to fines or, in the case of a natural person, to imprisonment. Section 178 requires that a person shall not, in his personal capacity, be liable in civil or criminal proceedings in respect of any act or omissions done in good faith in the performance of his duties under the PPADA.

The PPADR, Regulation 205 (3) and (4), gives the accounting officer the obligation to respond in writing within a short period of time whenever served with a notice of a request for review by the PPARB and sets out strict penalties for failing to comply.

The PPADR, Regulation 223, prohibits further actions by public officers of a procuring entity in addition to those set out in the PPADA, Section 176, and lists the corresponding penalties.

Gap analysis

According to the PPADR, Regulation 223 (4), failure to comply with specified timelines, etc., may be sanctioned by disciplinary measures. This seems to be not fully aligned with the provision in the PPADR, Regulation 205 (4), that an accounting officer failing to respond in writing within the set time limit shall be liable to a fine not exceeding four million shillings or to imprisonment for a term not exceeding ten years, or to both.

Recommendations
The provisions on accountability may merit revision but should in any case be complemented by more effective and efficient mechanisms for oversight, investigation and sanctions.

Assessment criterion 14(a)(c):
definitions and provisions concerning conflict of interest, including a cooling-off period for former public officials.

Conclusion: No gap

Red flag: No

Qualitative analysis
Definitions and provisions concerning conflict of interest, including a cooling-off period for former public officials are available in the legal framework as follows, in the general case:

- Constitution of Kenya, Section 75, clauses 1-3
- Public Officer Ethics Act, Section 12
- Leadership and Integrity Act, Section 16
- Conflict of Interest Act, Sections 2, 8-28, 30, 31 and 34

In the particular case of public procurement, the PPADA, Section 12 (4), provides that, where the involvement of a member of the Public Procurement Regulatory Board in a decision of the Board is likely to result in a conflict of interest, the Board member shall disclose such potential conflict of interest and the Board member shall not take part in such decisions. A corresponding provision is set out in the PPADR, Regulation 212 (1), which states that where any member of the Public Procurement Administrative Review Board has a direct or

indirect interest in any matter before the Review Board, he or she shall declare his or her interest in the matter and shall not participate in the hearing or decision-making process of the Review Board in relation to that particular matter. The PPADA, Section 66, defines and prohibits conflicts of interest between the parties in the general case of public procurement proceedings and sets out corresponding remedies.

Gap analysis
While the assessment criterion is met according to its terms, it is not clear to what extent the requirements concerning conflicts of interest, etc., are actually applied and whether the monitoring and enforcement mechanisms are effective and efficient.

Recommendations
Assess the level of compliance with the requirements concerning conflicts of interest, etc., and enhance the monitoring and enforcement mechanisms as necessary.

Sub-indicator 14(b)
Provisions on prohibited practices in procurement documents

Assessment criterion 14(b)(a):
The legal/regulatory framework specifies this mandatory requirement and gives precise instructions on how to incorporate the matter in procurement and contract documents.

Conclusion: No gap

Red flag: No

Qualitative analysis
Provisions on prohibited practices, as well as corresponding instructions, are set out in e.g. the PPADA, Sections 41 (1) (h), 58, 59, 62, 65, 66, 176-178 and 181.

Gap analysis
There are no major, apparent gaps with respect to this assessment criterion, except that the provisions in the PPADA could be more explicit about where and how to reflect them in various procurement and contract documents.

Recommendations
Review and revise the PPADA and the PPADR as appropriate for ensuring that the provisions in the PPADA become properly reflected in the contents and wording of various procurement and contract documents.

Assessment criterion 14(b)(b):
Procurement and contract documents include provisions on fraud, corruption and other prohibited practices, as specified in the legal/regulatory framework.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
Standard tender documents, including general conditions of contract, contain provisions on fraud, corruption and other prohibited practices in line with the requirements in the PPADA. The instructions to tenderers recall the legal provisions on fraud and corruption and the eligibility criteria exclude any tenderer involved in corrupt, coercive, obstructive, collusive or fraudulent practices. The Form of Tender includes a declaration that the tenderer has taken steps to ensure that no person acting for or on behalf of the tenderer engages in any type of fraud and corruption. The PPADR, Fifth Schedule, contains self declaration forms for tenderers which have to be attached to the tender, including one (Form SD2) stating that the tenderer will not engage in any corrupt or fraudulent practice as well as a form labelled Declaration and Commitment to the Code of Ethics, both of which are also included in the standard tender documents. The tendering forms in the standard tender documents also have an appendix setting out the rules on fraud and corruption in greater detail.

The general conditions of contract typically include a clause on fraud and corruption requiring the supplier or contractor to comply with anti-corruption laws and guidelines and the prevailing sanctions, policies and procedures as set forth in the laws of Kenya.

Gap analysis

Despite the clear requirements in the law and the use of standard documents, only 79% of the contracts reviewed were observed to include anti-corruption clauses. This may leave a corresponding portion of procurements exposed to potential misconduct, even if other anti-corruption provisions may be applicable. Without explicit language in the contract to deter and penalise unethical behaviour, enforcement becomes more difficult, and accountability weakens. These gaps not only elevate the risk of financial mismanagement but also threaten public trust in the procurement process. From a governance perspective, the absence of anti-corruption safeguards in nearly one fifth of the contracts could undermine national or institutional efforts to combat corruption. It also poses a reputational risk for the procuring entities involved, especially if these contracts are later subjected to audits or public scrutiny.

Recommendations

Strengthen internal checks to ensure that these clauses are standard in all procurement documents issued and duly included in the contracts signed.

Sub-indicator 14(c)
Effective sanctions and enforcement systems

Assessment criterion 14(c)(a):

Procuring entities are required to report allegations of fraud, corruption and other prohibited practices to law enforcement authorities, and there is a clear procedure in place for doing this.

Conclusion: Minor gap

Red flag: No

Qualitative analysis

Neither the PPADA nor the PPADR contain any explicit requirements for procuring entities to report allegations of fraud, corruption and other prohibited practices to law enforcement authorities or other supervisory bodies concerned, and there is no clear procedure in place for doing this. Provisions in other legislation covering general cases of fraud, corruption and other prohibited practices may be applicable to procuring entities but the public procurement regulations do not refer to them.

In the general case, apparent cases of corruption can be reported, also anonymously, to the Ethics and Anti-Corruption Commission on through links on its website and by other means.

Gap analysis

It is not sufficiently clear how provisions in other legislation covering general cases of fraud, corruption and other prohibited practices, including reporting procedures to be followed, should be applied by procuring entities. As a result, both actual and potential cases of bad practice may not be adequately reported.

Recommendations

Review if, how and to what extent provisions in other legislation covering general cases of fraud, corruption and other prohibited practices, including reporting procedures to be followed, apply to procuring entities and how any shortcomings in this respect should be addressed.

Assessment criterion 14(c)(b):

There is evidence that this system is systematically applied and reports are consistently followed up by law enforcement authorities.

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis
General requirements that reports of fraud, corruption and other prohibited practices be systematically followed up by law enforcement authorities are set out in several legal instruments, e.g.:

- Constitution of Kenya, Section 79
- Anti-Corruption and Economic Crimes Act, Sections 23, 35, 36, 47
- Ethics and Anti-Corruption Commission Act, Sections 11, 35

However, there is no clear and comprehensive evidence whether and to what extent these general requirements are met.

Gap analysis
Ineffective investigation and sanctioning not only fails to correct bad practice in individual cases and to deter fraud and corruption in the general case but also reduces trust in the public procurement system, creating disincentives for fair competition.

Most corruption and other malpractices in procurement appear to go unreported. As an example, a total of 228 bribery and other malpractices went unreported compared to only 73 cases that were reported (An Evaluation of Corruption in Public Procurement: A Kenyan Experience; EACC 2015, p 18). The main reason for not reporting cases was the fear by suppliers of losing lucrative business opportunities with public institutions. The low success rate of the few prosecutions that are brought forward indicate that the general regulations are not systematically, consistently and successfully applied in the field of public procurement. An important reason may be that most prosecutors seem to lack expertise in procurement of goods, works and services.

Recommendations
Raise the level of transparency with respect to reports of alleged cases of fraud and corruption and the measures taken to address the cases that have been reported.

Enhance training on public procurement for prosecutors to ensure that corruption reports are duly followed up to avoid any procurement loopholes and malpractices.

Consider giving the EACC prosecutorial power for offences related to public procurement.

Assessment criterion 14(c)(c):
There is a system for suspension/debarment that ensures due process and is consistently applied.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The PPADA, Section 41, sets out the principles for debarment, in particular the various grounds for debarment. Debarment is further regulated in the PPADR, Regulation 22, which details the different steps in the debarment procedure in order to ensure due process and requires the publication of the details of the decision as well as the period of debarment.

The PPADR, Regulation 22 (7), requires that debarment of a person shall also apply to the successor in interest of the debarred person and where the debarred person is a company or partnership, the debarment shall apply to the directors and partners of that company or partnership, while sub-regulation (8) states that the debarment shall extend to any legal entity in which the debarred person has a controlling interest.

The provisions in the PPADA and the PPADR are complemented by a debarment manual issued by the PPRA in 2022.

Publication of detailed debarment data is one of the actions under Commitment 5. Open Contracting in Kenya's Open Government Partnership National Action Plan 2023-2027.

Gap analysis
Available evidence indicates that the consistent application of debarment conditions is weak, in that some tenderers participate despite having breached procurement contracts, including by poor performance, submitted false information about eligibility and qualifications, or refused to enter a contract as required under the PPADA, Section 135.

The publication of the debarment decisions should allow procuring entities to verify the eligibility of tenderers in this respect, but it is not clear to what extent this is systematically done. The PPRA has a web page that lists no more than seven debarred firms (status on 8 March 2025), but it does not contain any details, contrary to the international practice where debarment is robust and publishing of the information is encouraged for deterrence purposes.

There does not seem to be a robust debarment regime in place. While the Act seems to suggest that bidders may be debarred for violations of laws outside the PPADA (Section 41 (1) (b)), it is doubtable that violations under Section 4 (2) (f) would be taken before the PPARB for debarment proceedings. Some of the grounds, like in Section 41 (1) (g) and (i), may not be practical to address by pursuing debarment, and they already constitute grounds for exclusion under the eligibility rules in the PPADA, Section 55 (1) (f) and (h).

The PPARB does not seem to have clear and transparent procedures, rules and powers for handling debarment cases.

There is no power to take interim measures to avoid destruction/damage or to preserve public property and the timelines to show prima facie case are unduly long and without specific powers upon guilty finding.

Recommendations
Review how debarment works in practice and take steps to address any shortcomings that may be found.

Have in place debarment regulations, including, if possible, a separate Board for purposes of debarments only. A number of jurisdictions have in place debarment rules as a standalone legislation.

Assessment criterion 14(c)(d):
There is evidence that the laws on fraud, corruption and other prohibited practices are being enforced in the country by application of stated penalties.*

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis
The Anti-Corruption and Economic Crimes Act, Section 45, the Leadership and Integrity Act, Section 42, and the Ethics and Anti-Corruption Commission Act, Sections 11 and 35 have provisions on the application of penalties as a means for enforcing the requirements set out in the Acts.

The Ethics and Anti-Corruption Commission publishes information on cases of corruption that have been prosecuted, including in the National Ethics and Corruption Survey of 2023.

Quantitative analysis

** Recommended quantitative indicator to substantiate assessment of sub-indicator 14(c) Assessment criterion (d):*
- Firms/individuals found guilty of fraud and corruption in procurement: number of firms/individuals prosecuted/convicted; prohibited from participation in future procurements (suspended/debarred): data not available.

Proposed source: Normative/regulatory function/anti-corruption body.
- Government officials found guilty of fraud and corruption in public procurement: number of officials prosecuted/convicted: data not available.
Proposed source: Normative/regulatory function/anti-corruption body.
- Gifts to secure public contracts: number of firms admitting to unethical practices, including making gifts (in %): 18%.
Source: Private sector survey.

Gap analysis

Despite the nominally strong legal framework in Kenya, there is still a strong perception of high prevalence of corruption and unethical behaviour both at the national and the county governments and amongst the state corporations. The application of the Acts mentioned is split among many agencies, with gaps and overlaps that prevent consistent, comprehensive, effective, efficient, fair and reasonable enforcement. While some cases of apparent fraud, corruption and other prohibited practices have been successfully prosecuted, others are reported in the press but often without evidence of any corresponding actions.

In the private sector survey, 18% of the respondents admitted to having offered a bribe. The highest number of such admitted cases in one company was 26, counting from June 2023 to February 2025.

However, the paucity of reliable data reflects weak monitoring and reporting, which may hide inconsistent and ineffective investigations and sanctions.

Recommendations

Enhance public participation and feedback mechanisms in the fight against corruption by promoting existing citizen feedback mechanisms, encourage and facilitate public engagement in monitoring and evaluating the effectiveness of anticorruption initiatives.

Review and revise the legal and institutional framework in order to eliminate gaps and unnecessary overlaps in the work of the institutions combatting fraud and corruption.

Expedite the enactment of the Whistleblower Protection Bill and establish whistleblower protection mechanisms to eliminate fear of victimisation of whistleblowers, potential harassment and reprisal.

Support accounting officers in their efforts to enforce existing anticorruption regulations, and promote a culture of integrity and ethics.

The government should consistently and actively demonstrate its commitment to fighting corruption through transparent and accountable actions, e.g., swift and decisive measures against corrupt practices in public offices.

Encourage a culture of integrity through intensifying ethics training, introduction of mentorship programs and recognition of individuals and institutions with exemplary ethical standards.

Undertake systems examination in institutions where bribery was either most likely or prevalent. Effective anti-corruption measures, including policy reforms, systems, procedures and practices should be directed towards addressing corruption in those institutions.

Sub-indicator 14(d)
Anti-corruption framework and integrity training

Assessment criterion 14(d)(a):

The country has in place a comprehensive anti-corruption framework to prevent, detect and penalise corruption in government that involves the appropriate agencies of government with a level of responsibility and capacity to enable its responsibilities to be carried out.*

Conclusion: Minor gap

Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

Red flag: No

Qualitative analysis
The Ethics and Anti-Corruption Commission (EACC) is a Constitutional Commission established pursuant to Articles 79 and 253 of the Constitution of Kenya. The mandate of the Commission is to combat and prevent corruption, economic crime and unethical conduct in Kenya through law enforcement, prevention, public education, and promotion of standards and best practices in ethics and integrity.

Corresponding legislation includes, e.g.:

- EACC Guidelines no. 1
- PPADA, Sections 9, 41, 66 (1)
- Ethics and Anti-Corruption Commission Act, Sections 11, 13
- Leadership and Integrity Act, Sections 3, 42
- Public Finance Management Act, Sections 10, 119
- Anti-Bribery Act, Sections 4, 14, 19

In the field of public procurement, a Memorandum of Understanding between the PPRA and the EACC complements the Corruption Prevention Guidelines jointly published in 2009 by their predecessor organisations, the Kenya Anti Corruption Commission and the Public Procurement Oversight Authority.

Quantitative analysis

**Recommended quantitative indicator to substantiate assessment of sub-indicator 14(d) Assessment criterion (a):*
- percentage of favourable opinions by the public on the effectiveness of anti-corruption measures (in % of responses): 68% for the use of e-procurement; below or around 50% for six other possible measures.
Source: Private sector survey.

Gap analysis
Appropriate agencies exist to fight corruption, although with gaps and overlaps, but they appear to lack key competencies to systematically detect, investigate and sanction corruption in public procurement.

Among the heads of procurement in the 63 major procuring entities visited by the MAPS assessors, only 21% of the respondents believed that existing measures are effective, with 38% describing them as only partially functional and another 41% seeing them as entirely ineffective. The low level of confidence in anti-corruption measures reflects not only scepticism about enforcement but perhaps also about the political will to hold offenders accountable.

The EACC seems to lack the necessary legal basis to prosecute offenders in procurement.

Recommendations
Review and revise applicable regulations to help ensure that the competent agencies are duly empowered to take suitable measures to prevent, detect and penalise fraud, corruption and other prohibited practices in public procurement, and to address any conflicting or missing mandates.

Enhance capacity building to prevent, detect, investigate and sanction corruption in procurement.

Assessment criterion 14(d)(b):
As part of the anti-corruption framework, a mechanism is in place and is used for systematically identifying corruption risks and for mitigating these risks in the public procurement cycle.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
Section 9 (1) of the Anti-Bribery Act requires every public and private entity to put in place procedures appropriate to the size, scale, and nature of its operations to prevent bribery and corruption. When developing the procedures, the entities are further required to assess and map out bribery and corruption risks and develop a plan to mitigate the risks. The EACC has developed Draft Guidelines for Corruption Risk Assessment and Management which were published for consultation in October 2024.

Gap analysis
The EACC's draft guidelines are general in nature and contain very few, quite limited references to risks related to public procurement. There is little evidence that risk management procedures are in place as required. This means that prevention is not efficient and that possible cases of fraud and corruption may remain undetected.

See also assessment criterion 14(d)(d).

Recommendations
Enhance the EACC guidelines and complement or replace them by more comprehensive mechanisms for identifying and managing risks related to fraud, corruption or other prohibited practices in public procurement.

See also assessment criterion 14(d)(d).

Assessment criterion 14(d)(c):
As part of the anti-corruption framework, statistics on corruption-related legal proceedings and convictions are compiled and reports are published annually.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The Ethics and Anti-Corruption Commission gathers information on corruption occurring in Government, the public sector and the private sector from a variety of sources. These sources include members of the public, heads of government departments and agencies, officials working in both the public and private sectors and the media. The EACC prepares annual reports on its activities and finances.

Gap analysis
The EACC web page presented as allowing access to and download of its annual reports, etc., appears to be incomplete and not up to date. Though there are cases of corruption reported by EACC in procurement, some corruption cases may go unreported, meaning that the anticorruption framework and statistics may not paint the true picture of the situation on the ground.

Recommendations
The EACC should produce frequent, regular reports and publish information in ways that make data freely accessible and readily available for analysis.

Information gathering on corruption and fraud in procurement should be synchronised through a common platform, allowing information to be collected from various sources and compiled in ways that make it easy to take measures to address the cases identified.

Assessment criterion 14(d)(d):
Special measures are in place for the detection and prevention of corruption associated with procurement.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The Conflict of Interest Act applies to public administration in general, but certain provisions are more specifically related to public procurement, e.g. in Sections 18-20 and 30. The Anti-Bribery Act, Sections 4 and 14, provides specific measures for the detection and prevention of bribery in public procurement. It criminalises both the offering and accepting of bribes during the procurement process and imposes severe penalties for violators. It also requires public entities to put in place anti-bribery measures, including monitoring and reporting suspicious activities during procurement processes. These measures help detect and prevent bribery within the procurement system.

The Anti-Corruption and Economic Crimes Act, Sections 23 and 35, grants investigative powers to the Ethics and Anti-Corruption Commission (EACC), including the ability to conduct inspections and audits of procurement processes. This section empowers the EACC to take preventive action when corruption is suspected, such as halting or reviewing suspicious procurement transactions. It also mandates public officers and institutions to report any instances of suspected corruption to the EACC. This facilitates early detection of corrupt practices, especially in procurement-related activities.

Gap analysis
Legal requirements for taking measures to detect and prevent corruption are in place. Without being specific, they cover aspects associated with public procurement. However, it is not clear to what extent this meets the assessment criterion of “special measures”, that is, effective mechanisms for implementing the legal requirements in the field of public procurement.

See also assessment criterion 14(d)(b).

Recommendations
Review to what extent existing regulations adequately cover aspects specific to public procurement and are complemented by suitable mechanisms for monitoring and enforcement, and address any shortcomings identified.

See also assessment criterion 14(d)(b).

Assessment criterion 14(d)(e):
Special integrity training programmes are offered and the procurement workforce regularly participates in this training.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The Leadership and Integrity Act, Section 42, mandates public officials, including those in procurement roles, to undergo regular training on ethical standards and conduct. This is in line with promoting leadership that adheres to principles of integrity, particularly in high-risk areas such as procurement.

The Public Officer Ethics Act, Sections 12(1) and 20, required public officers, including procurement officials, to regularly attend integrity and ethics training. These trainings were designed to foster awareness of ethical standards and the legal framework governing procurement. It also established that public institutions must organize periodic ethics and integrity training programs for all their officers, including those involved in procurement, to promote compliance with anti-corruption laws and the ethical conduct expected in public service. These requirements and the corresponding training programs may remain in force, unless and until superseded by implementing regulations for the recently adopted Conflict of Interest Act.

Gap analysis
The legal requirements for integrity training are clear. Without being specific, they cover aspects associated with public procurement. However, it is not abundantly clear if and to what extent such training programmes are offered, whether they include aspects that are specific to public procurement and to what extent public

procurement officials actually participate in such training. In fact, according to the heads of procurement interviewed, training on procurement ethics and integrity is insufficient. 49% had access to special integrity training but only 43% had actually participated fully. The rest either lacked it entirely or received minimal exposure. The weak exposure to structured training suggests that such initiatives are not embedded in institutional strategies, leaving many professionals ill equipped to detect or deter procurement fraud and misconduct.

The recently adopted Conflict of Interest Act does not seem to contain any provisions requiring public officers, including procurement officials, to regularly attend integrity and ethics training, nor any provisions regulating such training.

Recommendations
Review how integrity training is currently carried out and how and to what extent it includes public procurement aspects. Address any shortcomings that may be identified, possibly by adding integrity aspects to curricula for education and training in public procurement.

Sub-indicator 14(e)
Stakeholder support to strengthen integrity in procurement

Assessment criterion 14(e)(a):
There are strong and credible civil society organisations that exercise social audit and control.

Conclusion: No gap

Red flag: No

Qualitative analysis
There is a presence of civil society organisations (CSOs) actively involved in promoting accountability and transparency in public procurement. Organisations such as the Institute of Economic Affairs (IEA) and Transparency International Kenya (TI-Kenya) work closely with government bodies like the Auditor General's Office to monitor public spending and highlight procurement risks.

Gap analysis
Despite the efforts mentioned, challenges such as limited funding and occasional government resistance to transparency measures can hinder the effectiveness of CSOs.

Recommendations
No recommendation needed.

Assessment criterion 14(e)(b):
There is an enabling environment for civil society organisations to have a meaningful role as third-party monitors, including clear channels for engagement and feedback that are promoted by the government.

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The Kenyan government has made strides to create an enabling environment for CSOs. The adoption of the Open Contracting Data Standard (OCDS) and other commitments under the Open Government Partnership (OGP) have enhanced the transparency of procurement processes. These initiatives provide platforms for CSOs to access procurement data, engage in monitoring activities, and offer feedback.

At present, Kenya's OGP National Action Plan 2023-2027 includes the application of OCDS as Commitment 5. It is intended to be met by incorporating OCDS in the functionalities of the new e-GP system. The creation of an enabling environment for CSOs is also supported by Commitment 3. Open Data for Development and Commitment 4. Beneficial Ownership Transparency under the same Action Plan.

Pillar IV. Accountability, Integrity and Transparency of the Public Procurement System

Gap analysis
While there are frameworks to promote transparency and allow CSOs to monitor public procurement, inconsistent government co-operation can sometimes hinder the full realisation of open contracting principles. At present, many procurement contracts are not publicly accessible for review.

An enabling environment for civil society organisations, allowing them to have a meaningful role as third-party monitors, would have to include easy access to comprehensive public procurement data. However, there are important gaps in the reporting by procuring entities, meaning that available data is incomplete.

The commitments under the OGP National Action Plan have not yet become effective.

Recommendations
Implement commitments 3, 4 and 5 in the OGP National Action Plan. Improve the level of compliance with reporting requirements and take steps to ensure that procurement data is readily accessible in machine readable formats.

See also recommendations under 7(a)(e) and 14(g)(e).

Assessment criterion 14(e)(c):
There is evidence that civil society contributes to shape and improve integrity of public procurement.*

Conclusion: Substantive gap

Red flag: No

Qualitative analysis
The IEA's collaboration with the Auditor General has uncovered instances of fund misappropriation, which have led to public awareness and governmental accountability actions.

TI-Kenya provides a "CSO Guide to Public Procurement," which educates stakeholders on navigating the procurement process, thereby empowering citizens and enhancing oversight. Together with other CSOs, TI is also engaged in other forms of awareness raising and training, particularly in order to mobilise citizens to take an active interest in public procurement and other aspects of public administration and to get the necessary skills for monitoring and analysing what is happening.

Business associations are also working on improving integrity in public procurement.

Quantitative analysis

** Recommended quantitative indicator to substantiate assessment of sub-indicator 14(e) Assessment criterion (c):*
- number of domestic civil society organisations (CSOs), including national offices of international CSOs) actively providing oversight and social control in public procurement: data not available.
Proposed source: Survey/interviews.

Gap analysis
Some positive examples of CSOs actively providing oversight and social control in public procurement are known but the lack of data makes it difficult to get a clear, complete and reliable overview of the actual situation.

Among the heads of procurement in the 63 major procuring entities visited by the MAPS assessors, 33% of the respondents felt that suppliers and business associations fail to actively promote ethical behaviour through mechanisms like compliance checks or internal whistleblowing systems. Only 30% believed such integrity practices were fully present, while another 37% found them to be partially present.

In the private sector survey, only 15% of the respondents stated that they were aware of any CSO actively monitoring public procurement. Out of these, no more than 55% found their work to be useful and effective. On the other hand, 63% of those not knowing any such CSO considered that their participation in monitoring public procurement could be useful.

Recommendations
Identify possible ways to collect and compile evidence of if, how and to what extent civil society contributes to shape and improve integrity of public procurement; already the inputs from the field visits indicate the need for more comprehensive and better co-ordinated initiatives between government regulators and supplier networks to institutionalise ethics within the supply chain.

Assessment criterion 14(e)(d):
Suppliers and business associations actively support integrity and ethical behaviour in public procurement, e.g. through internal compliance measures.*

Conclusion: Minor gap

Red flag: No

Qualitative analysis
Kenyan business associations and suppliers increasingly recognise the importance of ethical practices in public procurement. Some have adopted internal compliance measures to ensure transparency and integrity. For instance, the Kenya Private Sector Alliance (KEPSA) and other business bodies advocate for fair competition and ethical standards.

Quantitative analysis

** Recommended quantitative indicator to substantiate assessment of sub-indicator 14(e) Assessment criterion (d):*
- number of suppliers that have internal compliance measures in place (in %): data not available.
Proposed source: Supplier database.

Gap analysis
The level of commitment to ethical procurement practices among suppliers appears to be inconsistent, indicating a need for more rigorous enforcement and support for ethical standards. Data on practices is scarce and inconsistent.

While progress has been made, there is still a need for broader public awareness and engagement in procurement oversight to ensure comprehensive accountability.

Recommendations
Review to what extent companies have internal compliance measures in place, how they are used and how effective they are, and liaise with their organisations about how the situation could be improved.

Sub-indicator 14(f)
Secure mechanism for reporting prohibited practices or unethical behaviour

Assessment criterion 14(f)(a):
There are secure, accessible and confidential channels for reporting cases of fraud, corruption or other prohibited practices or unethical behaviour.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The EACC website has a page with instructions and links for reporting cases of fraud, corruption or other prohibited practices or unethical behaviour in general.

Another channel is provided by the KIPPRA by way of a corruption reporting form available on its website, including instructions for how the person making the report could remain anonymous.

Gap analysis
There is no dedicated channel for secure, accessible and confidential reporting cases of fraud, corruption or other prohibited practices or unethical behaviour in the particular field of public procurement.

The Technical and Vocational Education and Training Authority has a web page labelled Corruption reporting, but it is empty.

Recommendations
Set up a dedicated channel on the PPRA website as well as on any other suitable public procurement portal in order to enable secure, accessible and confidential reporting of cases of fraud, corruption or other prohibited practices or unethical behaviour in public procurement. Ensure that all stakeholders are aware of and can easily access these reporting channels. Widely publicising these channels more widely could enhance their use. There should be mechanisms for providing feedback to reporters and any other interested parties about the status of the reports submitted and the actions taken.

Assessment criterion 14(f)(b):
There are legal provisions to protect whistleblowers, and these are considered effective.

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis
There are limited legal provisions to protect whistleblowers set out in Section 47 of the Conflict of Interest Act. The Attorney General's and EACC's "Guidelines to assist public and private entities in the preparation of procedures for the prevention of bribery and corruption. Intended to give effect to Section 9 of the Anti-Bribery Act, 2016" may imply an expectation to set up mechanisms for whistleblower protection but there is no enforceable, legal obligation to do so.

More comprehensive whistleblower protection mechanisms have been outlined in the Whistleblower Protection Bill of 2024.

Gap analysis
No effective legal protection for whistleblowers exists currently. Apart from the general provision stating that the Conflict of Interest Act "shall be administered by the Ethics and Anti-Corruption Commission" (Section 4), no mechanisms are yet in place for applying the whistleblower protections set out in the Act. The Whistleblower Protection Bill of 2024 has not yet been adopted.

As a consequence, whistleblower protection remains weak, discouraging the reporting of possible cases of fraud and corruption and thus undermining accountability. The gap directly threatens transparency, integrity, and oversight in procurement. Resolving it requires systemic legislative action, combined with corresponding efforts to facilitate and support the application of the law.

Recommendations
Revise and adopt the Whistleblower Protection Bill and put effective and efficient mechanisms in place to ensure its proper application.

Assessment criterion 14(f)(c):
There is a functioning system that serves to follow up on disclosures.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
To the extent that they receive reports on alleged cases of fraud, corruption or other prohibited practices or unethical behaviour in public procurement, both the PPRA and the EACC take actions that are within their competence or forward the case to other supervisory and law enforcement authorities as appropriate. Such actions are mentioned in their respective reports but it is difficult to follow the measures that have been taken as well as their effects in each individual case.

Gap analysis
The effectiveness of any measures that serve to follow up on reports of fraud, corruption or other prohibited practices or unethical behaviour is not fully clear. In any case, it is limited to the few cases that are duly reported; in all other cases, the absence of reporting means that there is also no follow-up.

Recommendations
Review the effectiveness and efficiency of the follow-up on reports of fraud, corruption or other prohibited practices or unethical behaviour made to the PPRA, the EACC and other entities in charge, and address any shortcomings that may be identified.

Prepare to handle the rising case load that should be expected as a result of improving the possibilities to identify and lodge reports on fraud, corruption or other prohibited practices or unethical behaviour.

Sub-indicator 14(g)
Codes of conduct/codes of ethics and financial disclosure rules

Assessment criterion 14(g)(a):
There is a code of conduct or ethics for government officials, with particular provisions for those involved in public financial management, including procurement.*

Conclusion: Minor gap

Red flag: No

Qualitative analysis
Kenya has established comprehensive codes of conduct and ethics for government officials, particularly those involved in public financial management and procurement. The guidelines are outlined in the Public Officer Ethics Act, 2003, and further reinforced by the Leadership and Integrity Act. In application of the PPADA, Section 181, the Public Procurement Regulatory Authority (PPRA) provides specific codes of ethics for persons involved in public procurement and for procuring entities, ensuring that all officials adhere to defined ethical standards during procurement processes. These documents cover expected behaviours, ethical standards, and conflict of interest management.

Quantitative analysis

** Recommended quantitative indicator to substantiate assessment of sub-indicator 14(g) Assessment criterion (a):*
- share of procurement entities that have a mandatory code of conduct or ethics, with particular provisions for those involved in public financial management, including procurement (in % of total number of procuring entities): 37%; with 24% stating only partial presence of such a code and 39% indicating its absence.
Source: Data collected from Heads of Procurement interviewed by the MAPS assessment team.

Gap analysis
While the legal framework for ethics may seem to be fairly strong and should serve as an essential reference point for behaviour and decision-making, no more than 87% of procuring entities actually confirmed the presence of a mandatory code of conduct or ethics for staff involved in financial management, including procurement. However, the real test lies in how actively these codes are enforced and integrated into daily practices. Without accountability and routine reinforcement, such as ethics audits and whistleblower protections, codes of conduct risk becoming symbolic rather than transformative. In particular, the monitoring and enforcement of compliance appears to be incomplete, inconsistent and ineffective. CSOs interviewed mention the existence of cases where non-compliance is not adequately addressed, which can undermine the system's integrity.

As the procurement landscape evolves, there is a need for continuous updating of ethical guidelines to address new challenges and ensure they remain relevant and effective.

Recommendations
Review and update ethical guidelines and codes of conduct in the light of current developments.

Enhance monitoring of the application of ethical guidelines and codes of conduct and set up enforcement mechanisms as may be warranted.

Assessment criterion 14(g)(b):
The code defines accountability for decision making, and subjects decision makers to specific financial disclosure requirements.*

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The codes clearly define accountability mechanisms for decision-making and require public officials to disclose their financial interests. The financial disclosure requirements are aimed at preventing conflicts of interest and ensuring transparency. Officials must regularly submit conflict of interest statements and disclose any financial holdings that might influence their decision-making in procurement matters.

The Conflict of Interest Act, Section 31, regulates declarations of income, assets and liabilities by public officers, with procedural provisions in the following sections.

Quantitative analysis

** Recommended quantitative indicator to substantiate assessment of sub-indicator 14(g) Assessment criterion (b):*
- officials involved in public procurement that have filed financial disclosure forms (in % of total required by law): data not available.
Proposed source: Normative/regulatory function.

Gap analysis
Requirements for the preparation and submission of conflict of interest and financial disclosure statements are not complemented by simple and easy procedures for the purpose, nor by adequate mechanisms for monitoring formal compliance, for verifying the veracity of the statements submitted and for taking action if needed. There are not yet any implementing regulations allowing the requirements in the Conflict of Interest Act to be fully met.

Data on practices is scarce and inconsistent.

See also the discussion under criterion 14(g)(e).

Recommendations
Make the preparation and submission of conflict of interest and financial disclosure statements simple and transparent and make it easy to identify any failure to comply.

Set up mechanisms allowing the contents to be checked.

Assessment criterion 14(g)(c):
The code is mandatory, and the consequences of any failure to comply are administrative or criminal.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
The codes are mandatory, and non-compliance can lead to significant consequences, including administrative actions or criminal prosecution. The PPADA includes elements intended to help enforce compliance, and breaches can result in disciplinary measures, debarment from public service, or legal action.

Gap analysis
Compliance does not appear to be complete. The monitoring mechanisms in place may be insufficient to identify all cases of non-compliance and to allow remedial action to be taken. This may lead to uneven application of sanctions, reducing the level of trust in and acceptance of the system.

Recommendations
Seek ways to improve the effectiveness and efficiency of compliance monitoring.

Assessment criterion 14(g)(d):
Regular training programmes are offered to ensure sustained awareness and implementation of measures.

Conclusion: Minor gap

Red flag: No

Qualitative analysis
To ensure continuous awareness and adherence to these ethical standards, the Government and the PPRA offer regular training programs for public officials. These training sessions are designed to keep officials updated on the latest ethical requirements, best practices, and legal updates in public procurement.

Gap analysis
Regular training programs are crucial, but there are resource constraints that limit their frequency and reach. Expanding these programs could ensure broader and more consistent application of ethical standards.

Recommendations
Review the current level of awareness and acceptance of the ethical standards in place and enhance the provision of training accordingly.

Assessment criterion 14(g)(e):
Conflict of interest statements, financial disclosure forms and information on beneficial ownership are systematically filed, accessible and utilised by decision makers to prevent corruption risks throughout the public procurement cycle.

Conclusion: Substantive gap

Red flag: Yes

Qualitative analysis

According to Section 26 of the Public Officer Ethics Act, 2003, public officers were required to declare to their responsible commission their income, assets and liabilities and that of their spouse(s) and dependent children under the age of 18 years, within 30 days of joining public service, once every two years, and within 30 days of exiting public service. A specific form was required to be filled in and submitted in hard copy. The information has been kept secret and not subject to public scrutiny, except with written authority of the relevant commission. The Act stipulated that anyone who otherwise makes such information public is guilty of an offence and liable to imprisonment for five years or a fine of KES 500,000.

Conflict of interest statements and financial disclosure forms were supposed to be systematically filed and utilised to prevent corruption risks throughout the procurement cycle.

Information on beneficial ownership was also required to be made accessible to relevant authorities, in order to ensure transparency in procurement decisions and mitigate the risk of corrupt practices. In particular, beneficial ownership had to be announced to a procuring entity in case a company participates in public procurement, and a corresponding requirement exists for public-private partnerships. On the other hand, a person who discloses beneficial ownership information in any manner other than for the purpose for which such information was obtained was considered to have committed an offence.

The Conflict of Interest Act repeals the Public Officer Ethics Act. It contains regulations concerning conflict of interest, including obligations for public officers to prepare and submit declarations of income, assets and liabilities, as well as rules for the management of those declarations, which are broadly similar to those set out in the Public Officer Ethics Act.

General provisions on beneficial ownership are now set out in the Companies (Beneficial Ownership Information) Regulations under the Companies Act. The Act is complemented by a Guide on disclosure of beneficial ownership information issued by the Business Registration Service. The term 'beneficial ownership' is not present in the PPADA or the PPADR; however, though its circular no. 05/2022, the PPRA gives instructions to procuring entities and other parties concerned about the publication of beneficial ownership information on the Public Procurement Information Portal, as foreseen in Regulation 15 of the Companies (Beneficial Ownership Information) Regulations. Improvement of beneficial ownership transparency is now set out as Commitment 4 in Kenya's OGP National Action Plan 2023-2027, as a means to enhance transparency in ownership of legal persons and arrangements with a view to improving public procurement processes. The standard tender documents in the PPADR have been amended to include beneficial ownership information.

Gap analysis

The information collected under the Public Officer Ethics Act has not been accessible outside the authorities directly involved. Keeping asset declarations secret make it difficult to hold anyone accountable. Enforcement is reported to have been met with strong resistance within the public service. There is a lack of adequate resources and capacity to monitor wealth declaration to ensure proper administration, verification and confirmation of the authenticity of the wealth declared by public officers. Restrictions on the publication of beneficial ownership limit the value of corresponding declarations.

The Conflict of Interest Act, Section 24 (2) (c) seems to allow "the registrable interests" (as referred to in Section 24 (2) (a) and listed in the Second Schedule) of each and any public officer to be open to the public, subject only to the general conditions of the Access to Information Act. However, on the face of it, this is contradicted by the quite restrictive conditions set out in Sections 36 and 46. It is also not clear if and how Section 47 would apply to anyone using information obtained by exercising the right set out in Section 24 (2) (c) for the purpose of reporting apparent errors or omissions in the declarations of registrable interests to any law enforcement agency or other appropriate public entity. In fact, notwithstanding the provisions in Section 47 (1), Section 41 (1) would largely remain ineffective if there is any restriction to the provisions in Section 24 (2) (c).

According to Section 35 (2), the responsible Commission in charge of receiving declarations may request clarification from the public officer concerned but does not seem to be under any obligation to do so, whether or not there is any doubt about the correctness or completeness of the declarations. There is also no obligation for the responsible Commission to verify to verify the information provided if any such doubt remains after reviewing the clarification received.

Section 41 (1) duly recognises the right to lodge a complaint with respect to any matter covered by the Act but does not indicate or refer to how this may be done. There is also no obligation for the EACC, as the body administering the Act, nor for the authority employing a public officer concerned, to act on any complaint received.

Although the Conflict of Interest Act was adopted in the middle of 2025, implementing regulations and corresponding administrative mechanisms are not required to be in place until one year after the entry into force of the Act (Section 40). In the meantime, any statutory instruments made under the Public Officer Ethics Act remain in force (Section 52). The effects of the new Conflict of Interest Act therefore remain to be determined.

The measures envisaged to improve the quality and the transparency of beneficial ownership information have not yet become effective.

Recommendations

Simplify and facilitate the preparation and submission of the asset declarations required by the Conflict of Interest Act.

Consider making asset declarations and beneficial ownership information public and implement commitments 3, 4 and 5 in the OGP National Action Plan.

Enhance the mechanisms for verification of submissions made and for taking action if declarations are not submitted, are incomplete or incorrect, or indicate illicit enrichment.

The beneficial ownerships information in the standard tender documents should be regularised in the text of the PPADR and put as a requirement at the point of contract signing. All tenderers should be required to abide by this requirement, including sole proprietors and partnerships.

Kenya MAPS Assessment Report, Annex 4

List of meetings held with key stakeholders

No.		Stakeholder	Date	Time	Mode; comment
1.		The National Treasury			
	a.	Public Procurement Department	24 January 2025; 25 February 2025; 28 March 2025	10:00 am 10:30 am 10:30 am	Virtual Virtual Virtual
	b.	E-procurement Project Team	24 January 2025	10:00 am	Virtual
	c.	Internal Auditor General Department	24 January 2025	12:00 noon	In person
	d.	Public Financial Management Reforms Secretariat	21 January 2025	14:00 pm	In person
2.		Public Procurement Regulatory Authority	26 March 2025 7 August 2025	11:00 am 14:00 pm	Virtual In Person
3.		Public Procurement Administrative Review Board	13 Nov. 2024	08:00 am	Virtual
4.		Office of the Auditor General	24 January 2025	14:30 pm	Virtual
5.		Office of the Attorney General and Department of Justice	6 August 2025	10:00 am	In person
6.		Public Service Commission	7 August 2025	10:00 am	In person
7.		Ministry of Education, Directorate of Schools Audit Services	23 January 2025	14:30 pm	Virtual
8.		Kenya Institute for Public Policy Research and Analysis (KIPPRA)	A meeting with this stakeholder was scheduled for 17th February 2025 at 11:00 am and subsequently for 6th / 7th March 2025 at 10:30 am. However, the same did not take place and subsequent efforts to re-schedule the meeting never materialised.		
9.		Competition Authority of Kenya	17 February 2025	14:30 pm	Virtual
10.		Ethics and Anti-Corruption Commission (EACC)	18 February 2025	10.30 am	Virtual
11.		Institute of Economic Affairs	18 February 2025	14:30 pm	Virtual
12.		Kenya Private Sector Alliance	19 February 2025	10:30 am	Virtual
13.		Kenya Association of Manufacturers	19 February 2025	14:30 pm	Virtual
14.		National Construction Authority	20 February 2025	10:30 am	Virtual

No.		Stakeholder	Date	Time	Mode; comment
15.		Kenya Association of Building and Civil Engineering Contractors (KABCEC)	27 February 2025	10.30 pm	Virtual
16.		Kenya Federation of Master Builders (KFMB)	A meeting with this stakeholder was planned initially scheduled for 21st February 2025 at 10:30 am and subsequently for 27th February 2025 at 14:30 pm. However, in both instances, the meetings did not take place due to the stakeholder's unavailability and subsequent efforts to re-schedule the meeting never materialised.		
17.		Association of Construction Managers of Kenya (ACMK)	21 February 2025	14:30 pm	Virtual
18.		Law Society of Kenya	28 February 2025	14:30 pm	Virtual
19.		Kenya National Chamber of Commerce and Industry	A meeting with this stakeholder was initially scheduled for 24th February 2025 at 14:30 pm and subsequently for 6th / 7th March 2025 at 14:30 pm. However, in both instances, the meetings did not take place due to the stakeholder's unavailability and subsequent efforts to re-schedule the meeting never materialised.		
20.		National Tax Payers Association	25 February 2025	10:30 am	Virtual
21.		Transparency International -Ke	1 April 2025	10:30 pm	Virtual
22.		Association of Public Sector General Suppliers	26 February 2025	10:00 am	Virtual
23.		Dr. Muthomi Thiankolu, PhD	26 February 2025	14:30 pm	Virtual
25.		Institution of Engineers of Kenya	11 March 2025	14:30 pm	Virtual
26.		Institute of Quantity Surveyors of Kenya	12 March 2025	10:00 am	Virtual
27.		The World Bank Group	12 March 2025	14:00 pm	Virtual
28.		The African Development Bank Group	13 March 2025	10:00 am	Virtual
30.		Kenya Institute of Supplies Examination Board	13 March 2025	14:00 pm	Virtual
31.		Association of Consulting Engineers of Kenya	7 Nov. 2024	14:00 pm	In person

Kenya MAPS Assessment Report, Annex 5
Sample of 63 major procuring entities

SAMPLED PROCURING ENTITIES FOR THE MAPS II ASSESSMENT

A. Ministries and State Departments (6)

No	Procuring Entity
1.	Ministry of Education (**State Department for Basic Education**)
2.	Ministry of Health (**State Department for Medical Services**)
3.	Ministry of Lands, Housing and Urban Development (**State Department for Housing)**
4.	Ministry of Agriculture and Livestock Development (**State Department for Agriculture)**
5.	Ministry of ICT and Digital Economy (**State Department for ICT**)
6.	Ministry of Interior and National Administration (**State Department for Correctional Services**)

B. Constitutional Commissions and Judiciary (4)

No	Procuring Entity
1.	Public Service Commission
2.	Independent Electoral and Boundaries Commission
3.	National Police Commission
4.	The Judiciary

C. State Corporations and SOEs (23)

No	Procuring Entity
1.	Kenya Power and Lighting Company (SEO)
2.	National Health Insurance Fund
3.	Local Authorities Provident Fund
4.	Kenya Pipeline Corporation
5.	Kenya Airports Authority
6.	Geothermal Development Corporation
7.	Kenya Electricity Generating Company (SOE)
8.	New Kenya Cooperative Creameries Limited (SOE)
9.	National Transport and Safety Authority
10.	Post Bank Kenya
11.	East Africa Portland Cement Company
12.	Rural Electricity and Renewable Energy Corporation
13.	Kenya Reinsurance Corporation (SOE)
14.	National Cereals and Produce Board
15.	National Drought Management Authority
16.	Kenya National Examinations Council
17.	Athi Water Works Development Authority
18.	Kenya Ports Authority
19.	Kenya Railways Corporation
20.	Kenya National Highway Authority
21.	Kenya Rural Roads Authority
22.	Kenya National Trading Corporation
23.	National Irrigation Authority
24.	Lake Victoria North Water Works Development Authority
25.	Kenya Revenue Authority
26.	Kenya Medical Supplies Authority
27.	National Social Security Fund
28.	Kenyatta National Hospital

D. Public Universities (3)

No	Procuring Entities
1.	Kenyatta University
2.	University of Nairobi
3.	Moi University

E. Colleges/Polytechnics/TVETS/Schools (8)

No	Procuring Entities
1.	Kenya School of TVET
2.	Sigalagala National Polytechnic
3.	Kagumo Teachers Training College
4.	Kabete National Polytechnic
5.	Rift Valley Technical Training Institute
6.	Kenya Coast National Polytechnic
7.	Lenana School
8.	Limuru Girls School

F. Counties (10) (Both County executive and assembly,)

No	Procuring Entities
1.	Uasin Gishu Executive
2.	Uasin Gishu Assembly
3.	Mombasa Executive
4.	Mombasa Assembly
5.	Nairobi City Assembly
6.	Nakuru Executive
7.	Nakuru Assembly
8.	Kisumu Executive
9.	Embu Executive
10.	Embu Assembly
11.	Kakamega Executive
12.	Kakamega Assembly
13.	Nairobi City Executive
14.	Machakos Executive
15.	Machakos Assembly
16.	Garrisa Executive
17.	Garrisa Assembly
18.	Kisumu Assembly
19.	Kiambu Executive
20.	Kiambu Assembly

G. Public Water Companies

No	Procuring Entities
1.	Mombasa Water and Sanitation Company
2.	Nyeri Water and Sanitation Company
3.	Nairobi Water and Sewerage Company

H. Pension Schemes of Public Entity

No	Procuring Entities
1.	Kenya Railways Retirement Scheme
2.	CBK Pension Scheme

Kenya MAPS Assessment Report, Annex 6
Letter of Invitation issued to the sample of 63 major procuring entities

PPRA/6/10/ Vol. I (4) **6th June 2024**

[Recipient]
[Position]
[Address]
Email:

Dear ,

INVITATION TO THE OFFICIAL LAUNCH OF THE ASSESSMENT OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL SYSTEM USING THE METHODOLOGY FOR ASSESSING PROCUREMENT SYSTEMS VERSION II (MAPS II)

The Government through the National Treasury and Economic Planning and Public Procurement Regulatory Authority (the Authority) has planned to assess the overall performance of the public procurement and asset disposal system in Kenya to bring out the strengths, weaknesses, challenges, lessons learnt and emerging issues. This is aimed at designing recommendations and action plans focused at enhancing the efficiency and effectiveness of the system.

The assessment conducted using an internationally standardized approach called the Methodology for Assessing Procurement Systems (MAPS) Version II and will be undertaken through a review of procurement operations by sampled procuring entities, analysis of secondary data, and consultations with key stakeholders (development partners, business community, non-state actors, academia and key informants). In addition, this is to inform you that your institution is among the 63 procuring entities from both levels of Government that have been sampled to participate in the assessment.

The purpose of this letter is threefold:

1. To invite you to the official launch of MAPS assessment that will be presided over by the Cabinet Secretary of the National Treasury and Economic Planning, **Prof. Njuguna Ndung'u, EGH** on **19th June 2024 at PPRA Offices on 4th Floor KISM Towers**, along Ngong Road from **9.00am**. The objective of the launch is to create a common understanding on assessment amongst the stakeholders, sampled procuring entities, the Team of Consultants and the Committees managing assignment. The launch is also meant to disseminate the timelines for the assessment, responsibilities of the key stakeholders and the nature of inputs and support required from their organizations; for effective conclusion of the assignment.

2. To request you to submit to us the list of all contracts signed during the 2021/2022 and 2022/2023 financial years in the format accessible through this link (Submission of Summary of Procurement Transactions - PEs.xlsx) and also shared via your institution's email address. Further, please ensure that all the contracts plus relevant supporting documents for each contract

have been uploaded in the Public Procurement Information Portal (PPIP) as required by **PPRA Circular No. 04/2022 and PPRA Circular No. 05/2022**. Any other documents required and may not be uploaded in the PPIP should be sent to the Authority via the email address **info@ppra.go.ke**. All these requirements should be submitted the Authority on or before **26th June, 2024**.

3. To request you to designate the Head of Procurement Function or any other relevant officer as the contact person for the assessment exercise. Kindly share with us the name, mobile telephone number and email address for ease of communication and coordination.

We shall keep you updated in the course of the MAPS Assessment and ensure your maximum participation, including during validation of the findings. We further assure that the information availed will be handled with utmost confidentiality to ensure it is integrity and reliability. The findings will be presented as one consolidated report and no specific procuring entity reports will be prepared.

Alongside the launch of the MAPS exercise, the Authority will also be unveiling its **Strategic Plan for the 2023-2027** period and its fully established Head Office at KISM Towers, covering 4th, 5th, 6th and 7th floors.

Your presence will be an honour as we celebrate this momentous occasion.

Kindly RSVP by 14th June 2024 to email: skabui@ppra.go.ke and Tel: 0722327370.

Yours

Patrick K. Wanjuki
DIRECTOR GENERAL

Kenya MAPS Assessment Report, Annex 7

Data collection tools

Data collection tool for contract file reviews

Procurement System Assessment Guide	
Assessment Date	
Contract ID	
Name of the Procuring Entity	
Tender Number	
Tender Description	
Quantity & Unit if Measure	
Contract Value (KES)	
Contractor's/ Supplier's Name:	
Country of Origin	
Category	
Type of procurement method	
Name and Contact Information for Assessor	
Confidentiality Statement	
All information provided during this procurement system assessment will be treated with the utmost confidentiality. The data collected will be used solely for the purpose of evaluating the procurement processes and will not be disclosed to any third parties without prior consent. The findings and results of the assessment will be reported in aggregate form, ensuring that individual responses remain anonymous. We are committed to protecting your privacy and safeguarding the integrity of the information shared.	

Methodology for Assessing Procurement Systems (MAPS)

REFERENCE NUMBER	Criteria Questions/ Guides	1. Yes 2. Partly 3. No 4. N/A	Brief Comments or Observations
PROCUREMENT PLANNING			
4(a)(a)	Was the contract covered in the approved annual procurement plan?		
4(a)(b)	Was the contract covered in the approved budget?		
4(a)(a)	In case of multi-year project, was there a multi-year procurement plan?		
4(a)(b)	In case of multi-year project, was there a multi-year approved budget?		
7(a)(c)	Was the procurement plan published in media of wide circulation and availability and in the PE website after approval and included the procurement method?		
7(a)(b), 7(a)(c)	Was the procurement plan published on the central portal [tenders.go.ke]		
9(a)(a)	Was the needs analysis undertaken?		
9(a)(a)	Was the market research undertaken?		
9(a)(a)	Did the needs analysis and market research guide a proactive identification of optimal procurement strategies?		
11(c)(b)	Did the citizens participate in the planning phase (for consultation) of this specific contract?		

PROCUREMENT INITIATION AND SPECIFICATIONS/ TOR			
9(a)(b)	Were the requirements and desired outcomes of contracts clearly defined?		
PROCUREMENT METHOD			
9(b)(c)	Was the procurement method chosen, documented and justified in accordance with the purpose and in compliance with the legal framework?		
BID/ TENDER DOCUMENT			
9(b)(a)	Were multi-stage procedures used in complex procurements to ensure that only qualified and eligible participants are included in the competitive process?		
9(b)(b)	Were clear and integrated procurement documents, standardised where possible and proportionate to the need, used to encourage broad participation from potential competitors?		
14(b)(b)	Did the procurement and contract documents include provisions on fraud, corruption and other prohibited practices, as specified in the legal/regulatory framework?		
9(b)(b)	Were clarifications requested?		
9(b)(b)	Were addenda issued?		
9(b)(b)	Was a bid security/ bid securing declaration required?		
9(b)(b),	Was the bid security as prescribed?		
BID EVALUATION CRITERIA			
9(a)(c)	Was sustainability criteria, if any, used in a balanced manner and in accordance with national priorities, to ensure value for money?		
1(d)(d)	Were eligibility conditions for participation of state owned enterprises, public entities, or public servants provided correctly to promote fair competition?		

BID/ TENDER INVITATION, SUBMISSION AND EVALUATION			
7(a)(c)	Did the information technology system provide for the publication of linkages to rules and regulations and other information relevant for promoting competition and transparency.		
10(b)(a)	Was the private sector competitive, well-organised, willing and able to participate in the competition for this public procurement contract?*		
10(b)(b)	Were there any major systemic constraints inhibiting private sector access to the public procurement market?		
9(b)(d)	Were procedures for bid submission, receipt and opening clearly described in the procurement documents as prescribed?		
9(b)(d)	Were procedures for bid submission, receipt and opening complied with?		
9(b)(d), 11(c)(a)	Did bidders or their representatives attend bid openings?		
9(b)(d)	Did citizens monitor bid submission, receipt or opening, as prescribed?		
9(b)(d)	The tender invitation notice was prepared correctly with the required information.		
9(b)(d)	If prequalification or expression of interest was applicable, the names of all applicants were read out and recorded in the opening register.		
9(b)(e)	Was confidentiality ensured throughout the bid evaluation and award process?		
9(b)(f)	Were appropriate techniques applied to determine best value for money based on the criteria stated in the procurement documents and to award the contract?		

9(b)(j)	Was the selection and award process carried out effectively, efficiently and in a transparent way?*		
CONTRACTING			
9(b)(h)	Did the contract clauses include sustainability considerations, where appropriate?		
9(b)(i)	Did the contract clauses provide incentives for exceeding defined performance levels and disincentives for poor performance		
11(c)(b)	Were citizens allowed to participate in bid evaluation and contract award' in the particular case of the contract file being reviewed?		
PAYMENT			
7(a)(c)	Was the Contract Award Notice and Contract Implementation, including Amendments, Payments and Appeals decisions published in the procuring entity's website?		
7 (a)(c)	Was the Contract Award Notice and Contract Implementation, including Amendments, Payments and Appeals decisions published in the tenders.go.ke?*		
	RECORDS AND DATES		**Brief Comments or Observations**
	Procurement plan start date for this specific contract		
	Plan cost or budget KES		
	Purchase requisition date for this specific contract		
	Purchase Requisition estimate/ Engineer's estimate (KES)		
	Date of tender invitation notice		
	Date of Tender Document		
	Deadline date for submission of tenders		
	Submission period in days		

	Bid validity period in days		
	Bid security period in days		
	Appointment of opening committee		
	Actual tender opening date		
	Delay in tender opening		
	Tender opening minutes, that include tender opening register and bidders' representatives as attachment.		
	Amount of bid security (KES)		
	Number of bids received		
	Date of appointment of evaluation committee		
	Availability of a dated evaluation report		
	Number of technically responsive bids		
	Date of notification of intention to successful bidder		
	Date of notification to unsuccessful bidders		
	Date of letter of award		
	Date of letter of acceptance		
	Where applicable, amount of performance security (KES)		
	Date of signed contract or framework agreement, as applicable.		
	Date of publication of contract award notice.		
	Contractual start date		
	Contractual completion date		
	Actual Start Date		
	Actual Completion Date		
	Contractual payment period (Days)		
	Appointment of Inspection and Acceptance committee (I&AC) or Appointment of Contract Implementation Team (CIT)		
	Presence of goods delivery notes		

	Existence of dated I&AC Report or CIT Report		
	Presence of Goods Received Notes		
	Date randomly selected invoice received		
	Date the randomly selected invoice paid		
	Time for payment of a randomly chosen invoice for the contract		
	Final actual contract price KES		
	Variance between final actual and contractual price		

Data collection tool for interviews with Heads of Procurement or their designated representatives

Methodology for Assessing Procurement Systems (MAPS)				
Date of Assessment				
Procuring Entity Name				
Title of Head of Procurement				
Number of Job Grades between HoP and AO				
Data Collection Approach				
#	**Reference Number**	**Assessment Criteria**	**1. Yes** **2. Partly** **3. No** **4. N/A**	**Brief Observations on Findings, Conclusions and Evidence**
1.00		**Openness, Competition, Integrity, Ethics and Conflict of Interest**		
1.01	5(d)(a)	Do you find that the PPRA is free from conflicts of interest?		
1.02	10(a)(a)	Do you find that the public sector is open and effective in its engagement with the private sector, particularly in the field of public procurement?		
1.03	14(d)(a)	Do you find that current anti-corruption measures are effective?		
1.04	14(e)(c)	Do you find that suppliers and business associations actively support integrity and ethical behaviour in public procurement, e.g. through internal compliance measures e.g. through internal compliance measures?		
1.05	8(a)(c)	Do you have access to any advisory services for resolving any public procurement related questions that you may have?		
1.06	14(d)(e)	Do you have access to any special integrity programme training?		
1.07	14(d)(e)	Have you participated in any special integrity programme training?		

1.08	14(g)(d)	Does your entity have a mandatory code of conduct or ethics, with particular provisions for those involved in public financial management, including procurement?		
1.09	9(b)(d)	Are the public or civil society allowed to witness/ observe tender opening?		
1.10	9(b)(d)	Are the public or civil society allowed to witness/ observe bid evaluation?		
1.11	9(b)(d)	Are the public or civil society allowed to witness/ observe contract monitoring?		
1.12	10(a)(b)	Does the PE conduct meetings, dialogue, training of the business firms is done to promote participation in public tenders?		
2.00		**Procurement Function, Staffing and Training**		
2.01	6(a)(c)	The entity has a designated Procurement Unit		
2.02	6(a)(b), 6 (a)(e)	Does the Head of Procurement Function report directly to the accounting officer functionally?		
2.03	6(a)(b), 6 (a)(e)	Does the Head of Procurement Function report directly to the accounting officer administratively?		
2.04	6(a)(c)	Procurement Unit has adequate financial resources and physical facilities to perform its functions.		
2.05	8(b)(a)	Are the procurement positions in your entity defined through official job descriptions or the like, setting out the tasks and responsibilities and defining the qualifications and competencies required?		
2.06	8(b)(b)	Do you find that appointments and promotion are competitive and based on qualifications and professional certification?		
2.07	8(b)(c)	Is staff performance is evaluated on a regular and consistent basis?		
2.08	8(b)(c)	Do you find that performance evaluation is carried out fairly and that the conclusions are given appropriate effect?		
2.09	6(a)(c)	Does the Procurement Unit have an adequate number of procurement and supply staff?		

2.10	6(a)(c)	What is total Procurement staff establishment		
2.11	6(a)(c)	Please indicate number of procurement staff		
2.12	6(a)(c)	Please indicate number of support staff		
2.13	6(a)(c)	How many procurement staffs have procurement professional qualifications such as CIPS, CPSP?		
2.14	6(a)(c)	How many procurement staffs have academic qualifications do procurement staffs have?		
2.15	6(a)(c)	How many procurement staffs have a minimum of three (3) years experience?		
2.16	8(a)(a)	Is there a substantive, permanent training programme in place in your entity?		
2.17	8(a)(a)	Does it cover public procurement related topics?		
2.18	8(a)(a)	Do you find that it is of suitable quality and content for meeting the needs at hand?		
2.19	8(a)(a)	Have procurement staffs and other staffs received practical and relevant training on Sustainable Procurement?		
2.20	8(a)(b)	Is there any evaluation of the quality and appropriateness of the training provided?		
2.21	8(a)(b)	8(a) (b): Do you find that such evaluations, if any, lead to adequate adjustment of the training programmes?		
3.00		**Internal Controls**		
3.01	2(d)	Is there a procurement policy and manual to guide internal decisions, procurement and contract management on procurement and disposals.		
3.02	13(b)(c)	There is an internal procedure for receiving and processing procurement complaints and appeals.		
3.03	13(a)	Total number of appeals/complaints: How many complaints to PPARB in were there in FY 2022-23?		
3.04	13(a)	How many of those cases were enforced by PPARB?		

3.05	1(k)	There is a system to manage bid securities, advance payment securities, and performance securities?		
3.06	1(k)	Are bidders usually required to submit bid securities, advance payment securities, and performance securities?		Probe on value and reason where possible.
3.07		What is the value of bid securities, advance payment securities, and performance securities?		
3.08		What are the reasons for requiring bidders to submit bid securities, advance payment securities, and performance securities?		
3.09	4(b)(a)	Does the PE have internal controls for confirming availability of funds?		
3.10	4(b)(b)	Does the PE have internal controls for approving invoices?		
3.11	9(c)(b)	Does the PE have internal controls for certifying receipt of products and authorisations?		
3.12	4(b)(b) & 9(c)(c)	Does the PE have internal controls for payment authorisations?		
4.00		**Procurement Budgeting and Planning**		
4.01	9(a)(a)	There is a system to conduct market survey to guide the decision on the method and establish market prices for goods and estimated cost of services.		
4.02	9(a)	There is a procurement plan derived from the work plan and budget?		
4.03	9(a)	There is a procurement plan that is in correct format		
4.04	9(a)	There is a procurement plan that reflects the stages in the procurement process.		
4.05	4(a), 4(b)(a)	The procurement plan is aligned with the financial budgeting process of the PE and approved prior to the start of the financial year.		
4.06	4(a)(c)	The PE has feedback reports on planned versus actual time, costs and projects completed?		
5.00		**Supply Market**		
5.01	10(a)(b)	10 (b): The entity has a current and approved list of registered suppliers, which it updates regularly.		

5.02	1(c)	The list of registered suppliers is published on the entity's website or noticeboard.		
5.03	10(b)(a)	The names of the invited suppliers are selected on a fair rotation basis to cover all in a category.		
5.04	10(b)	Total number of registered suppliers		
5.05	10(b)	Number of registered suppliers that have been awarded contracts.		
5.06	10(b)	Do you always award contracts only to the registered suppliers?		
5.07	10(b)(a)	Do you find that the level of competition in the supply market is sufficient for giving you best value for money?		
5.08	10(b)(a)	Do you find that the range and the quality of goods, works and services on offer in the supply market is sufficient for allowing your needs to be met?		
6.00		**Security of Tenders**		
6.01	1(k), 1(g)(c)	There is tender box with locks, two sets of keys are in safe custody of two different officers, and accessible to authorised staff.		
6.02	1(k), 1(g)(c)	The tenders are kept in a locked tender box and kept in a safe place, and confidential until they are opened officially.		
7.00		**E-procurement System**		
7.01	7(b)	The entity has an e-Procurement system that partially or entirely covers the procurement cycle.		
7.02	7(b)(c)	The procurement staffs are trained and possess skills to reliably and efficiently use the system?		
7.03		The suppliers are adequately trained to correctly use the e-Procurement system?		
7.04	7(b)(a)	Number of e-Procurement procedures for 2022-23		
7.05	7(b)(a)	Indicate the total value of procurements		

7.06	7(b)(a)	Indicate the total value of e-public procurement		
7.07	1(c), 7(a), 9(b)	Does the PE publish on its own website and on national website where it publishes procurement plans?		
7.08	1(c), 7(a), 9(b)	Does the PE publish on its own website and on national website where it publishes tender notices?		
7.09	1(c), 7(a), 9(b)	Does the PE publish on its own website and on national website where it publishes tender documents?		
7.10	1(c), 7(a), 9(b)	Does the PE publish on its own website and on national website where it publishes contract award notices?		
8.00		**Contract Awards and Performance**		
8.01	10(b)(a)	Indicate the number of registered suppliers as a share of total number of suppliers to the PE (in %)		
8.02	10(b)(a)	Indicate the share of registered suppliers that are participants and awarded contracts (in % of total number of registered suppliers) to the PE		
8.03	10(b)(a)	Indicate the total number and value of contracts awarded to domestic/foreign firms (and in % of total)		
8.04	10(b)(b)	Indicate the number of contracts awarded to foreign firms		
		Indicate the value of contracts to DF		
		Indicate the value of contracts awarded to FF		
8.05	9(c)(a)	Was the contract implemented in a timely manner?*		
8.06	9(c)(b)	Was inspection, quality control, supervision of work and final acceptance of the product carried out?*		
8.07	9(c)(c)	Were the invoices examined, time limits for payments comply with good international practices, and payments processed as stipulated in the contract?		

8.08	9(c)€	Were procurement statistics on contract management available and was there a system is in place to measure and improve procurement practices?		
8.09	9(c)(f)	Were opportunities for direct involvement of relevant external stakeholders in public procurement in relation to contract management utilised?*		
8.10	9(c)(g)	Were the contract management records complete and accurate, and easily accessible in a single file?*		
9.00		**Internal Audit**		
9.01	12(a)(b)	An Internal Audit unit exists whose functions include procurement audit		
9.02	12(a)(b)	An Internal Audit unit exists whose functions include performance audit.		
9.03	12(b), 6(a)	The Internal Audit unit has adequate audit staff.		
9.04	12(b)(a), 12(b)(b)	There is an internal audit manual that also covers procurement and performance audit.		
9.05	12(b)(c)	Annual audits are carried out and reports prepared.		
9.06	12(d)(a)	Number of training courses conducted to train internal auditors on public procurement audits		
9.07	12(d)	Share of total auditors trained on procurement audits versus Total number of auditors		
9.08	12(d)(b)	The financial auditors are supported by procurement specialists for the procurement performance audits if they lack procurement training.		
9.09	12(d)(a)	The audit recommendations are promptly followed up and implemented by the PE within given timelines.		
9.10		Were relevant contract audits done?		
9.11		If they were done, were they useful?		
9.12		Did the auditors understand and recognise the particularities of public procurement?		
9.13		Were the audit reports issued to the PE?		

9.14		Did the audit repoprts have any recommendation or other findings?		
9.15		How did your PE deal with the recommendations/ findings?		
10.00		**External Audit**		
10.01	12(a)(b)	An Internal Audit unit exists whose functions include procurement audit		
10.02	12(a)(b)	An Internal Audit unit exists whose functions include performance audit.		
10.03	12(b), 6(a)	The Internal Audit unit has adequate audit staff.		
10.04	12(b)(a), 12(b)(b)	There is an internal audit manual that also covers procurement and performance audit.		
10.05	12(b)(c)	Annual audits are carried out and reports prepared.		
10.06	12(d)(a)	Number of training courses conducted to train internal auditors on public procurement audits		
10.07	12(d)	Share of total auditors trained on procurement audits versus Total number of auditors		
10.08	12(d)(b)	The financial auditors are supported by procurement specialists for the procurement performance audits if they lack procurement training.		
10.09	12(d)(a)	The audit recommendations are promptly followed up and implemented by the PE within given timelines.		
10.10		Were relevant contract audits done?		
10.11		If they were done, were they useful?		
10.12		Did the auditors understand and recognise the particularities of public procurement?		
10.13		Were the audit reports issued to the PE?		
10.14		Did the audit repoprts have any recommendation or other findings?		
10.15		How did your PE deal with the recommendations/ findings?		
11.00		**Record-Keeping**		
11.01	1(k), 9(c)(g)	Do procurement and contract management process have a complete file of records with documents filed sequentially?		

11.02	1(k)	Are the records readily accessible and available?		
11.03	1(k)	Is there an officer who is allocated the task of keeping records and documents?		
11.04	1(k)	Are the records kept securely for at least six (6) years in accordance with the law?		
11.05	7(c)(d)	Was there was an ex-post evaluation of the whole procurement, comparing outcomes with objectives and drawing lessons learned?		
12.00		**Statistics**		
12.01		Total Entity Budget (FY2022/23)		
12.02		Procurement Plan Budget (FY2022/23)		
12.03		Procurement Spend KES (FY2022-2023)		

Kenya MAPS Assessment Report, Annex 8
Summary Findings of Contract File Reviews

This report presents a summary of the findings from the review of procurement practices across 630 public contracts, examining compliance at each major stage of the contracting process: planning, initiation, bidding, evaluation, contracting, contract management (including payments) and transparency.

The assessment covered 63 procuring entities drawn from a diverse range of institutional categories, including State Corporations and State-Owned Enterprises (27), County Governments both executive and assembly arms (10), and educational institutions such as Colleges, Polytechnics, TVETs, and Schools (8). Other entities included Ministries and State Departments (6), Constitutional Commissions and the Judiciary (4), Universities (3), Water Companies (3), and Pension Schemes (2). These entities collectively submitted 630 contract records, all of which were deemed valid for analysis. The contract values varied widely, ranging from KES 320,000 to KES 1.7 billion. The median contract value was KES 7.0 million, while the mean was significantly higher at KES 57.2 million, indicating a skewed distribution due to a few extremely high-value contracts. A standard deviation of KES 140 million further confirmed the presence of substantial outliers, underscoring the diversity not only in institutional representation but also in the financial scale of procurement.

Tables

PROCUREMENT PLANNING

Assessment Criterion and Corresponding Question	Responses	
4(a)(a) - Was the contract covered in the approved annual procurement plan?	**n=630**	**Percent**
Yes	439	69.7%
No	158	25.1%
Partially	33	5.2%

Assessment Criterion and Corresponding Question	Responses	
4(a)(b) - Was the contract covered in the approved budget?	**n=630**	**Percent**
Yes	439	69.7%
No	158	25.1%
Partially	33	5.2%

Assessment Criterion and Corresponding Question	Responses	
4(a)(a) - In case of multi-year project, was there a multi-year procurement plan?	**n=393**	**Percent**
Yes	89	22.6%
No	255	64.9%
Partially	49	12.5%

Assessment Criterion and Corresponding Question	Responses	
4(a)(b) - In case of multi-year project, was there a multi-year approved budget?	**n=393**	**Percent**
Yes	89	22.6%
No	255	64.9%
Partially	49	12.5%

Assessment Criterion and Corresponding Question	Responses	
7(a)(c) - Was the procurement plan published in media and on PE website with procurement method?	**n=630**	**Percent**

Yes	290	46.0%
No	340	54.0%

Assessment Criterion and Corresponding Question	Responses	
7(a)(b), 7(a)(c) - Was the procurement plan published on the central portal [tenders.go.ke]?	**n=630**	**Percent**
Yes	362	57.5%
No	268	42.5%

Assessment Criterion and Corresponding Question	Responses	
9(a)(a) - Was the needs analysis undertaken?	**n=630**	**Percent**
Yes	350	55.6%
No	185	29.4%
Partially	95	15.1%

Assessment Criterion and Corresponding Question	Responses	
9(a)(a) - Was the market research undertaken?	**n=350**	**Percent**
Yes	105	30.0%
No	145	41.4%
Partially	100	28.6%

Assessment Criterion and Corresponding Question	Responses	
9(a)(a) - Did the needs analysis and market research guide a proactive identification of optimal procurement strategies?	**n=205**	**Percent**
Yes	90	43.9%
No	65	31.7%
Partially	50	24.4%

Assessment Criterion and Corresponding Question	Responses	
11(c)(b) - Did the citizens participate in the planning phase (for consultation) of this specific contract?	**n=630**	**Percent**
Yes	41	6.5%
No	549	87.1%
Partially	40	6.3%

Assessment Criterion and Corresponding Question	Responses	
Contract distribution by category	**n=630**	**Percent**
Consulting services	68	10.8%
Non-Consulting services	171	27.1%
Goods	205	32.5%
Works	186	29.5%

CONTRACT INITIATION

Assessment Criterion and Corresponding Question	Responses	
9(a)(b) - Were the requirements and desired outcomes of contracts clearly defined?	**n=630**	**Percent**
Yes	441	70.0%
No	94	14.9%
Partially	95	15.1%

Assessment Criterion and Corresponding Question	Responses	
9(b)(c) - Was the procurement method chosen, documented, and justified in accordance with the purpose and legal framework?	**n=630**	**Percent**
Yes	466	74.0%
No	108	17.1%
Partially	56	8.9%

Assessment Criterion and Corresponding Question	Responses	
9(b)(a) - Were multi-stage procedures used in complex procurements to ensure that only qualified and eligible participants were included?	**n=480**	**Percent**
Yes	204	42.5%
No	205	42.7%
Partially	71	14.8%

Assessment Criterion and Corresponding Question	Responses	
9(b)(b) - Were clear and proportionate procurement documents used to encourage participation?	**n=630**	**Percent**

Yes	446	70.8%
No	150	23.8%
Partially	34	5.4%

Assessment Criterion and Corresponding Question	**Responses**	
14(b)(b) - Did the documents include provisions on fraud, corruption, and prohibited practices?	**n=630**	**Percent**
Yes	454	72.1%
No	164	26.0%
Partially	12	1.9%

BIDDING PROCESS

Assessment Criterion and Corresponding Question	**Responses**	
9(b)(b) - Were clarifications requested?	**n=630**	**Percent**
Yes	167	26.5%
No	418	66.3%
Partially	45	7.1%

Assessment Criterion and Corresponding Question	**Responses**	
9(b)(b) - Were addenda issued?	**n=630**	**Percent**
Yes	166	26.3%
No	354	56.2%
Partially	110	17.5%

Assessment Criterion and Corresponding Question	**Responses**	
9(b)(b) - Was a bid security/bid securing declaration required?	**n=630**	**Percent**
Yes	493	78.3%
No	137	21.7%

Assessment Criterion and Corresponding Question	**Responses**	
9(b)(b) - Was the bid security as prescribed?	**n=493**	**Percent**
Yes	360	73.0%
No	133	27.0%

EVALUATION AND BID SUBMISSION

Assessment Criterion and Corresponding Question	Responses	
9(a)(c) - Was sustainability criteria used to ensure value for money?	**n=630**	**Percent**
Yes	448	71.1%
No	128	20.3%
Partially	18	2.9%
N/A	36	5.7%

Assessment Criterion and Corresponding Question	Responses	
1(d)(d) - Were eligibility conditions for SOEs, public entities, or public servants correctly applied to promote fair competition?	**n=630**	**Percent**
Yes	342	54.3%
No	235	37.3%
Partially	8	1.3%
N/A	45	7.1%

Assessment Criterion and Corresponding Question	Responses	
7(a)(c) - Did IT systems publish procurement rules and information for transparency?	**n=630**	**Percent**
Yes	447	71.0%
No	158	25.1%
Partially	25	4.0%

Assessment Criterion and Corresponding Question	Responses	
10(b)(a) - Was the private sector willing and able to participate?	**n=630**	**Percent**
Yes	482	76.5%
No	118	18.7%
Partially	30	4.8%

Assessment Criterion and Corresponding Question	Responses

10(b)(b) - Were there major systemic constraints to private sector participation?	n=512	Percent
Yes	153	29.9%
No	359	70.1%

Assessment Criterion and Corresponding Question	Responses	
9(b)(d) - Were procedures for bid submission, receipt, and opening clearly described in the documents?	**n=630**	**Percent**
Yes	477	75.7%
No	129	20.5%
Partially	24	3.8%

Assessment Criterion and Corresponding Question	Responses	
9(b)(d) - Were procedures for bid submission, receipt, and opening complied with?	**n=630**	**Percent**
Yes	489	77.6%
No	113	17.9%
Partially	28	4.4%

Assessment Criterion and Corresponding Question	Responses	
9(b)(d), 11(c)(a) - Did bidders or their representatives attend bid openings?	**n=630**	**Percent**
Yes	361	57.3%
No	244	38.7%
N/A	25	4.0%

CONTRACT CLAUSES

Assessment Criterion and Corresponding Question	Responses	
9(b)(d) - Did citizens monitor bid submission, receipt, or opening?	**n=630**	**Percent**
Yes	111	17.6%
No	410	65.1%
N/A	109	17.3%

Assessment Criterion and Corresponding Question	Responses	
9(b)(d) - Was the tender invitation notice prepared correctly?	**n=630**	**Percent**
Yes	450	71.4%
No	152	24.1%
Partially	28	4.4%

Assessment Criterion and Corresponding Question	Responses	
9(b)(d) - If prequalification or expression of interest was applicable, were the names of all applicants read out and recorded in the opening register?	**n=630**	**Percent**
Yes	208	33.0%
No	233	37.0%
Partially	189	30.0%

Assessment Criterion and Corresponding Question	Responses	
9(b)(e) - Was confidentiality ensured throughout the bid evaluation and award process?	**n=630**	**Percent**
Yes	460	73.0%
No	170	27.0%

Assessment Criterion and Corresponding Question	Responses	
9(b)(f) - Were appropriate techniques applied to determine best value for money based on the criteria stated in the procurement documents?	**n=630**	**Percent**
Yes	341	54.1%
No	129	20.5%
Partially	160	25.4%

Assessment Criterion and Corresponding Question	Responses

9(b)(j) - Was the selection and award process carried out effectively, efficiently and in a transparent way?	n=630	Percent
Yes	424	67.3%
No	156	24.8%
Partially	50	7.9%

CONTRACT SIGNING

Assessment Criterion and Corresponding Question	Responses	
9(b)(h) - Did the contract clauses include sustainability considerations, where appropriate?	n=630	Percent
Yes	141	22.4%
No	489	77.6%

Assessment Criterion and Corresponding Question	Responses	
9(b)(i) - Did the clauses provide incentives for high performance or disincentives for poor performance?	n=630	Percent
Yes	160	25.4%
No	470	74.6%

Assessment Criterion and Corresponding Question	Responses	
11(c)(b) - Were citizens allowed to participate in bid evaluation and contract award for this contract?	n=630	Percent
Yes	78	12.4%
No	552	87.6%

Assessment Criterion and Corresponding Question	Responses	
7(a)(c) - Was the contract award and implementation published on the procuring entity's website?	n=630	Percent
Yes	183	29.0%
No	425	67.5%
Partially	22	3.5%

Assessment Criterion and Corresponding Question	Responses	
7(a)(c) - Was the contract award and implementation published on tenders.go.ke?	**n=630**	**Percent**
Yes	261	41.4%
No	369	58.6%

PROCUREMENT RECORDS AND DATES

Assessment Topic	Responses	
Submission period in days: Range (Days)	**n=630**	**Percent**
14–18	100	15.9%
19–23	91	14.4%
24–28	82	13.0%
29–33	105	16.7%
34–38	97	15.4%
39–43	116	18.4%
44–48	39	6.2%

Assessment Topic	Responses	
Delay in Tender Opening (Days)	**630**	**Percent**
0 Days	351	55.7%
1 Day	161	25.6%
2 Days	118	18.7%

Total Observations:		630
Mean (Average) Delay:		0.63 ≈ 0 Days
Median Delay:		0 Days
Mode (Most Frequent Delay):		0 Days

Assessment Topic	Responses	
Tender opening minutes, that include tender opening register and bidders' representatives as attachment.	**630**	**Percent**
Yes	527	83.7%
No	12	1.9%
Partly	63	10.0%
N/A	28	4.4%

Assessment Topic	Responses

Availability of evaluation reports	630	Response
Yes	492	78.1%
No	138	21.9%

Assessment Topic	Responses
Number of technically responsive bids	**N=630**
Total Observations: 630	630
Mean (Average):	3.2
Median:	3
Mode:	1

Assessment Topic	Responses	
Appointment of I&AC/CIT	**630**	**Responses**
No	35	5.6%
Yes	595	94.4%

Assessment Topic	Responses	
Presence of Goods Delivery Notes	**630**	**Responses**
N/A	5	0.8%
No	20	3.2%
Yes	605	96.0%

Assessment Topic	Responses	
Existence of I&AC/CIT Report	**630**	**Responses**
No	35	5.6%
Yes	595	94.4%

Assessment Topic	Responses	
Presence of Goods Received Notes	**630**	**Responses**
N/A	5	0.8%
No	20	3.2%
Yes	605	96.0%

Assessment Topic	Responses
Time for payment of a randomly chosen invoice for the contract	**N=630**
Total Observations: 630	630
Mean (Average):	54.71
Median:	55
Mode:	72

Assessment Topic	**Responses**	
Time over run Range distribution by periods	**Frequency**	**Percentage (%)**
0 - 30 days	0	0
31 - 45 days	0	0
46 - 60 days	172	27.3
61 - 90 days	418	66.3
More than 90 days	40	6.3

Assessment Topic	**Responses**
Performance security as a percentage of the contract amount	**N=630 (n=118)**
Total Observations:	**118**
Mean (Average):	7.6%
Median:	7.0%
Mode:	5.0%

Assessment Topic	**Responses**	
Average time overuns	**Frequency (N=630)**	**Percent**
Total Observations:	630 Contracts	
Mean (Average):	46.02 Days	13.6%
Median:	46.5 Days	14.0%
Mode:	36 Days	14.0%

ADDITIONAL OUTPUT TABLE

Assessment Topic	**Responses**
Average Start Date Delays	**N=630**
Total Observations:	630 Contracts
Mean (Average):	16.10 days
Median:	16.0 days
Mode:	15 days

Assessment Topic	Responses
Bid security as a percentage of the estimated cost	**N=630**
Total Observations:	378
Mean (Average):	1.46%
Median:	1.4%
Mode:	1.3%

Assessment Topic	Responses
Number of bids received	**N=630**
Total Observations:	7, 537 Bids
Mean (Average):	11.6
Median:	12
Mode:	13, 14, 15, 16, 17, & 18

Assessment Topic	Responses	
Performance security range	**Frequency**	**Percentage (%)**
Below 2%	0	0.00
2% - <5%	0	0.00
5% - 7%	13	36.11
7% - 10%	15	41.67
Above 10%	8	22.22

Assessment Topic	Responses
Time between solicitation and contract signature	**N=630**
Total Observations:	630 Contracts
Mean (Average):	78.56 = 79 days
Median:	77 days
Mode:	73 days

Assessment Topic	Responses
Contract duration slip (Difference between Actual contract duration and Contractual contract duration)	**N=630**
Total Observations:	630 Contracts
Mean (Average):	36.06 days
Median:	34 days
Mode:	15 & 50 days

Assessment Topic	Responses
Invoices paid on or before Contractual payment period (Days)	**N=630**
Total Observations:	630 Contracts
Mean (Average):	45.11 days
Median:	44.5 days
Mode:	37 days

Assessment Topic	Responses
Time taken for publishing the contract award	**N=630**
Total Observations:	630 Contracts
Mean (Average):	14.85 – 15 days
Median:	13.0 days
Mode:	7 days

Assessment Topic	Responses
Contractual Contract Duration	**N=630**
Total Observations:	
Mean (Average):	220.57 = 221 days
Median:	215.5 = 216 days
Mode:	45 days

Assessment Topic	Responses
Actual contract duration	**N=630**
Total Observations:	630 Contracts
Mean (Average):	210 days
Median:	120 days
Mode:	180 days

Assessment Topic	Responses
Completion date slip (Actual Completion Date – Contractual Completion Date)	**N=630**
Total Observations:	630 Contracts
Mean (Average):	45 days
Median:	30 days

Mode:	30 days

Assessment Topic	**Responses**
Average start date slip (Actual start date - Contractual start date)	**N=630**
Total Observations:	630 Contracts
Mean (Average):	15 days
Median:	7 days
Mode:	3 days

Assessment Topic	**Responses**
Variance between final actual and contractual price	**N=630**
Total Observations:	630
Mean (Average):	1.39%
Median:	1.0%
Mode:	1.0%

Kenya MAPS Assessment Report, Annex 9 Summary Findings From Interviews With Heads Of Procurement In 63 Procuring Entities

This annex presents a summary of the findings from the interviews held by the four MAPS assessors with the heads of procurement in the 63 procuring entities designated in the MAPS Concept Note. These cover a diverse range of institutional categories, including State Corporations and State-Owned Enterprises (27), County Governments both executive and assembly arms (10), and educational institutions such as Colleges, Polytechnics, TVETs, and Schools (8). Other entities included Ministries and State Departments (6), Constitutional Commissions and the Judiciary (4), Universities (3), Water Companies (3), and Pension Schemes (2).

The summary findings by main interview topic are presented here below.

1. Organisational Structure and Staffing

The number of job grades between the HoP and the Accounting Officer ranged between one (33.87%), two (35.48%), and three (30.65%). Most entities (66.67%) have a designated Procurement Unit. 66.67% of HoPs report functionally to the Accounting Officer, while 55.56% report administratively. The procurement units have an average of two staff with professional qualifications and a similar average number with over three years of experience. 22.22% of entities had only one procurement staff, 26.98% had three, and 28.57% had two staff. The average number of procurement support staff is two, with a maximum of four.

2. Integrity, Conflict of Interest, and Ethics

About half (50.79%) of respondents found that PPRA was free from conflicts of interest. 49.21% reported having participated in special integrity training, while 42.62% had fully participated in such programmes. 37.1% of entities had a mandatory code of conduct or ethics in place.

3. Public Engagement and Transparency

About half (50.79%) acknowledged access to advisory services for procurement questions. 49.21% confirmed that their entity conducted meetings with private sector actors to promote participation in tenders. 49.21% indicated that the public is allowed to witness tender openings; fewer allowed observation of evaluations (33.33%) and contract monitoring (36.5%).

4. Procurement Planning and Budgeting

More than half (57.14%) of PEs had a procurement plan derived from their work plan and budget. 60.32% indicated the procurement plan was aligned with financial budgeting and approved before the financial year started. 39.68% had feedback reports comparing planned vs. actual time, cost, and projects.

5. Procurement Budget Analysis (FY2022/2023)

The average total entity budget was KES 19,855,093,490.00 with a mode of KES 1,644,532.00. The average procurement plan budget was KES 617,926,947.00 with a mode of KES 1,158,234.00. The average procurement spend was KES 429,585,060.00 with a mode of KES 1,578,114.00.

6. Registered Suppliers

The average number of registered suppliers was 60.62, with 40.51 being awarded contracts. 54.84% maintained a current list of registered suppliers. 51.61% published the list on websites or noticeboards. Only 25.4% always awarded contracts to registered suppliers.

7. Competition and Market Supply

Less that half (41.27%) of HoPs found the supply market to be sufficiently competitive. 41.27% also agreed that the range and quality of available goods, works, and services met their needs.

8. Procurement Records and Controls

About two thirds (66.67%) confirmed controls for certifying receipts and authorizing payments. 42.86% had systems to manage securities (bid/performance/advance). 50% published procurement plans on their websites.

9. Contract Implementation and Management

About a third (33.33%) reported timely contract implementation. 53.97% confirmed inspections and acceptance procedures were followed. 46.03% confirmed compliance with payment processing timelines. 31.75% stated that procurement statistics were available for contract management.

10. e-Procurement Systems

A total of 41.27% of entities had some form of e-Procurement system. 53.23% of staff were trained to use these systems, while 40.98% indicated suppliers were also trained. The average value of e-procurements was KES 5,671,611.

11. Internal and External Audits

A total of 60.32% reported annual internal audits including procurement. 52.38% indicated relevant contract audits were done. 60.32% said external annual audits were carried out. The share of auditors trained in procurement varied, with training frequencies ranging from 1 to 14 times per PE. 36.51% of financial auditors received support from procurement specialists during audits.

12. Handling of Audit Findings

More than half (58.73%) of entities received audit reports. 55.56% confirmed audit reports had recommendations. 53.97% indicated that their entity had dealt with the recommendations. A similar pattern was observed for external audits, where 60.32% had implemented audit recommendations.

13. Procurement Training and Capacity Building

Slightly more than a third (38.1%) had permanent procurement training programmes. 54.1% confirmed that these covered contracts management topics. 37.7% found them suitable in terms of quality. 42.86% stated that their staff had not received training on sustainable procurement.

14. Supplier Participation and Domestic Contracting

The average number of contracts awarded to domestic firms was 6, covering 85.5% of total contract value. Average contract value for domestic firms was KES 1,071,511; for foreign firms, KES 4,050,000.

Output Tables – HoP Dataset

Number of Job Grades between HoP and AO	Count	Percent
One	21	33.87
Two	22	35.48
Three	19	30.65

5(d)(a) - Do you find that the PPRA is free from conflicts of interest?	Count	Percent
Yes	32	50.79
No	31	49.21

10(a)(a) - Do you find that the public sector is open and effective in its engagement with the private sector, particularly in the field of public procurement?	Count	Percent
Yes	22	34.92
No	16	25.4
Partly	25	39.69

14(d)(a) - Do you find that current anti-corruption measures are effective?	Count	Percent
No	26	41.27
Yes	13	20.63
Partially	24	38.09

14(e)(c) - Do you find that suppliers and business associations actively support integrity and ethical behaviour in public procurement, e.g. through internal compliance measures e.g. through internal compliance measures?	Count	Percent
No	21	33.33
Yes	19	30.16
Partially	23	36.51

8(a)(c) - Do you have access to any advisory services for resolving any public procurement related questions?	Count	Percent
Yes	32	50.79
No	17	26.98
Partially	14	22.22

14(d)(e) - Do you have access to any special integrity programme training?	Count	Percent
Yes	31	49.21
No	20	31.75
Partially	12	19.04

14(d)(e) - Have you participated in any special integrity programme training?	Count	Percent
Yes	26	42.62
Partially	17	27.87
No	18	29.51

14(g)(d) - Does your entity have a mandatory code of conduct or ethics, with particular provisions for those involved in public financial management, including procurement?	Count	Percent
No	24	38.71
Yes	23	37.1
Partially	15	24.19

9(b)(d) - Are the public or civil society allowed to witness/ observe tender opening?	Count	Percent
Yes	31	49.21
No	19	30.16
Partially	13	20.63

9(b)(d) - Are the public or civil society allowed to witness/ observe bid evaluation.	Count	Percent
Yes	21	33.33
No	10	15.87
Partially	32	50.80

9(b)(d) - Are the public or civil society allowed to witness/ observe contract monitoring?	Count	Percent
Yes	23	36.50
No	24	38.10
Partially	16	25.40

10(a)(b) - Does the PE conduct meetings, dialogue, training of business firms aimed at promoting participation in public tenders?	Count	Percent
Yes	31	49.21
No	19	30.16
Partially	13	20.63

6(a)(c) - Does the entity have a designated Procurement Unit	Count	Percent
Yes	42	66.67
Partially	12	19.05
No	9	13.29

6(a)(b), 6 (a)(e) - Does the Head of Procurement Function report directly to the accounting officer functionally?	Count	Percent
Yes	42	66.67
No	12	19.05
Partially	9	14.29

6(a)(b), 6 (a)(e) - Does the Head of Procurement Function report directly to the accounting officer administratively?	Count	Percent
Yes	35	55.56
Partially	15	23.81
No	13	20.63

6(a)(c) - Does the Procurement Unit has adequate financial resources and physical facilities to perform its functions.	Count	Percent
Yes	31	49.21
Partially	18	28.57
No	14	22.22

8(b)(a) - Are the procurement positions in your entity defined through official job descriptions or the like, setting out the tasks and responsibilities and defining the qualifications and competencies required?	Count	Percent
Yes	35	55.56
Partially	16	25.4
No	12	19.05

8(b)(b) - Do you find that appointments and promotions are competitive and based on qualifications and professional certifications?	Count	Percent
Yes	25	39.68
No	17	26.98
Partially	21	33.33

8(b)(c) - Is staff performance evaluated on a regular and consistent basis?	Count	Percent
Yes	25	39.68
No	20	31.75
Partially	18	28.57

8(b)(c) - Do you find that performance evaluation is carried out fairly and that the conclusions are given appropriate effect?	Count	Percent
Yes	28	45.9
No	19	31.15
Partially	14	22.95

6(a)(c) - Does the Procurement Unit have an adequate number of procurement and supply staff?	Count	Percent
2	18	28.57
3	17	26.98
1	14	22.22
4	14	22.22

6(a)(c) - Please indicate number of procurement support staff	Count
Average	2
Minimum	0
Maximum	4

6(a)(c) - How many procurement staffs have procurement professional qualifications such as CIPS, CPSP?	Count
Average	2
Mode	2
Minimum	0
Maximum	4

6(a)(c) - How many procurement staffs have a minimum of three (3) years experience?	Count
Average	2
Mode	2
Minimum	0
Maximum	3

8(a)(a) - Are there substantive and permanent procurement training programmes in place in your entity?	Count	Percent
Yes	24	38.1
No	22	34.92
Partially	17	26.98

8(a)(a) - Do the above referred training programmes cover public procurement and contracts management related topics?	Count	Percent
Yes	33	54.1
No	15	24.59
Partially	13	21.31

8(a)(a) - Do you find that the said training programmes suitable in quality and content for meeting the needs at hand?	Count	Percent
Yes	23	37.7
No	19	31.15
Partially	19	31.15

8(a)(a) - Have procurement staff and others received practical, relevant training on Sustainable Procurement?	Count	Percent
No	27	42.86
Yes	19	30.16
Partially	17	26.99

8(a)(b) - Do you undertake any evaluation of the quality and appropriateness of the training provided?	Count	Percent
Yes	23	37.7
No	20	32.79
Partially	18	29.51

8(a)(b) - Do you find that such evaluations, if any, lead to adequate adjustment of the training programmes?	Count	Percent
Yes	25	41.67
No	21	35
Partially	14	23.34

2(d) - Is there a procurement policy and manual to guide internal procurement and disposals decision making and guide procurement and contract management on procurement and disposals?	Count	Percent
Yes	28	44.44
No	20	31.75
Partially	15	23.81

13(b)(c) - Is there an internal procedure for receiving and processing procurement complaints and appeals.	Count	Percent
Yes	30	47.62
Partially	18	28.57
No	15	23.81

Please indicate the total number of appeals/ complaints made to PPARB in FY 2022-23?	Count	Percent
No	28	49.12
Yes	17	29.82
Partially	12	21.05

13(a) - How many of those cases were enforced by PPARB?	Count	Percent
No	24	46.15
Partially	16	30.77
Yes	12	23.08

1(k) - Is there a system to manage bid securities, advance payment securities, and performance securities?	Count	Percent
Yes	32	50.79
No	16	25.4
Partially	15	23.81

1(k) - Are bidders usually required to submit bid securities, advance payment securities, and performance securities? What are the reasons?	Count	Percent
Yes	33	55
No	16	26.67
Partially	11	18.33

What is the value of bid securities, advance payment securities, and performance securities?	Count	Percent
Yes	28	47.46
No	16	27.12
Partially	15	25.24

What are the reasons for requiring bidders to submit bid securities, advance payment securities, and performance securities?	Count	Percent
Yes	37	59.68
Partially	16	25.80
No	9	14.52

4(b)(a) - Does the PE have internal controls for confirming availability of funds?	Count	Percent
Yes	35	55.56
No	16	25.4
Partially	12	19.04

4(b)(b) - Does the PE have internal controls for approving invoices?	Count	Percent
Yes	29	46.03
No	16	25.4
Partially	18	28.57

Does the PE have internal controls for certifying receipt of products and authorizations?	Count	Percent
Yes	42	66.67
No	10	15.87
Partially	11	17.46

4(b)(b) & 9(c)(c) - Does the PE have internal controls for payment authorisations?	Count	Percent
Yes	27	42.86
Partially	21	33.33
No	15	23.81

9(a)(a) - Is there a system to conduct market survey to guide the decision on the method and establish market prices for goods and estimated cost of works and services?	Count	Percent
Yes	26	41.27
No	17	26.98
Partially	20	31.74

9(a) - Is there a procurement plan derived from the work plan and budget?	Count	Percent
Yes	36	57.14
No	18	28.57
Partially	9	14.28

9(a) - Is the procurement plan that is in correct format?	Count	Percent
Yes		
No		
Partially		

9(a) - Is there a procurement plan that reflects the stages in the procurement process?	Count	Percent
Yes	27	42.86
No	19	30.15
Partially	17	26.99

4(a), 4(b)(a) - Is the procurement plan aligned with the financial budgeting process of the PE and approved prior to the start of the financial year?	Count	Percent
Yes	38	60.32
Partially	14	22.22
No	11	17.46

4(a)(c) - Does the PE have a feedback report on planned versus actual time, costs and projects completed?	Count	Percent
Yes	25	39.68
No	20	31.75
Partially	18	28.57

10(a)(b) - Does the entity have a current and approved list of registered suppliers, which it updates regularly?	Count	Percent
Yes	34	54.84
Partially	14	22.58
No	14	22.58

1(c) - Is the list of registered suppliers published on the entity's website or noticeboard?	Count	Percent
Yes	32	51.61
No	21	33.87
Partially	9	14.52

10(b)(a) - Are the names of the invited suppliers selected on a fair rotation basis to cover all in a category?	Count	Percent
Yes	26	41.27
No	17	26.98
Partially	20	31.75

10(b) - Total number of registered suppliers	Count
Average	60.62
Mode	18, 37 & 82
Minimum	12
Maximum	115

10(b) - Number of registered suppliers that have been awarded contracts.	Count
Average	40.51
Mode	42
Minimum	7
Maximum	109

10(b) - Do you always award contracts only to the registered suppliers?	Count	Percent
No	31	49.20
Yes	16	25.4
Partially	16	25.4

10(b)(a) - Do you find that the level of competition in the supply market is sufficient for giving you best value for money?	Count	Percent
Yes	26	41.27
No	14	22.22
Partially	23	36.51

10(b)(a) - Do you find that the range and the quality of goods, works and services on offer in the supply market is sufficient for allowing your needs to be met?	Count	Percent
Yes	26	41.27
No	15	23.81
Partially	22	34.92

1(k), 1(g)(c) - Is there a tender box with locks, two sets of keys are in safe custody of two different officers, and accessible to authorized staff?	Count	Percent
Yes	39	61.9
Partially	14	22.22
No	10	15.87

1(k), 1(g)(c) - Are tenders kept in a locked tender box and kept in a safe place, and confidential until they are opened officially?	Count	Percent
Yes	38	60.32
Partially	15	23.81
No	10	15.87

7(b) - Does the entity has an e-Procurement system that partially or entirely covers the procurement cycle?	Count	Percent
Yes	26	41.27
No	20	31.75
Partially	17	26.99

7(b)(c) - Are the procurement staffs trained and possess skills to reliably and efficiently use the system?	Count	Percent
Yes	33	53.23
No	17	27.42
Partially	12	19.36

7(b)(c) - Are the suppliers adequately trained to correctly use the e-Procurement system?	Count	Percent
Yes	25	40.98
No	17	27.87
Partially	19	31.15

7(b)(a) - Please indicate the number of e-Procurement procedures/ procurements for 2022-23	Count	Percent
No	20	31.75%
Yes	28	44.44%
Partially	15	23.81%

7(b)(a) - Please the indicate the total value of procurements	Count
Average	6,175,550
Mode	6,356,146
Minimum	1,597,185
Maximum	9,903,137

7(b)(a) - Please indicate the total value of e-public procurements	Count
Average	5,671,611
Mode	8,181,185
Minimum	1,645,411
Maximum	9,685,769

1(c), 7(a), 9(b) - Does the PE publish procurement plans on its own website and on national website?	Count	Percent
Yes	31	50
No	20	32.26
Partly	11	17.74

1(c), 7(a), 9(b) - Does the PE publish tender notices on its own website and on national website?	Count	Percent
Yes		
No		
Partly		

1(c), 7(a), 9(b) - Does the PE publish tender documents on its own website and on national website?	Count	Percent
Yes		
No		
Partly		

1(c), 7(a), 9(b) - Does the PE publish contract award notices on its own website and on national website?	Count	Percent
Yes		
No		
Partly		

10(b)(a) - Please indicate the number of registered suppliers as a share of total number of suppliers to the PE (in %) across framework contracts	Count
Average	10.33%
Mode	12%
Minimum	2%
Maximum	21%

10(b)(a) - Please indicate the share of registered suppliers that participated and were awarded contracts (in % of total number of registered suppliers) by the PE	Count
Average	66.7%
Mode	65%
Minimum	30%
Maximum	87%

10(b)(a) - Please indicate the total number and value of contracts awarded to domestic firms (DF (and in % of total awarded)	Count
Average contracts awarded	6
Average % Awarded to Domestic Firms	85.5%
Range (Contracts)	1 - 44
Range (Perventage)	47.2% - 99.4%

10(b)(b) - Indicate the value of contracts to DF	Count
Average	1,071,511
Minimum	130,351
Maximum	8,951,974

10(b)(b) - Indicate the value of contracts to FF	Count
Average	4,050,000
Minimum	172,079
Maximum	171,510,095

9(c)(a) - Were the contract implemented in a timely manner?	Count	Percent
Yes	21	33.33%
No	19	30.16%
Partly	23	36.51%

9(c)(b) - Were inspections, quality control, supervision of work and final acceptance of the product carried out?*	Count	Percent
Yes	34	53.97%
No	13	20.63%
Partially	16	25.40%

9(c)(c) - Were the invoices examined, time limits for payments comply with good international practices, and payments processed as stipulated in the contract?	Count	Percent
Yes	29	46.03%
Partially	21	33.33%
No	13	20.63%

9(c)(e) - Were procurement statistics on contract management available and was there a system is in place to measure and improve procurement practices?	Count	Percent
Yes	20	31.75%
No	19	30.16%
Partially	24	38.10%

9(c)(f) - Were opportunities for direct involvement of relevant external stakeholders in public procurement in relation to contract management utilised?*	Count	Percent
Yes	28	44.44%
No	20	31.75%
Partially	15	23.81%

9(c)(g) - Were the contract management records complete and accurate, and easily accessible in a single file?*	Count	Percent
No	24	38.10%
Yes	22	34.92%
Partly	17	26.98%

12(a)(b) - Does an Internal Audit unit exists whose functions include procurement audit?	Count	Percent
Yes	38	60.32%
Partially	14	22.22%
No	11	17.46%

12(a)(b) - Does an Internal Audit unit exists whose functions include performance audit?	Count	Percent
Yes	27	42.86
Partially	21	33.33
No	15	23.81

12(b), 6(a) - Does the Internal Audit unit has adequate audit staff?	Count	Percent
Yes	20	31.75
Partially	15	23.81
No	28	44.44

12(b)(a), 12(b)(b) - Is there an internal audit manual that also covers procurement and performance audit?	Count	Percent
Yes	29	46.03%
No	16	25.40%
Partially	18	28.57%

12(b)(c) - Are annual audits carried out and reports prepared?	Count	Percent
Yes	29	46.03%
No	17	26.98%
Partially	16	25.40%

12(d)(a) - Please indicate the number of training courses conducted to train internal auditors on public procurement audits.	Number of training courses conducted	Count
	1	10
	2	1
	3	2
	4	8
	5	2
	6	3
	7	2
	8	4
	9	4
	10	5
	11	2
	12	4
	13	8
	14	8

12(d) - Please indicate the share of total auditors trained on procurement audits versus Total number of auditors	No. of Trainings offered	PEs that participated
	1	9
	2	8
	5	8
	3	8
	4	8
	6	6
	8	6
	9	5
	7	5

12(d)(b) - Are the financial auditors supported by procurement specialists for the procurement performance audits if they lack procurement training?	Count	Percent
Yes	23	36.51%
No	23	36.51%
Partially	17	26.98%

12(d)(a) - Are the audit recommendations promptly followed up and implemented by the PE within given timelines?	Count	Percent
Yes	28	44.44%
No	15	23.81%
Partially	20	31.75%

Were relevant contract audits done?	Count	Percent
Yes	33	52.38%
No	17	26.98%
Partially	13	20.63%

If the contract audits were done, were they useful?	Count	Percent
Yes	22	34.92%
No	19	30.16%
Partially	22	34.92%

Did the auditors understand and recognise the particularities of public procurement?	Count	Percent
Yes	24	38.10%
No	16	25.40%
Partially	23	36.51%

Were the audit reports issued to the PE?	Count	Percent
Yes	34	53.97%
No	14	22.22%
Partially	15	23.81%

Did the audit reports have any recommendation or other findings?	Count	Percent
Yes	37	58.73
No	26	41.27

How did your PE deal with the recommendations/ findings?	Count	Percent
Yes	34	53.97%
Partially	18	28.57%
No	11	17.46%

12(b)(c) - Are External Annual audits carried out and reports prepared?	Count	Percent
Yes	38	60.32%
Partially	16	25.40%
No	9	14.29%

12(d)(a) - Are audit recommendations promptly followed up and implemented by the PE within given timelines?	Count	Percent
Yes	33	52.38%
No	13	20.63%
Partially	17	26.98%

Were relevant contract audits done?	Count	Percent
Yes	30	47.62%
Partially	24	38.10%
No	9	14.29%

If they were done, were they useful?	Count	Percent
Yes	28	44.44%
No	16	25.40%
Partially	19	30.16%

Did the auditors understand and recognize the particularities of public procurement?	Count	Percent
Yes	27	42.86
No	16	25.40
Partially	20	31.75

Were the audit reports issued to the PE?	Count	Percent
Yes	37	58.73
No	15	23.81
Partially	11	17.46

Did the audit reports have any recommendation or other findings?	Count	Percent
Yes	35	55.56
No	15	23.81
Partially	13	20.63

How did your PE deal with the recommendations/ findings?	Count	Percent
Yes	38	60.32
No	10	15.87
Partially	15	23.81

1(k), 9(c)(g) - Do procurement and contract management processes have complete file of records with documents filed sequentially?	Count	Percent
Yes	20	31.75%
No	20	31.75%
Partially	23	36.51%

1(k) - Are the records readily accessible and available?	Count	Percent
Yes	31	49.21%
No	13	20.63%
Partially	19	30.16%

1(k) - Is there an officer who is allocated the task of keeping records and documents?	Count	Percent
Yes	22	34.92%
No	20	31.75%
Partially	21	33.33%

1(k) - Are the records kept securely for at least six (6) years in accordance with the law?	Count	Percent
Yes	33	52.38
Partially	18	28.57
No	12	19.05

7(c)(d) - Was there was an ex-post evaluation of the whole procurement, comparing outcomes with objectives and drawing lessons learned?	Count	Percent
Partially	26	41.27%
Yes	20	31.75%
No	17	26.98%

Procurement Budget Analysis for 63 PEs (FY2022/ 2023)	Average (KES)	Mode (KES)
Total Entity Budget	19,85,509,349.00	1,644,532.00
Procurement Plan Budget	617,926,947.00	1,158,234.00
Procurement Spend KES	429,585,060.00	1,578,114.00

ADDITIONAL OUTPUT TABLES

Variable	Average	Mode
6(a)(c) - What is total procurement staff establishment	3	2
6(a)(c) - Please indicate number of procurement staff	3	3
6(a)(c) - Please indicate number of support staff	1	1
6(a)(c) - How many procurement staffs have procurement professional qualifications such as CIPS, CPSP?	2	2
6(a)(c) - Please indicate the procurement staffs and their academic qualifications	2	2
6(a)(c) - How many procurement staffs have a minimum of three years' experience?	2	2
Total number of appeals/ complaints made to PPARB in FY 2022-23 (Yes & Partial)	29	
Total number of appeals/ complaints enforced by PPARB (Yes & Partial)	28	
Total number of registered suppliers	61	37
Number of registered suppliers that were awarded contracts.	41	42
Total value of procurements	6,175,550.00	1,597,200.00
Total value of e-public procurements	5,671,600.00	1645400.00
Percent of procurement staff that have procurement professional qualifications such as CIPS, CPSP	71.8%	61%
Percent of procurement staff that have procurement academic qualifications	87.9%	98.0%
Percent of procurement staff that have a minimum of three years experience	66.6%	100%

Kenya MAPS Assessment Report, Annex 10

Survey questionnaire for respondents from procuring entities

Section A: Procurement Function, Staffing and Training

A01. In which County is your procuring entity located in Kenya?

- 001 - Mombasa
- 002 - Kwale
- 003 - Kilifi
- 004 - Tana River
- 005 - Lamu
- 006 - Taita Taveta
- 007 - Garissa
- 008 - Wajir
- 009 - Mandera
- 010 - Marsabit
- 011 - Isiolo
- 012 - Meru
- 013 - Tharaka Nithi
- 014 - Embu
- 015 - Kitui
- 016 - Machakos
- 017 - Makueni
- 018 - Nyandarua
- 019 - Nyeri
- 020 - Kirinyaga
- 021 - Muranga
- 022 - Kiambu
- 023 - Turkana
- 024 - West Pokot
- 025 - Samburu
- 026 - Trans Nzoia
- 027 - Uasin Ngishu
- 028 - Elgeyo Marakwet
- 029 - Nandi
- 030 - Baringo
- 031 - Laikipia

- 032 - Nakuru
- 033 - Narok
- 034 - Kajiado
- 035 - Kericho
- 036 - Bomet
- 037 - Kakamega
- 038 - Vihiga
- 039 - Bungoma
- 040 - Busia
- 041 - Siaya
- 042 - Kisumu
- 043 - Homa Bay
- 044 - Migori
- 045 - Kisii
- 046 - Nyamira
- 047 - Nairobi City

A02. How many people are tasked with procurement duties in your procuring entity?

____

A03. How many public procurement contracts did your procuring entity conclude in 2024?

____

A04. What is the TOTAL value of public procurement contracts your procuring entity concluded in 2024?

____

A05. Do you have a designated Procurement Unit?

- Yes
- No

A06. Do you have adequate financial resources and physical facilities to perform its functions?

- Yes
- Partly
- No

A07. Please comment, if you wish..

____

A08. Does your Procurement Unit have an adequate number of procurement and supply staff?

- Yes
- Partly
- No

A09. Please comment, if you wish....

A10. Is there a training programme in place in your procuring entity?

- Yes
- No

A11. Does it cover public procurement?

- Yes
- No

A12. Do you find that it is of suitable quality?

- Yes
- No

A13. Please comment on the coverage and quality, if you wish...

Section B: Process management

B01. Is there a procurement policy and manual to guide internal decisions, procurement and contract management on procurement and disposals?

- Yes, a comprehensive one
- Yes, but with some gaps
- No

B02. Is there an internal procedure for receiving and processing procurement complaints and appeals?

- Yes, a comprehensive one
- Yes, but with some gaps
- No

B03. Are bidders required to submit bid securities?

- Yes, always
- Yes, fairly often
- Yes, but rarely
- Never

B04. Are bidders required to submit advance payment securities?

- ◯ Yes, always
- ◯ Yes, fairly often
- ◯ Yes, but rarely
- ◯ Never

B05. Are bidders required to submit performance securities?

- ◯ Yes, always
- ◯ Yes, fairly often
- ◯ Yes, but rarely
- ◯ Never

B06. Does your procuring entity have internal controls for confirming availability of funds?

- ◯ Yes
- ◯ Partly
- ◯ No

B07. Does your procuring entity have internal controls for approving invoices?

- ◯ Yes
- ◯ Partly
- ◯ No

B08. Does your procuring entity have internal controls for certifying receipt of products?

- ◯ Yes
- ◯ Partly
- ◯ No

Section C: Procurement Budgeting and Planning

C01. Does your procuring entity have a system to conduct market surveys to guide the decision on the procurement method to be used and establish market prices for goods and estimated costs of the items to be procured?

- ◯ Yes
- ◯ Partly
- ◯ No

C2. Please comment, if you wish...

C03. Does your procuring entity have a procurement plan derived from the work plan and budget?

- ◯ Yes
- ◯ Partly
- ◯ No

Section D: Supply Market

D01. Does your procuring entity have a current and approved list of registered suppliers, which it updates regularly?

- ◯ Yes
- ◯ No

D02. Do you find that the level of competition in the supply market is sufficient for giving you best value for money?

- ◯ Yes
- ◯ Partly
- ◯ No

D03. Do you find that the range and the quality of goods, works and services on offer in the supply market is sufficient for allowing your needs to be met?

- ◯ Yes
- ◯ Partly
- ◯ No

Section E: Security of Tenders

E01. Does your procuring entity keep in a locked tender box and kept in a safe place, and confidential until they are opened officially?

- ◯ Yes
- ◯ No

Section F: E-procurement System

F01. Does your procuring entity use an e-Procurement system that partially or entirely covers the procurement cycle?

- ◯ Yes
- ◯ Partly
- ◯ No

F02. Please comment, if you wish...

F03. Are the procurement staff in your procuring entity trained and possess skills to reliably and efficiently use the system?

- Yes
- Partly
- No

F04. Are your suppliers adequately trained to correctly use the e-Procurement system?

- Yes
- Partly
- No

Section G: Contract Awards and Performance (Think of about FIVE largest contracts concluded during last year concluded in your procuring entity)

G01. Were the contracts implemented in a timely manner?

- Yes
- Partly
- No

G02. Were inspection, quality control, supervision of work and final acceptance of the products carried out?

- Yes
- Partly
- No

G03. Were the invoices examined, time limits for payments comply with good international practices, and payments processed as stipulated in the contract?

- Yes
- Partly
- No

Section H: Internal/ External Audit

H01. Does your procuring entity have an Internal Audit unit whose functions include procurement audit?

- Yes
- No

H02. Does your procuring entity have an Internal Audit unit whose functions include performance audit?

- Yes
- No

H03. Does your procuring entity carry out evaluations of past procurement in order to draw lessons learned and improve future approaches?

- Yes
- Partly
- No

H04. Do your external auditors understand and recognise the particularities of public procurement for your agency?

- Yes
- Partly
- No

We have come to the end of the questionnaire. Please add any further comments or suggestions that you may wish to make:

Kenya MAPS Assessment Report, Annex 11

Frequency Distribution Output Tables for Public Sector Respondents (Online survey)

A01. In which County is your procuring entity located in Kenya?	**Frequency**	**Percentage (%)**
047 - Nairobi City	28	41.18
037 - Kakamega	6	8.82
042 - Kisumu	5	7.35
027 - Uasin Ngishu	4	5.88
001 - Mombasa	3	4.41
015 - Kitui	3	4.41
040 - Busia	2	2.94
023 - Turkana	2	2.94
043 - Homa Bay	2	2.94
006 - Taita Taveta	2	2.94
021 - Muranga	1	1.47
012 - Meru	1	1.47
010 - Marsabit	1	1.47
044 - Migori	1	1.47
030 - Baringo	1	1.47
035 - Kericho	1	1.47
018 - Nyandarua	1	1.47
014 - Embu	1	1.47
032 - Nakuru	1	1.47
004 - Tana River	1	1.47
029 - Nandi	1	1.47

A02. How many people are tasked with procurement duties in your procuring entity?	**Frequency**	**Percentage (%)**
2–3	10	14.7
4–5	20	29.4
6–7	18	26.5
8–9	12	17.6
10–12	8	11.8

A03. How many public procurement contracts did your procuring entity conclude in 2024?	Frequency	Percentage (%)
1–5	14	20.59
6–10	21	30.88
11–15	19	27.94
16–20	11	16.18
21–25	3	4.41

A04. What is the TOTAL value (KES) of public procurement contracts your procuring entity concluded in 2024?	PEs	Total Value (KES)
<5M	33.0	25,500,000
5M–10M	14.0	104,339,327
10M–20M	11.0	152,616,800
20M–30M	6.0	156,250,360
30M–40M	3.0	111,209,760
40M–50M	1.0	45,000,000

A05. Do you have a designated Procurement Unit?	Frequency	Percentage (%)
Yes	67	98.53
No	1	1.47

A06. Do you have adequate financial resources and physical facilities to perform its functions?	Frequency	Percentage (%)
Partly	42	61.76
Yes	16	23.53
No	10	14.71

A07. Please comment, if you wish..
Incorporation of procurement system to help in eliminating too much paper work help im work and to make work
We lack equipment and office for officers
No enough funding
We require more personal
Mainly internally generated funds
Whereas we have an office from where we undertake the procurement work, it is not adequate and budgets for certain assignments like due diligence is inadequate.
None

A07. Please comment, if you wish..
The procurement officers should have their separate offices because of the sensitivity of information they handle to avoid leakages
Capital budget is challenge
The budgets provided are not sufficient to meet customer needs
Financial reources is a challenge and it limits us on capacity buidling
Procurement function is a strategic unit which is not so in most public entities
Procurement building in the headquarters
The procurements are based on needs
Organisation structure still not fully implemented
Procuring entity currently under financial constraints
Inadequate financial resources to enhance training
Funds adequate
As an entity there is need to strengthen our reporting system
Yes

A08. Does your Procurement Unit have an adequate number of procurement and supply staff?	Frequency	Percentage (%)
Yes	27	39.71
Partly	26	38.24
No	15	22.06

A09. Please comment, if you wish....
There is need of additional supplier chain management officers to help the unit function adequately
Certain facilities lacking personnel
NEED FOR TRAINING
Head of Procurement on acting position
Organisation structure still not fully implemented
The structure is not filled to capacity
its only a few are allowed to access the system due to individual again
should staffed well and given equivallent job groups, which is not happening in the ground
All are qualified professionals
The procurement unit still lack adequate contracting staff and staff to help in contract management.
We require 4 More persons
Lack of establishment of Supply Chain Management like no principal supply chain officer and chief procurement officers
The SCM unit is overstaffed
Yes

A10. Is there a training programme in place in your procuring entity?	Frequency	Percentage (%)
No	35	51.47
Yes	33	48.53

A11. Does it cover public procurement?	Frequency	Percentage (%)
No	37	54.41
Yes	31	45.59

A12. Do you find that it is of suitable quality?	Frequency	Percentage (%)
No	38	55.88
Yes	30	44.12

A13. Please comment on the coverage and quality, if you wish...
Lack of financial resources iinhibits our training programmes
There is need to incorporate all
Suitable
Legal and technical aspects in procurement covered
We rely on kism trainings
Training from KISM has been of high quality
The training can be conducted to the public officers but the rights of accessing the system is for the seniors only
Average
Sometimes the projected trainings are never done due to budget limitations
Lack of funds to facilitate training is the challenge
Training budget is indequate
There is no specific training for staff in public procurement. Staff only and only sometimes attend CPD workshops

B01. Is there a procurement policy and manual to guide internal decisions, procurement and contract management on procurement and disposals?	Frequency	Percentage (%)
Yes, but with some gaps	29	42.65
Yes, a comprehensive one	27	39.71
No	12	17.65

B02. Is there an internal procedure for receiving and processing procurement complaints and appeals?	Frequency	Percentage (%)
Yes, a comprehensive one	26	38.24
Yes, but with some gaps	23	33.82
No	19	28.17

B03. Are bidders required to submit bid securities?	Frequency	Percentage (%)
Yes, always	33	48.53
Yes, fairly often	20	29.41
Yes, but rarely	13	19.12
Never	2	2.94

B04. Are bidders required to submit advance payment securities?	Frequency	Percentage (%)
Never	23	33.82
Yes, but rarely	20	29.41
Yes, always	16	23.53
Yes, fairly often	9	13.24

B05. Are bidders required to submit performance securities?	Frequency	Percentage (%)
Yes, always	32	47.06
Yes, fairly often	19	27.94
Yes, but rarely	13	19.12
Never	4	5.88

B06. Does your procuring entity have internal controls for confirming availability of funds?	Frequency	Percentage (%)
Yes	58	85.29
Partly	6	8.82
No	4	5.88

B07. Does your procuring entity have internal controls for approving invoices?	Frequency	Percentage (%)
Yes	54	79.41
Partly	8	11.76
No	6	8.82

B08. Does your procuring entity have internal controls for certifying receipt of products?	Frequency	Percentage (%)
Yes	61	89.71
No	5	7.35
Partly	2	2.94

C01. Does your procuring entity have a system to conduct market surveys to guide the decision on the procurement method to be used and establish market prices for goods and estimated costs of the items to be procured?	Frequency	Percentage (%)
Partly	29	42.65
Yes	23	33.82
No	16	23.53

C2. Please comment, if you wish...
In some instances, getting prices while doing market survey is challanging
Lack of sufficient budget to cater for carrying out market surveys within a financial year
Market surveys are expensive to conduct and inadequate budgets is a major hinderance
We also use market index from ppra website

C2. Please comment, if you wish...
The procurement officers, together with user department should be facilitated frequently to do market surveys
Market survey is costly affair .. No government data available to assist
Sending quotation to various suppliers of a given item to determine the prices
Lack of enough manpower
Market survey approaches for consulltancy services needs enrichmet especially with respect to unique consulting services
Procurement unit should always be facilitated to carry ou the rquired market surveys and due deligence but this is ignored in most bublic institutions
But on rare occassions do the officers go to the ground to find out the current prices of the commodities
It is always a continuous process
Not elaborate process
Impossible to conduct market for procurement transactions
Not always
Market surveys is critical
I wish they had

C03. Does your procuring entity have a procurement plan derived from the work plan and budget?	Frequency	Percentage (%)
Yes	62	91.18
No	3	4.41
Partly	3	4.41

D01. Does your procuring entity have a current and approved list of registered suppliers, which it updates regularly?	Frequency	Percentage (%)
Yes	64	94.12
No	3	4.41
Partly	1	1.47

D02. Do you find that the level of competition in the supply market is sufficient for giving you best value for money?	Frequency	Percentage (%)
Yes	42	61.76
Partly	20	29.41
No	6	8.82

D03. Do you find that the range and the quality of goods, works and services on offer in the supply market is sufficient for allowing your needs to be met?	Frequency	Percentage (%)
Yes	39	57.35
Partly	23	33.82
No	6	8.82

E01. Does your procuring entity keep in a locked tender box and kept in a safe place, and confidential until they are opened officially?	Frequency	Percentage (%)
Yes	63	92.65
No	3	4.41
Partly	2	2.94

F01. Does your procuring entity use an e-Procurement system that partially or entirely covers the procurement cycle?	Frequency	Percentage (%)
Yes	33	48.53
Partly	24	35.29
No	11	16.18

F02. Please comment, if you wish...
We do not have up to date licenses for oracle system
It is always manipulated. We need watertight system
Our tendering system runs entirely on e-Procurement system
Covers entire procuremet process
We use Microsoft dynamics
Ifmis
The e- procurement should be enhanced
System to available
We use the IFMI system for process and PPIP mostly for reporting
We use IFMIS
It uses fully because of IFMIS system is directing the procuring entity to do so
KEMSA uses Enterprise Resource Planning(ERP) in its procurement activities
In process of implementing erp
Partially covers procurement cycle
Capacity challenges
Use of IFMIS
There is need to fully automate procurement process
We use IFMIS

F03. Are the procurement staff in your procuring entity trained and possess skills to reliably and efficiently use the system?	Frequency	Percentage (%)
No	36	52.94
Yes	23	33.82
Partly	9	13.24

F04. Are your suppliers adequately trained to correctly use the e-Procurement system?	Frequency	Percentage (%)
No	42	61.76
Partly	15	22.06
Yes	11	16.18

G01. Were the contracts implemented in a timely manner?	Frequency	Percentage (%)
Yes	32	47.06
Partly	30	44.12
No	6	8.82

G02. Were inspection, quality control, supervision of work and final acceptance of the products carried out?	Frequency	Percentage (%)
Yes	59	86.76
Partly	8	11.76
No	1	1.47

G03. Were the invoices examined, time limits for payments comply with good international practices, and payments processed as stipulated in the contract?	Frequency	Percentage (%)
Yes	39	57.35
Partly	21	30.88
No	8	11.76

H01. Does your procuring entity have an Internal Audit unit whose functions include procurement audit?	Frequency	Percentage (%)
Yes	61	89.71
No	6	8.82
Patrtly	1	1.47

H02. Does your procuring entity have an Internal Audit unit whose functions include performance audit?	Frequency	Percentage (%)
Yes	55	80.88
No	11	16.18
Partly	2	2.94

H03. Does your procuring entity carry out evaluations of past procurement in order to draw lessons learned and improve future approaches?	Frequency	Percentage (%)
Yes	29	42.65
Partly	24	35.29
No	15	22.06

H04. Do your external auditors understand and recognize the particularities of public procurement for your agency?	Frequency	Percentage (%)
Yes	44	64.71
Partly	17	25.00
No	7	10.29

We have come to the end of the questionnaire. Please add any further comments or suggestions that you may wish to make:
Strengthening of training to cut across all those involved in procurement in an entity, procurement units need to have adequate staff since there are many tasks they are involved in.
Payment of supplier in timely manner
Government should consider the number of establishment of SCM officers in each PE before recruiting, transferring or deploying officers.
We need e-procurement system that is fully automated from requisition, budgeting and evaluation should be submitted online in that manipulation is minimised because currently the ifmis system is always being manipulated to disadvantaged of genuine bidders who have won tenders across the country.Also professional opinion should be online all the way to the award by the accounting officer
The current tender documents should be reviewed to support procuring entities in their procurement processes
The procurement laws have a gap , there is no guidance on what would happen should a debrief potentially calls for change of evaluation results
Public procurement continues to suffer from capture by various players within the national budget cycle especially mps continue to harass procurement staff with threats of summons to committee in Parliament.
Please consider standardizing procurement for both private and Public entities. Application if International Standards for procurement in Kenya.
I wish to comment this survey it aims at improving procurement process and also it gathers additional information for improving individuals on carrying out procedures
There should be continuous training of procurement officers,the authorizing officers take it forgranted when the procurement officers request for training. It should be a mandatorty requirement and thus they should approve and facilitate the training of procurement officers
The external auditors should have clear understanding of procurement law as compared to pfm act.
So much training is required in public secondary schools to in order to effectively and efficiently perform procurement duties
N.a.
The questionnaire has not captured the spirit of monitoring and evaluation
External auditors should be sensitized on applicable procurement regulations on donor funded projects to eliminate misunderstandings during audit
It should made mandatory mandate of the procuring entities (Employers) to facilitate their staff in procurent function to attend the trainings and even help them renew their annual proffesional membership and licence
No suggestion

We have come to the end of the questionnaire. Please add any further comments or suggestions that you may wish to make:
In the procuring entity, its only senior procurements officers who are alowed to access the system because they are placed in the ministries according to the interest of the leaders of the county and also the powerfull individuals who have the say in the current governments
Ppda act should always be continuous process to improve on procurement process
To enhance transparency and accountability organizations should embrace and leverage ontechnology
Political influence on tendering process erods professionalism and moral to work
Thank you
There is need for a comprehensive training both for procurement staff and suppliers to enhance efficiency in procurement
No comment
I am grateful for your engagement. The proposed system should be flexible enough to correct an error committed unlike ufmis where one has to contact the head office which sometimes the very long time to sort. The system should be able to sort out bids submitted as links which sometimes disappear.

Kenya MAPS Assessment Report, Annex 12

Survey questionnaire for respondents from the private sector

SECTION A: GENERAL INFORMATIONS ABOUT THE ENTREPRISE

A01. What is your position/ role in the enterprise?

- ◯ Chief Executive Officer
- ◯ Director
- ◯ Manager
- ◯ Officer
- ◯ Other:

Specify:

____

In which County is your enterprise located in Kenya?

- ◯ 001 - Mombasa
- ◯ 002 - Kwale
- ◯ 003 - Kilifi
- ◯ 004 - Tana River
- ◯ 005 - Lamu
- ◯ 006 - Taita Taveta
- ◯ 007 - Garissa
- ◯ 008 - Wajir
- ◯ 009 - Mandera
- ◯ 010 - Marsabit
- ◯ 011 - Isiolo
- ◯ 012 - Meru
- ◯ 013 - Tharaka Nithi
- ◯ 014 - Embu
- ◯ 015 - Kitui
- ◯ 016 - Machakos
- ◯ 017 - Makueni
- ◯ 018 - Nyandarua
- ◯ 019 - Nyeri
- ◯ 020 - Kirinyaga
- ◯ 021 - Muranga
- ◯ 022 - Kiambu

- 023 - Turkana
- 024 - West Pokot
- 025 - Samburu
- 026 - Trans Nzoia
- 027 - Uasin Ngishu
- 028 - Elgeyo Marakwet
- 029 - Nandi
- 030 - Baringo
- 031 - Laikipia
- 032 - Nakuru
- 033 - Narok
- 034 - Kajiado
- 035 - Kericho
- 036 - Bomet
- 037 - Kakamega
- 038 - Vihiga
- 039 - Bungoma
- 040 - Busia
- 041 - Siaya
- 042 - Kisumu
- 043 - Homa Bay
- 044 - Migori
- 045 - Kisii
- 046 - Nyamira
- 047 - Nairobi City

Where do you consider your enterprise to be located in the County?

- Urban Area
- Rural Area
- I am not sure
- Decline

What is the total number of FULL TIME employees in this company?

____

What is the total number of PART TIME employees in this company?

____

What is the MAIN sector of activities for your enterprise?

- Goods & Equipment
- Consulting Services
- Non-Consulting Services
- Works/ Construction

Sub-indicator 10 (a) - evaluation criterion (a): The government encourages open dialogue with the private sector. Perception of openness and effectiveness in engaging with the private sector.

Does the government communicate with the business community in order to inform them each time there is a change in the legal or institutional framework for public procurement?

- Yes, always.
- Yes, most of the time
- No, only rarely
- No, not at all
- I don't know

Do you find that the changes in the legal or institutional framework for public procurement are easy to follow?

- Yes, always.
- Yes, most of the time
- No, only rarely
- No, not at all
- I don't know

Do you have the necessary resources to follow the changes in the legal or institutional framework for public procurement?

- Yes, always.
- Yes, most of the time
- No, only rarely
- No, not at all
- I don't know

Are you aware of any training programmes or information sessions on public procurement organised by the government for the benefit of the private sector?

- Yes
- No

If YES, please mention any TWO that you are aware of.

____

Have you participated in any capacity building programmes or information sessions on public procurement organised for the benefit of the private sector?

- Yes
- No

If Yes, who organised it?

Please indicate the TITLE of the latest one you attended

How useful were the capacity building programmes or information sessions?

- Extremely useful
- Very useful
- Moderately useful
- Slightly useful
- Not useful at all
- I have no opinion

If No, why?

Sub-indicator 10 (b) - evaluation criterion (b): There are no major systemic constraints inhibiting private sector access to the public procurement market.

Which of the following conditions do you think are met in the field of public procurement in Kenya?

Please choose all that is applicable

- [ ] Facilitation of Access to Financing
- [ ] Procurement procedures and the conditions for participation make it easy enough to participate in public procurement (this includes low value procurements).
- [ ] Conditions of contract contribute to a fair distribution of risks between the parties, especially the risks linked to contract implementation.
- [ ] Payment conditions are fair and reasonable.
- [ ] Invoices are paid on time as required by the contract.
- [ ] In general, there is effective mechanism for addressing complaints about the procurement procedures and how they are being carried out.
- [ ] There are effective mechanism for addressing complaints about the procurement procedures and how they are being carried out in case of small value procurement.
- [ ] There are effective mechanism for resolving contractual disputes between the parties.
- [ ] There are effective mechanism for resolving contractual disputes between the parties in case of small value procurement.
- [ ] There is usually a reasonable division of contracts into lots.
- [ ] None of the conditions mentioned above are met

In your opinion, which aspects of public procurement should be improved in order to facilitate the access of private sector organizations to the public procurement market?

Sub-indicator 13 (c) - evaluation criterion (b): The procedures governing the decision making process of the appeals body provide that decisions are balanced and unbiased in consideration of the relevant information

Have you ever participated in a bid/ bids organised by a public procuring entity in Kenya?

- Yes
- No
- Decline to answer

Have you ever made a formal complaint (to the PPARB or to the courts) about the actions or decisions of a procuring entity?

- Yes
- No
- Decline to answer

If YES, how many times?

____

Were you satisfied with the outcome of your complaint?

- Yes
- No

Please briefly indicate the main reason for your dissatisfaction

____

Do you/ your company have the impression that the system is reliable and fair?

- Yes
- No
- Decline to answer

Did you/ your company find that the Public Procurement Administrative Review Board (PPARB) decision was clear and coherent with its other decisions in similar cases?

- Yes
- No
- Decline to answer

If YES/ NO, please explain why?

____

If you/ your company have/ has never made a complaint about the actions or decisions of a procuring entity, would it be because...

- ☐ I/ the company felt that the actions or decisions of the procuring entities were fair and reasonable and that there was no reason to make a complaint
- ☐ I/ the company felt that the actions or decisions of the procuring entities were wrong, but I did not believe that the system for reviewing complaints was fair and reliable enough to make it worthwhile making a complaint?
- ☐ Any other reasons (please explain):

If Other, explain...

In general, how would you evaluate the complaints system in public procurement?

Please select the applicable response

- ◯ The system always works in a fair, transparent and predictable manner.
- ◯ The system mostly works in a fair, transparent and predictable manner
- ◯ The system rarely works in a fair, transparent and predictable manner
- ◯ The system never works in a fair, transparent and predictable manner

Which of the following aspects would be most important to address for improving the system for review of public procurement complaints in Kenya?

Please select as many responses as you find applicable

- ☐ Unfair Evaluation or Award Process
- ☐ Lack of Compliance with Procurement Procedures
- ☐ Bidder Disqualification
- ☐ Corruption and Fraud Allegations
- ☐ Non-Disclosure of Information
- ☐ Choice of the procedure to be used
- ☐ Bias in requirements, specifications or evaluation criteria
- ☐ Other (Specify)

If other, specify:

Sub-indicator 14 (c) - evaluation criterion (d): There is evidence that the laws on fraud, corruption and other prohibited practices are being enforced in the country by application of stated penalties.

Have you ever offered bribe to an official in charge of procurement or to anyone else in order to get a public contract?

- ◯ Yes
- ◯ No
- ◯ Decline to answer

If YES, how many such cases did you have since June 2023 to date?

____

Sub-indicator 14 (d) - evaluation criterion (a): The country has in place a comprehensive anti-corruption framework to prevent, detect and penalise corruption in government that involves the appropriate agencies of government with a level of responsibility and capacity to enable its responsibilities to be carried out.

Please indicate your opinion on the level of effectiveness of the following measures for combatting fraud and corruption.	Very effective	Quite effective	Not really effective	Not effective at all
Provision of information and/or training on what corruption is and means for reducing it	○	○	○	○
Special procedures for reporting irregularities or improper actions or behaviours	○	○	○	○
A code of conduct & Ethical principles for public and private sector entities	○	○	○	○
Declarations of confidentiality and impartiality signed by each member of the procurement working group	○	○	○	○
Accountability mechanisms in making public procurement decisions	○	○	○	○
Use of e-procurement system	○	○	○	○
Use of other systems for enforcing proper application of regulations, including those aimed at combatting corruption	○	○	○	○

Which measures would you prioritise to take in order to combat corruption in procurement?

Mention as many as is applicable.

- ☐ Strengthen Regulatory Framework
- ☐ Transparency and Open Contracting
- ☐ E-Procurement Systems
- ☐ Independent Oversight and Audits
- ☐ Capacity Building and Training
- ☐ Whistleblower Protection
- ☐ Conflict of Interest Declarations
- ☐ Severe Penalties for Corruption
- ☐ Enhanced Monitoring of Procurement Processes
- ☐ Engagement of Civil Society and Media
- ☐ Wealth declarations for senior officials
- ☐ Measures to identify beneficiary ownership

Sub-indicator 14 (e) - evaluation criterion (c): There is evidence that civil society contributes to shape and improve integrity of public procurement

Are you aware of any Civil Society Organization (CSO) actively monitors public procurement in Kenya?

- Yes
- No

If YES, which one(s) - Maximum of THREE

Do you think that their work is useful and effective?

- Yes
- No
- I am not sure
- I decline to answer

Please give a reason for your opinion

If no : Do you think that participation by Civil Society Organizations (CSOs) in monitoring public procurement could be useful?

- Yes
- No
- Decline to answer

Please explain your answer

Kenya MAPS Assessment Report, Annex 13

Frequency Distribution Output Tables for Private Sector Respondents (Online survey)

In which County is your enterprise located in Kenya?	Frequency	Percentage (%)
042 - Kisumu	16	21.05%
047 - Nairobi City	15	19.74%
027 - Uasin Ngishu	12	15.79%
037 - Kakamega	8	10.53%
032 - Nakuru	6	7.88%
014 - Embu	3	3.95%
004 - Tana River	2	2.63%
016 - Machakos	4	5.26%
001 - Mombasa	2	2.63%
007 - Garissa	2	2.63%
039 - Bungoma	2	2.63%
010 - Marsabit	1	1.32%
031 - Laikipia	1	1.32%
023 - Turkana	1	1.32%
045 - Kisii	1	1.32%

Where do you consider your enterprise to be located in the County?	Frequency	Percentage (%)
Urban Area	63	82.9
Rural Area	10	13.2
I am not sure	3	3.9

What is the total number of FULL-TIME employees in this company?	Frequency	Percentage (%)
1–10	37	48.68%
11–20	11	14.47%
21–30	3	3.95%
31–50	3	3.95%
51–70	8	10.53%
71–90	7	9.21%
91–110	5	6.58%
111–130	2	2.63%

Number of Part-Time Employees	Frequency	Percentage (%)
0-5	27	35.54
6-10	9	11.84
11-20	11	14.47
21-50	23	30.26
51-100	2	2.63
101-500	4	5.26

What is the MAIN sector of activities for your enterprise?	Frequency	Percentage (%)
Goods & Equipment	33	43.5
Works/ Construction	26	34.2
Non-Consulting Services	8	10.5
Consulting Services	9	11.8

Do you find that the changes in the legal or institutional framework for public procurement are easy to follow?	Frequency	Percentage (%)
Yes, most of the time	24	31.6
No, only rarely	20	26.3
Yes, always.	16	21.1
No, not at all	13	17.1
I don't know	3	3.9

Do you have the necessary resources to follow the changes in the legal or institutional framework for public procurement?	Frequency	Percentage (%)
Yes, most of the time	27	35.5
No, only rarely	19	25.0
Yes, always.	18	23.7
No, not at all	11	14.5
I don't know	1	1.3

Are you aware of any training programmes or information sessions on public procurement organized by the government for the benefit of the private sector?	Frequency	Percentage (%)
No	57	75.0
Yes	19	25.0

If YES, please mention any TWO that you are aware of.
Information and training by PPRA and KISM
By KISM, By Kenya School of Government
KISM trainings
Public procurement regulatory authority PPRA 2. United Nations development programme UNDP
AMREF procurement & kcaa tendering information

If YES, please mention any TWO that you are aware of.
Ifmis training
NCA, County Government
No response
Media advert on AGPo and WAGPO; KRA 30% tenders
PPRA
NCA has always trained us
AGPO - at the county level. During invites for procurement officers forums
AGPO trainings
NCA
Supplier training by county government of Kakamega 2020 (2) Information manuals on PPRA
Business Expo
PPIP and PPAD trainings

Have you participated in any capacity building programmes or information sessions on public procurement organised for the benefit of the private sector?	Frequency	Percentage (%)
Yes	65	86.5
No	11	14.5

If Yes, who organized it?
NCA
PPRA
County governmemt
County governmet of Kakamega, Treasury, kenha
County Government of Nakuru
National treasury

Please indicate the TITLE of the latest one you attended
Business Expo held at kakamega sports club
Sensitization forum for empowerment of Youth,women and pwds by NCA at Golf hotel Kakamega on 1st March 2024
Procurement Process
AGPO SMEs
No response
National construction Authority
Ifmis module adoption
Tendering procedures and compliance requirements

How useful were the capacity building programmes or information sessions?	Frequency	Percentage (%)
Very useful	72	94.8
Extremely useful	3	3.9
Moderately useful	1	1.3

If No, why?
No response
I can read, understand and apply the proper procedures even if they are not well presented and explained
Answer not given
They were never trained us
We have not got the opportunity to participate, however, making efforts to attend the coming ones.
Not invited
There has been no forum for such cases
I haven't gotten the opportunity
Just landed myself a job, within the 1st year
No access

Which of the following conditions do you think are met in the field of public procurement in Kenya?

Facilitation of Access to Financing	Frequency	Percentage (%)
No	63.0	82.9
Yes	11.0	14.5
Not sure	2.0	2.6

Procurement procedures and the conditions for participation make it easy enough to participate in public procurement (this includes low value procurements).	Frequency	Percentage (%)
No	42.0	55.3
Yes	32.0	42.1
Not sure	2.0	2.6

Conditions of contract contribute to a fair distribution of risks between the parties, especially the risks linked to contract implementation	Frequency	Percentage (%)
No	60.0	78.9
Yes	14.0	18.5
Not sure	2.0	2.6

Payment conditions are fair and reasonable.	Frequency	Percentage (%)
No	64.0	84.2
Yes	10.0	13.2
Not sure	2.0	2.6

Which of the following conditions do you think are met in the field of public procurement in Kenya?

Invoices are paid on time as required by the contract.	**Frequency**	**Percentage (%)**
No	70.0	92.1
Yes	4.0	5.3
Not sure	2.0	2.6

In general, there is effective mechanism for addressing complaints about the procurement procedures and how they are being carried out.	**Frequency**	**Percentage (%)**
No	56.0	73.7
Yes	18.0	23.7
Not sure	2.0	2.6

There are effective mechanism for addressing complaints about the procurement procedures and how they are being carried out in case of small value procurement.	**Frequency**	**Percentage (%)**
No	59.0	77.7
Yes	15.0	19.7
Not sure	2.0	2.6

There are effective mechanism for resolving contractual disputes between the parties.	**Frequency**	**Percentage (%)**
No	58.0	76.3
Yes	16.0	21.1
Not sure	2.0	2.6

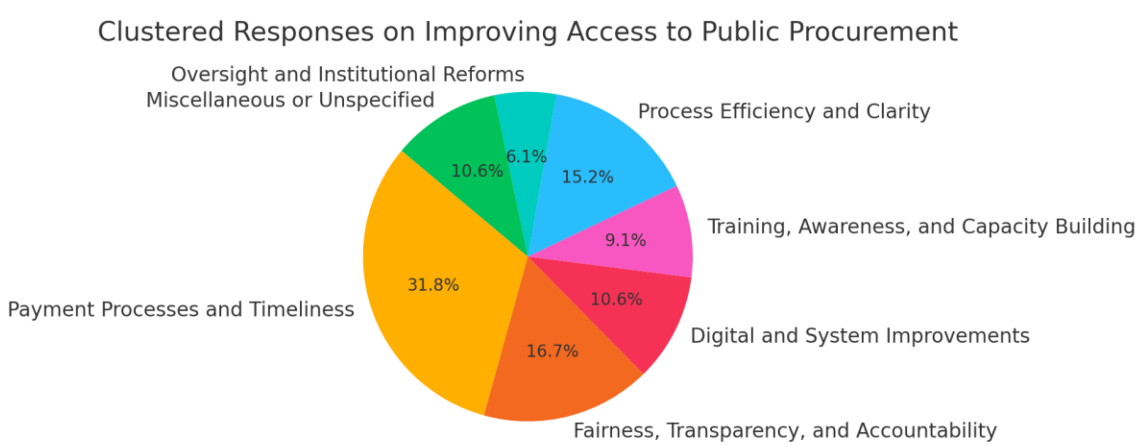
There are effective mechanism for resolving contractual disputes between the parties in case of small value procurement.	**Frequency**	**Percentage (%)**
No	60.0	78.9
Yes	14.0	18.5
Not sure	2.0	2.6

There is usually a reasonable division of contracts into lots.	**Frequency**	**Percentage (%)**
No	58.0	76.3
Yes	16.0	21.1
Not sure	2.0	2.6

None of the conditions mentioned above are met	**Frequency**	**Percentage (%)**
No	44.0	57.9
Yes	27.0	35.5
Not sure	5.0	6.6

In your opinion, which aspects of public procurement should be improved in order to facilitate the access of private sector organizations to the public procurement market?
Timely advertisement
All points mentioned above; all have some deficiencies in practice
Support to access financial by the government
Advertising more
Process and regulations
Payment Conditions, Payment on Time, Dispute Resolution
Awards processes
Framework contract consider youths
Delays in payments discourage private sector participation. Enforcing prompt payment policies will enhance trust and supplier engagement.
Mechanism of addressing complaints & invoice payment on time
Payments
All procurement process and payments according to contract terms without interference
Providing clear, standardized, and easy-to-understand procurement guidelines would help private companies navigate the process more efficiently, reducing uncertainty and increasing participation.
Training of stakeholders
Training
Make sure funds are available before procuring anything.
Fair tender awards and smooth invoice/payment conditions.
Tender awards and payment terms
Procurement officers should be empower by been given certain superiority ,i.e independency,, this is because most of the time procurements officers tend to be manipulated others even assasinated or sabotage simply because you didnt give in to the words of a superior.
Digitization of the Procurement process
Invoices should be paid on time as required by the contract
Full adherence to implementation of 30% of Tenders to Youth & Women
Timely settlement of payments
Strengthening of preference and reservation regulation in public procurement
Do away with pending bills
Tendering
Integrity and Accountability of personnel involved in Public Procurement
Integration of the systems
All transactions to be submitted through e.citizen
Eradicate Nepotism and Tribalism avoid "huyo ni mtu wetu"
Payment on time so that supplier can of set debt on time
Apply the KISS principle everywhere
Many basic functions are working but all have room for improvement
Make things more easy and more favourable to use, clamp down on unfair competition
Raise the skills of procuring entities
Fairness

Awareness
Prompt payments
E procurement
Payment confirm
Private sector to be paid on time to that they can of set some debts.
Evaluation of tenders
Abolish the requirement on low evaluated bid
Openness
Easier application of the required procedures
Dispute resolving
Organize procurement meetings for suppliers and contractors
Frequent transfers and interchange of public officers
Invoices to be paid per the required period. Facilitation of accessing funds
PPRA should start from the initiation point of advertisement, not at the end point
Payment
PPRA should take over procurement process from county Government of Kisumu because they have failed to act professionally
They should improve how to procure the tenders of AGPO
Public awareness
Enough time for tendering
Prompt payments of goods and services. The motto should be procure to pay not to frustrate.
Adopt end to end procurement process
Timely payment of suppliers and fairness aspects of procurement



Have you ever participated in a bid/ bids organised by a public procuring entity in Kenya?	Frequency	Percentage (%)
Yes	60	78.9
No	11	14.5
Decline to answer	5	6.6

Have you ever made a formal complaint (to the PPARB or to the courts) about the actions or decisions of a procuring entity?	Frequency	Percentage (%)
No	65	85.5
Yes	10	13.2
Decline to answer	1	1.3

If YES, how many times?	Frequency	Percentage (%)
1.0	5.0	50
2.0	3.0	30
4.0	1.0	10
5.0	1.0	10

Were you satisfied with the outcome of your complaint?	Frequency	Percentage (%)
No	6	67
Yes	3	33

Please briefly indicate the main reason for your dissatisfaction
It cost too much and people got angry with us for complaining
No one wanted to omit
They did not respond to my letter even after calling them both in Kisumu and Nairobi
Time factor
No report back, yet we complained

Do you/ your company have the impression that the system is reliable and fair?	Frequency	Percentage (%)
No	71	93.4
Yes	4	5.3
Decline to answer	1	1.3

Did you/ your company find that the Public Procurement Administrative Review Board (PPARB) decision was clear and coherent with its other decisions in similar cases?	Frequency	Percentage (%)
No	73	96.1
Yes	2	2.6
Decline to answer	1	1.3

If YES/ NO, please explain why?	Frequency	Percentage (%)
No response	74	97.4
The wrongs were addressed	1	1.3
Well explained in tender docs	1	1.3

If you/your company have/has never made a complaint about the actions or decisions of a procuring entity, would it be because...

I/the company felt that the actions or decisions of the procuring entities were fair and reasonable and that there was no reason to make a complaint	Frequency	Percentage (%)
No response	68.0	89.4
No	4.0	5.3
Yes	4.0	5.3

I/the company felt that the actions or decisions of the procuring entities were fair and reasonable and that there was no reason to make a complaint	Frequency	Percentage (%)
No response	68.0	89.5
No	5.0	6.6
Yes	3.0	3.9

If you/ your company have/ has never made a complaint about the actions or decisions of a procuring entity, would it be because of any other reasons (please explain):

If Other, explain...
I didn't know how to do it and it would cost me money
Question not applicable, as I do have made a complaint...
It would in any case most likely be unduly expensive and logistically complicated to lodge and push through a complaint
Not applicable!

In general, how would you evaluate the complaints system in public procurement?	Frequency	Percentage (%)
The system mostly works in a fair, transparent and predictable manner	25	32.9
The system never works in a fair, transparent and predictable manner	20	26.3
The system rarely works in a fair, transparent and predictable manner	19	25.0
The system always works in a fair, transparent and predictable manner.	12	15.8

Which of the following aspects would be most important to address for improving the system for review of public procurement complaints in Kenya?

Unfair Evaluation or Award Process	Frequency	Percentage (%)
Yes	37.0	48.7
No	34.0	44.7
Not sure	5.0	6.6

Which of the following aspects would be most important to address for improving the system for review of public procurement complaints in Kenya?

Lack of Compliance with Procurement Procedures	**Frequency**	**Percentage (%)**
No	38.0	50.0
Yes	33.0	43.4
Not sure	5.0	6.6

Bidder Disqualification	**Frequency**	**Percentage (%)**
No	60.0	78.9
Yes	11.0	14.5
Not sure	5.0	6.6

Corruption and Fraud Allegations	**Frequency**	**Percentage (%)**
No	41.0	53.9
Yes	30.0	39.5
Not sure	5.0	6.6

Non-Disclosure of Information	**Frequency**	**Percentage (%)**
No	58.0	76.3
Yes	13.0	17.1
Not sure	5.0	6.6

Choice of the procedure to be used	**Frequency**	**Percentage (%)**
No	55.0	72.4
Yes	16.0	21.0
Not sure	5.0	6.6

Bias in requirements, specifications or evaluation criteria	**Frequency**	**Percentage (%)**
No	43.0	56.6
Yes	28.0	36.8
Not sure	5.0	6.6

Other (Specify)	**Frequency**	**Percentage (%)**
No	66.0	86.8
Yes	5.0	6.6
Not sure	5.0	6.6

If other, specify:
Raise the competence and independence of the review board and give them better support
Unfounded or biased needs determination that inappropriately points the rest of the procedure in the wrong direction.
Contracts concluded with friends or relatives of the head of the authority
More sensitization
Politics should not influence the procurement process
Payment after procurement, implementation of the supply/works

Have you ever offered bribe to an official in charge of procurement or to anyone else in order to get a public contract?	**Frequency**	**Percentage (%)**
No	52	68.4
Yes	14	18.4
Decline to answer	10	13.2

If YES, how many such cases did you have since June 2023 to date?	**Frequency**	**Percentage (%)**
3.0	4.0	28.52
2.0	2.0	14.29
7.0	2.0	14.29
4.0	1.0	7.15
1.0	1.0	7.15
11.0	1.0	7.15
19.0	1.0	7.15
26.0	1.0	7.15
20.0	1.0	7.15

Please indicate your opinion on the level of effectiveness of the following measures for combatting fraud and corruption.

Provision of information and/or training on what corruption is and means for reducing it	**Frequency**	**Percentage (%)**
Not really effective	26	34.2
Very effective	18	23.7
Quite effective	14	18.4
Not effective at all	18	23.7

Special procedures for reporting irregularities or improper actions or behaviours	**Frequency**	**Percentage (%)**
Quite effective	23	30.3
Not really effective	23	30.3
Very effective	16	21.1
Not effective at all	14	18.3

Please indicate your opinion on the level of effectiveness of the following measures for combatting fraud and corruption.

A code of conduct & Ethical principles for public and private sector entities	**Frequency**	**Percentage (%)**
Not really effective	22	28.9
Quite effective	21	27.6
Very effective	17	22.4
Not effective at all	16	21.1

Declarations of confidentiality and impartiality signed by each member of the procurement working group	**Frequency**	**Percentage (%)**
Quite effective	22	28.9
Not really effective	21	27.6
Very effective	19	25.1
Not effective at all	14	18.4

Accountability mechanisms in making public procurement decisions	**Frequency**	**Percentage (%)**
Not really effective	26	34.2
Quite effective	18	23.7
Very effective	18	23.7
Not effective at all	14	18.4

Use of e-procurement system	**Frequency**	**Percentage (%)**
Very effective	28	36.8
Quite effective	24	31.6
Not really effective	12	15.8
Not effective at all	12	15.8

Use of other systems for enforcing proper application of regulations, including those aimed at combatting corruption	**Frequency**	**Percentage (%)**
Not really effective	25	32.9
Quite effective	19	25.0
Very effective	17	22.4
Not effective at all	15	19.7

Possible measures to combat corruption in procurement	**Components of the measure**
Regulatory Reforms and Legal Strengthening	Strengthen Regulatory Framework Conflict of Interest Declarations Wealth Declarations for Senior Officials Measures to Identify Beneficial Ownership Abolish the requirement on low evaluated bid

Possible measures to combat corruption in procurement	Components of the measure
Transparency and Open Contracting	Transparency and Open Contracting Openness Public awareness Make things more easy and more favourable to use, clamp down on unfair competition
Technology and E-Procurement	E-Procurement Systems Digitization of the Procurement Process Integration of the systems All transactions to be submitted through eCitizen Adopt end-to-end procurement process
Oversight and Accountability	Independent Oversight and Audits Enhanced Monitoring of Procurement Processes Engagement of Civil Society and Media Frequent transfers and interchange of public officers PPRA oversight improvement Evaluation of tenders
Whistleblower and Complaint Mechanisms	Whistleblower Protection Mechanism of addressing complaints Dispute Resolution Prompt feedback channels
Capacity Building and Training	Capacity Building and Training Raise the skills of procuring entities Training of stakeholders Organize procurement meetings for suppliers and contractors
Sanctions and Deterrence	Severe Penalties for Corruption Fair tender awards and smooth invoice/payment conditions Enforcement of procurement laws Conflict resolution without interference

Which measures would you prioritise to take in order to combat corruption in procurement?

Strengthen Regulatory Framework	**Frequency**	**Percentage (%)**
Yes	41.0	53.9
No	33.0	43.5
Not sure	2.0	2.6

Transparency and Open Contracting	**Frequency**	**Percentage (%)**
Yes	42.0	55.3
No	32.0	42.1
Not sure	2.0	2.6

Which measures would you prioritise to take in order to combat corruption in procurement?

E-Procurement Systems	Frequency	Percentage (%)
Yes	52.0	68.5
No	22.0	28.9
Not sure	2.0	2.6

Independent Oversight and Audits	Frequency	Percentage (%)
Yes	39.0	51.3
No	35.0	46.1
Not sure	2.0	2.6

Capacity Building and Training	Frequency	Percentage (%)
Yes	40.0	52.6
No	34.0	44.8
Not sure	2.0	2.6

Whistleblower Protection	Frequency	Percentage (%)
Yes	38.0	50.0
No	36.0	47.4
Not sure	2.0	2.6

Conflict of Interest Declarations	Frequency	Percentage (%)
Yes	37.0	48.7
No	37.0	48.7
Not sure	2.0	2.6

Severe Penalties for Corruption	Frequency	Percentage (%)
Yes	38.0	50.0
No	36.0	47.4
Not sure	2.0	2.6

Enhanced Monitoring of Procurement Processes	Frequency	Percentage (%)
No	41.0	53.9
Yes	33.0	43.5
Not sure	2.0	2.6

Engagement of Civil Society and Media	Frequency	Percentage (%)
No	56.0	73.7
Yes	18.0	23.7
Not sure	2.0	2.6

Wealth declarations for senior officials	Frequency	Percentage (%)
No	41.0	53.9
Yes	33.0	43.5
Not sure	2.0	2.6

Which measures would you prioritise to take in order to combat corruption in procurement?

Measures to identify beneficiary ownership	Frequency	Percentage (%)
No	50.0	65.8
Yes	24.0	31.6
Not sure	2.0	2.6

None of the above	Frequency	Percentage (%)
Yes	0.0	0.0
No	74.0	97.4
Not sure	2.0	2.6

Are you aware of any Civil Society Organization (CSO) actively monitors public procurement in Kenya?	Frequency	Percentage (%)
No	64	84.2
Yes	11	14.5
Decline to answer	1	1.3

If YES, which one(s) - Maximum of THREE

I know there are some but I don't know any details
Transparency international
Civil society reference group.
Agpo suppliers of kenya
Human rights watch
East African procuremet forum it regulates public procurement bodies from EAC
EACC, DPP, PPRA
Public Procurement Regulatory Authority, Open Ownership Organization,

Do you think that their work is useful and effective?	Frequency (n=11)	Percentage (%)
Yes	6	54.5
No	4	36.4
I decline to answer	1	9.1

If no : Do you think that participation by Civil Society Organizations (CSOs) in monitoring public procurement could be useful?	Frequency (n=64)	Percentage (%)
Yes	40	63
No	14	22
Decline to answer	10	15

Please explain your answer
Civil society organization are independent and they can keep a close eye on the procurement processes as compared to government authorities.

Please explain your answer
We need the actual amounts spent, who the beneficiaries are, the effectiveness of procurement, the culpable officials easily, openly and widely revealed as a deteerent and as a basis for effective action against corrupt officials
To investigate and recommend appropriate action for corruption 2.To prevent occurrence of corruption practices
Brings transpaarency
They could help spot bad practices but would need skills and resources to do so
It works with EAC to regulate all the procurement activities
I don't think it will change anything
They can assist in payment required.This is because payment contracts are not honored by procurement entities
To be source of information when required to assist combat procurement irregularities
When citizens see that there are independent groups keeping an eye on how government funds are being spent, it can build public trust.
Good
Help to Foster accountability.
Cartels operates in secrecy
I don't know
I have not heard of any cases handled and court cases pursued by CSO in Kenya
They are independent
The act as watchdogs or whistleblowers.
Act as watchdog or whistleblower.
It's private sector.and doesn't hold any institution accountable.
I have never heard of them or from them
They could be easily compromised
Most complaints are handled by the PPRA
They will reinforce whistleblower aspect thus stopping the unethical procedures like the ADANIS
Activism to expose thee rot will be great.
Will help to whistleblow
This can be done through sensitatization of the stakeholders involved and having amicable ways to resolve issues in public procurement
They've i'll act as watch dogs and as whistle blowers
Not effective
To make the process more transparent.
They too could be compromised and worsen the situation further.
Whistle blower efforts ignored
I have no explanation to give; if I decline to answer, I also decline to explain why
There are no sufficiently competent ngos in my region
They don't know what it is about in practice
Under the condition that they understand the whole range of issues involved
For monitoring purposes
Monitors public procurement and disposal
It could save the suppliers a lot of problems.
The oversite body with power & madate to follow up

Please explain your answer
Un biased
They do effective oversight on public procurement entities and advocate for transparency and accountability.
To have a clear view what is done at the procurement
The more the process of tendering is monitored, the more it will be fair and open
Helps in creating awareness
To help private sector educated in one way or another
CSOs could help in building fairness and integrity among suppliers and their clients
Would work as an oversight.
By training Suppliers and contractors on procurement prosesses
Answer not given
They will pinpoint shortcomings and discrimination of any occurrences
They can get the ills done by the system for them to uphold integrity in public offices
To discuss and enhance the process
They highlight issues and explain to the public
Have never seen them at all
Truly it has not helped
For streamlining the procurement process
NO response
It enhances public trust because of oversigjt
It will reduce corruption
To adress monitoring gap in public procurement

Kenya MAPS Assessment Report, Annex 14

Validation workshop

STAKEHOLDER VALIDATION WORKSHOP, HELD ON 27 JANUARY 2026 AT THE KENYA SCHOOL OF GOVERNMENT, LOWER KABETE, NAIROBI

ATTENDANCE LIST

#	NAME	DESIGNATION	ORGANISATION
1.	Dr. Apopa Vincentia	Manager Supply Chain	National Construction Authority
2.	Allan Muturi	MAPS Consultant	Public Procurement Regulatory Authority
3.	Lawy Aura	MAPS Consultant	Public Procurement Regulatory Authority
4.	Prof Zack Awino	MAPS Consultant	Public Procurement Regulatory Authority
5.	James M Kinyua	Project Officer	Transparency International-Kenya
6.	Ezekiel K Chelimo	Procurement Officer	Rift Valley Technical Training Institute
7.	Dorothy Nyagitari	Senior Procurement Officer	Kenya Coast National Polytechnic
8.	Prisca Wambui G	Principal Supply Chain Management Officer	State Department for ICT and the Digital Economy
9.	Fatma Bahazard	Methodology for Assessing Procurement Systems	Public Procurement Regulatory Authority
10.	Susan Mutavi	Assistant Director, Supply Chain Management	Kenya National Examination Council
11.	Dr. Jane Muriuki	Chief Supply Chain Officer	Kenya Power and Lighting Company
12.	Ester Onyong	Principal Supply Chain Management Officer	National Transport and Safety Authority
13.	Samuel Odhiambo	Deputy Director/Supply Chain Management Officer	The National Treasury
14.	Koga Ian	Principal Supply Chain Management Officer	The National Treasury
15.	Fred Ongisa	Chief Executive Officer	Kenya Institute of Supplies Examination Board
16.	Winnie Omodia	Head of Procurement	Kenya Institute of Supplies Examination Board
17.	Cyprian Airo	Deputy Director	Kenya Institute of Supplies Examination Board
18.	Phyllis Nyagia	Methodology for Assessing Procurement Systems	Public Procurement Regulatory Authority
19.	Haretha Ahmed	Senior Supply Chain Management Officer	Ethics and Anti Corruption Commission
20.	Adriel Njumwa	Procurement Officer	Institution of Engineers of Kenya
21.	Flora Wandibba	Deputy Director	Public Procurement Regulatory Authority
22.	Graham Naibor	Supply Chain Manager	Kenya Reinsurance Corporation Limited

#	NAME	DESIGNATION	ORGANISATION
23.	Barak Galgallo	Security	Public Procurement Regulatory Authority
24.	Joseph Mugendi	Driver	Public Procurement Regulatory Authority
25.	Penina Kibisu	Supply Chain Management Officer	Geothermal Development Company
26.	Joseph Sindiyo	Driver	Public Procurement Regulatory Authority
27.	Irene Kapaito	Senior Supply Chain Management Officer	National Police Service Commission
28.	Jedidah Kairianja	Senior Supply Chain Management Officer	Kenya Research Institute
29.	Nelson Nyabwari	Senior Supply Chain Management Officer	Kenya Research Institute
30.	Abdallah Ali	Principal Supply Chain Management Officer	Mombasa Assembly
31.	Eric Milgo	Principal Supply Chain Management Officer	State Department for Agriculture
32.	Beatrice Koske	Supply Chain Management Officer	Kenya Electricity Generating Company
33.	Richard Kilel	Supply Chain Management Officer	Kenya National Highways Authority
34.	Henry Sekeyian	Geothermal Development Company	Geothermal Development Company
35.	Shadrack	Driver	Kenya Institute of Supplies Examination Board
36.	Nicholas Chengeh	Assistant Director Supply Chain Management	Kenya Medical Supplies Authority
37.	George Karathui	National	Gerivia Advocates
38.	Henock Kirungu	Director, Licensing and Standards	Public Procurement Regulatory Authority
39.	Faith Waigwa	Management Consultant	NOW Advocates LLP
40.	Fred Ongisa	Chief Executive Officer	Kenya Institute of Supplies Examination Board
41.	Abuga Everlyne	Principal Compliance Office	Public Procurement Regulatory Authority
42.	Dorcas Kyengo	Senior Planning Officer	Public Procurement Regulatory Authority
43.	Angela Achieng	Compliance Officer	Public Procurement Regulatory Authority
44.	Patrick Wanjuki	Director General	Public Procurement Regulatory Authority
45.	Mohamed Gulend	Coordinator	North and North Eastern Development Initiative
46.	Nick Ruto	Principal Security Officer	Public Procurement Regulatory Authority
47.	Benedict Kiema	General Manager-Supply Chain Management	Kenya Railways Organization
48.	Simiyu Walviho	National Treasury - Infrastructure Bonds	National Treasury- Infrastructure Bonds
49.	Janet Langat	Deputy Director-Supply Chain Management	Athi Water Works Development Agency

#	NAME	DESIGNATION	ORGANISATION
50.	Susan Mutavi	Assistant Director Supply Chain Management	Kenya National Examinations Council
51.	James Kilaka	Deputy Director-Regional Offices Coordination	Public Procurement Regulatory Authority
52.	Daniel Ivarsson	Lead Consultant	
53.	Peter K. Ndung'u	Director, Complaints and Investigations	Public Procurement Regulatory Authority
54.	Pauline Opiyo	Director, Research, Innovations and Business Systems	Public Procurement Regulatory Authority
55.	Hosea Kiptoo	Supply Chain Manager	Kenya School of TVET
56.	Boaz Akello	Procurement Specialist	World Bank
57.	Elkanah Babu	Planning Officer	Lenana School
58.	Victor Marege	Deputy Director Supply Chain Management	The National Treasury
59.	Joseph Makari	Principal Supply Chain Management Officer	The National Treasury
60.	Joan Kimosop	Head of Procurement	Postbank
61.	Patrick Wambugu	Supply Chain Officer 2	Nyeri Water &Sanitation Company
62.	Benard Owuor	Senior Supply Chain Management Officer	Geothermal Development Company
63.	Omau Ken	Assistant Director	Social Health Authority
64.	Judith Kerich	Deputy Project Coordinator	Ministry of Roads and Transport – Project Management Office
65.	Nelson Weheire	Procurement Officer	Kagumo Teachers Training College
66.	Pamela Ouma	Assistant Manager, Supply Chain Management	Geothermal Development Company
67.	Lilian Okidi	Manager, Procurement	Kenya Airport Authority
68.	Beatrice Wanjiru	Procurement Officer	Kiambu Assembly
69.	Doreen Mwirigi	Assistant Director Supply Chain Management	The Judiciary
70.	Daniel Mukolwe	Assistant Director, Supply Chain Management	State Department for Basic Education
71.	Ruth Rugwe	Member, Technical Committee	Kenya Revenue Authority
72.	Evaline Akoth	Assistant Director, Supply Chain Management	National Irrigation Authority
73.	Wilfred Malora	Assistant Director, Supply Chain Management	Nairobi Water and Sewerage Company
74.	Christopher Kioko	Assistant Director, Supply Chain Management	State Law Office
75.	Maurice Muya	Principal Supply Chain Management Officer	Kenya Ports Authority

#	NAME	DESIGNATION	ORGANISATION
76.	Kevin Mutua	Deputy Director, Supply Chain Management	Office of the Auditor General
77.	Samson Matilu	Procurement	Independent Electoral and Boundaries Commission
78.	Mr. Shafee Yaqub	Director, Supply Chain Management	Social Health Authority
79.	Liz Mbithi	Procurement	Kenya Association of Manufacturers
80.	Hussein Bilala	Deputy Director, Supply Chain Management	National Drought Management Authority
81.	Joel Munyori	Senior Procurement Specialist	World Bank
82.	George Murugu	Chairperson	Public Procurement Administrative Review Board
83.	Philemon Kiprop	Board Secretary	Public Procurement Administrative Review Board
84.	Theophilus Laboso	Supply Chain Management Officer	Sigalagala National Polytechnic
85.	Erick Ndume	Supply Chain Management Officer	Kenya Private Sector Alliance
86.	Nelson Kande	Principal Supply Chain Management Officer	State Department for Roads
87.	Caren Okiru	State Counsel	Office of the Attorney General & Department of Justice
88.	Rodgers Adai	Managing Director	Arm Engineering
89.	Walter Masinde	Manager, Supply Chain Management	Competition Authority of Kenya
90.	Roselyne Wachira	Planning Officer	Public Procurement Regulatory Authority