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PPRA

PUBLIC PROCUREMENT
REGULATORY AUTHORITY

ANNUAL REPORT

30th JUNE 2018

Upholding
Procurement
Standards



PPRA

PUBLIC PROCUREMENT
REGULATORY AUTHORITY

Period of Reporting:
For the year ended 30 June 2018

THE NATIONAL ASSEMBLY
PAPERS LAID

DATE: 15 JUL 2020 DAY: WEDNESDAY

TABLED BY: HON (DR) JAMES KIMUNYA
LEADER OF MAJORITY

CLERK-AT THE-TABLE: M20FV MWALE

Prepared and issued pursuant to section 26 (1) of
the Public Procurement and Asset Disposal Act, 2015

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CONTENTS

LIST OF TABLES	iv
ABBREVIATIONS AND ACRONYMS USED IN THE REPORT	v
MESSAGE FROM THE CHAIRMAN OF PUBLIC PROCUREMENT REVIEW BOARD	1
DIRECTOR GENERAL'S STATEMENT	5
CHAPTER 1: ORGANISATION STRUCTURE	9
1.1 Introduction	10
1.2 Corporate Governance	10
1.2.1 Public Procurement Regulatory Board	10
1.2.2 Public Procurement Administrative Review Board	11
1.3 Vision, Mission and Quality Policy Statement Mission Quality Policy Statement	11
1.4 Core values	12
1.5 Statutory Functions of the Authority	12
1.6 Organizational Structure	14
CHAPTER 2: DESCRIPTION OF THE ACTIVITIES OF THE AUTHORITY	21
2.1 Introduction	22
2.2 Compliance Monitoring	22
2.2.1 Review of Annual Procurement Plans	22
2.2.2 Review of Mandatory Reports	23
2.2.3 Procurement Assessments	24
2.2.4 Procurement Reviews	26
2.2.5 Follow-ups on Action Plans	28
2.2.6 Procurement Inspections	28
2.2.7 Procurement Contract Audits	29
2.3 Complaints Management, Investigations, Enforcement and Debarment	33
2.3.1 Complaints Management	33

CORPORATE GOVERNANCE STATEMENT

Conflict of Interest, Code of Conduct and Ethics

The Authority has developed a Code of Conduct, Ethics and Performance Manual to guide the Board members and staff of the Authority on ethical conduct.

The code requires that all Board members and employees disclose any interest that conflicts or may possibly conflict with the interests of the Authority. If a conflict of interest is declared, it is a requirement that the Board member affected is excluded from any discussion or decision over the matter in question.

All Board members and staff of the Authority declared their wealth as required to the Public Service Commission.

Top Ten Contracts FY 2017/2018

The Authority's procurement budget for the year under review was Ksh 60,203,300.

Top Ten Contracts of the Authority by Value

The top ten procurement contracts during the year were:

Table 1: Top Ten Contracts of the Authority by Value

#	FIRM	Goods/Service Description	Amount (KES)
1	Spa Infosv	Consultancy for Country Procurement Assessment Service	16,285,000
2	Britam Insurance Co	Provision of Medical Cover	11,576,934
3	Techsource Point	Supply of Virtualized server infrastructure & Data Backup Solution	8,236,000
4	Hill & Knowlton Strategies	Provision of Public Relations Consultancy Services	6,670,000
5	Uniglobe Northline Travel	Provision of Air Travel Ticketing Services	4,000,000
6	Jubilee Insurance Co	Provision of General Insurance	2,166,789

#	FIRM	Goods/Service Description	Amount (KES)
7	Soft Technologies	Provision of Cloud e-board	1,832,800
8	Super Broom	Provision of Cleaning Services	1,722,673
9	ICEA Insurance Co	Provision of Motor Vehicle Insurance	1,613,761
10	UAP Insurance Co	Provision of Group Life Cover	1,354,959
	Total		55,458,916

Legal Challenges

There were no legal challenges to procurement undertaken by the Authority during the period under review.

Corporate citizenship

PPRA recognizes the importance of its duty to be a responsible corporate citizen. Its Corporate Social Responsibility embodies the commitment to conduct itself ethically, contributing to the well-being of communities.

In line with the Public Procurement and Asset Disposal Act, 2015 requirement on preference and reservations, PPRA has continued to empower the Youth, Women and Persons with disabilities to better leverage available procurement opportunities.

2.3.2	Complaints Handled	34
2.3.3	Nature of Complaints	34
2.3.4	Investigations Undertaken	35
2.3.5	Debarment	36
2.4	Monitoring, Evaluation, Research, Reporting and Advisory Services	36
2.4.1	Provision of Advisory Services	36
2.4.2	Major areas of Requests for Advice	37
2.4.3	Duration of Processing of Requests for Advice	38
2.4.4	Technical Support	39
2.4.5	Development and Issuance of Standard Tender Documents and Formats	40
2.4.6	Partnerships and Engagements	40
2.4.6.1	<i>The Annual East African Public Procurement Forum (EAPPF)</i>	40
2.4.6.2	<i>The Project for Strengthening of Capacity on Road Maintenance Management</i>	42
2.4.6.3	<i>Memorandum of Understandings (MoUs)</i>	42
2.5	Research Initiatives and Reporting	43
2.5.1	Development of the Market Price Guide	43
2.5.3	Development of the Research and Data Management Strategy	43
2.6	Submission of Preference and Reservation Reports to Parliament	44
2.6.1	Preference and Reservation Report for the January – June, 2017 Half-Year	44
2.6.2	Preference and Reservation Report for the July – December, 2017 Half-Year Report	46
CHAPTER 3: PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW		49
3.1	Introduction	50
2.3	Handling of Applications for Review	50
3.3	Common Grounds of Appeals	50
3.4	Common Grounds for Preliminary Objections	51
3.5	Judicial Review	51
CHAPTER 4: MANAGEMENT OF INTERNAL ORGANISATION		53
4.1.	Procurement Operations	54
4.2	Human Resource Management	55

4.3	Corporate Services	58
4.4	Integration of ICT in Service Delivery	59
4.5	Internal Controls	60
4.6	Emerging Issues and Challenges	63
CHAPTER 5: CONCLUSION AND RECOMMENDATIONS		65
5.1	Conclusion	66
5.2	Recommendations	66
5.2.1	To Treasury	66
5.2.2	To Accounting Officers	67
5.2.3	To Suppliers and other Stakeholders	67
CHAPTER 6: FINANCIAL STATEMENTS		69
APPENDIX 1		106

MANAGEMENT TEAM



Mr. M.J.O. Juma, MBS

Director General MSc (Proc. & Logistics) -UK, MBA BCom, MCIPS, MKISM, Dip (Purchasing & Supplies)



Mrs. Jane W. Njoroge

G M (Technical Services) MBA, BCom, MCIPS, Dip. (Purchasing & Supplies)



Mrs. Rose M. Nyamweya

G M (Finance & Admin) PhD (Finance - Ongoing), MBA (Finance), B com (Accounting), CPA (K), CPS (K)



Julius G. Mungai

Manager, Internal Audit MBA, MA, BA, CPA (K), CPS (K), CISA



Peter K. Ndung'u

Manager, Policy & Research MA (Econ), BA (Econ) Dip (Purchasing & Supplies)-UK



Henock Kirungu

Manager, ARB Secretariat MBA, BCom, Dip (Purchasing & Supplies-final), PGD (Computer Science)



Lucy J. Barno

Manager, Corporate Services LLM (Ongoing), LLB, Dip (Law), CPS (K), Advocate of the High Court



James K. Kihara

Manager, HR & Admin MBA,BA(Hons), Dip (Leadership Dev), MIHRM, MCIPS, MKISM



Thomas O. Otieno

Manager, Complaints, Investigations and Enforcement, MSC(Proc&Logistics) BA,Dip (Purchasing & supply Mgt)



Pauline O. Opiyo

Manager, Compliance MSc (Proc. & Logistics), BA, CIPS, GDip (Purchasing & Supply Mgt.)



Chris Sakwa

Manager, Finance MBA, BBM, CPA (K)



Lawrence Kanyinyi

Acting ICT Manager



Mr. Hussein Were
Member

Hussein Were has over 26 years' experience in quantity surveying and project management. He also has 8 years experience in the field of governance and forensic investigation. Mr. Were is the Honorary Treasurer and member of Governing Council of the Architectural Association of Kenya; as well as Principal Partner and founder of Fanisi Consultants, a quantity surveying and project management firm. He holds an MA (Building Management) and a BA (Building Economics) from the University of Nairobi.



Mrs. Rosemary K. Gituma
Member

Rosemary Gituma has over 20 years top management experience in accounting & financial management, administration, supply chain, strategy, governance and internal audit in both public and private sectors. Since 2000 she has been working with East Africa Portland Cement Company (EAPCC) LTD in various capacities as Internal Audit Manager, Finance Manager, Ag Head of Financial Management, Board Director-EAPCC Uganda and Trustee & Trust Secretary- EAPCC Staff Retirement Benefits Scheme.

Previously she worked with Numerical Machining Complex (Finance & Administration Manager), Nairobi Bottlers (Treasury & Operations Accountant), Care Kenya (Accountant Consultant) and Kenya Airways (Management Trainee/ Budget Accountant). She has served as Council Member & Vice- Chair, ICPAK. She is a member of Institute of Directors (Kenya), ISACA and AWAK.

She is a Certified Public Accountant (CPAK) and holds an MBA (Accounting & Finance), B. Com Degree (Accounting Option), Advanced Management Program (AMP) diploma, Executive Education - Strategy, awarded Corporate Governance Certificate and she is a PhD Student



Mr. Paul Ngotho
Member

Paul Ngotho is the proprietor of Ngotho Property Consultants Ltd. He is an arbitrator, adjudicator, registered valuer & estate agent. He has previously worked at Stapleton Long, Chartered Surveyors, London where he held the position of Valuation Surveyor and Property Manager; and as the Property Manager at Arab Investments Ltd, London.

He holds a BA (Land Economics) and is a Fellow at the Chartered Institute of Arbitrators' (FCI Arb, UK) and Institute of Surveyors of Kenya (FISK). He is also a member of the Royal Institute



Eng. Weche R. Okubo,
OGW Member

Eng. Weche Okubo was a career civil servant with 35 years experience in public service. He started working at the level of Asst. Engineer and retired as Chief Electrical and Mechanical Engineer (Building Services). Eng Okubo is a council member of the Institute of Engineers of Kenya (IEK). He is also a Board member of the Bible Society of Kenya. He holds Bsc (Mechanical Engineering); Post Grad Dip (Environmental Engineering); FIEK; R.Cons.Eng; PE,CEng and MCIBSE.



Mrs. Josphine W.
Mong'are Member

Mrs. Josephine W. Mong'are is an advocate of the High Court of Kenya with 25 years post admission qualifications. She is currently in private practice (M/s Wambua, Mbindyo & Makau Advocates). She has previously worked with the Anti Corruption Commission (Now EACC) and has also served in various Boards including: Nairobi Water and Sewerage Company, the National Council for Administration of Justice (NCAJ), Law Society of Kenya (LSK-CCLE). She is the current Chairperson of the Federation of Women Lawyers (FIDA- Kenya). She holds; Masters of Law (LLM), Bachelor of Law (LLB) as well as a post graduate diploma in Legal Studies/Practice.

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD



Mr. Paul Gicheru
Chairperson

Mr. Gicheru is an advocate of the High Court of Kenya and has been in practicing law for more than 18 years. He is also a Commissioner of Oaths and a Notary Public. He is the proprietor of M/s Gicheru and Company Advocates and was previously an Associate at M/s Kalya and Company Advocates.

He holds a Bachelor of Law (LLB) degree from the University of Nairobi and a Post Graduate Diploma from the Kenya School of Law.



Mr. Nelson K. Orgut
Member

Nelson Orgut has vast experience in the tea industry spanning 42 years. He is an independent Director of Cianda Holdings Ltd and Ngorongo Tea Factory Ltd, Kiambu.

He has served both as an Executive and a Director of the James Finlay Ltd. He retired as the Operations Director. He was also the Chairman of the East African Tea Trade Association (EATTA) Committee in Mombasa.



Mr. Peter B. Ondieki, MBS
Member

Peter Ondieki has a distinguished public service career spanning over 36 years in economic planning and management. He has served in senior management positions as:- Director of Programs, Relief and Rehabilitation Department Office of the President; Secretary, Poverty Eradication Commission Office of the President; Director, Monitoring and Evaluation Department - Ministry of Planning and National Development; and Inspector General, Inspectorate of State Corporations-Office of the President.

- and reservations and provide data to the Authority disaggregated to indicate the number of disadvantaged groups that have benefitted;
- (f) Perform such other functions and duties as are provided for under the Act and any other relevant law.

1.6 Organizational structure

The Authority is headed by the Director General and has two directorates namely; Directorate of Technical Services and Directorate of Finance and Administration each headed by a General Manager. The Corporate Services and ICT departments report administratively to the Finance and Administration Directorate, but functionally to the Director General. The Internal Audit Department reports functionally to the Board Audit Committee and administratively to the Director General.

The Technical Services Directorate comprises of Compliance; Monitoring & Evaluation Research, Reporting and Advisory Services; Complaints, Investigations, Enforcement & Debarment and Administrative Review Board Secretariat, whereas Finance and Administration Directorate comprises of Finance; and Human Resource Management & Administration.

- (a) Research on the public procurement and asset disposal system and any developments arising from the same;
- (a) Advise the Cabinet Secretary on the setting of standards including international public procurement and asset disposal standards;
- (a) Develop and manage the State portal on procurement and asset disposal and ensure that it is available and easily accessible;
- (a) Monitor and evaluate the preference and reservations provided for under the Act and provide quarterly reports;
- (a) Create a central repository or database that includes-
 - i. Complaints made on procuring entities;
 - ii. 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
 - (a) Inform as applicable, the Cabinet Secretary, Parliament, the relevant County Executive member for finance, the relevant County Assembly or Auditor- General on issues on non- compliance with procurement laws once the relevant State organ or public entity ignores the written directives of the Authority, including material breaches of the measures established under the Act;
 - (b) Generally report to Parliament and the relevant county assembly;
 - (c) Develop a code of ethics to guide procuring entities and winning bidders when undertaking public procurement and disposal with State organs and public entities;
 - (d) In undertaking its functions, co-operate with state and non-state actors with a view to obtaining recommendations on how public procurement and disposal can be improved;
 - (e) Ensure the procurement entities implement the preference

1.4 Core values

- **Integrity:** We uphold honesty and professional ethics in all our operations
- **Innovativeness:** We are a learning organization that embraces creativity and innovativeness in service delivery and responsibility to changes in the operating environment.
- **Customer focus:** We are committed to upholding the highest standards in service delivery to all customers and stakeholders.
- **Courage:** We are bold in the execution of our duties.
- **Teamwork:** We work together towards the realization of our mandate.

1.5 Statutory Functions of the Authority

Section 9 of the PPADA, 2015 confers the Authority with the following functions:

- (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;
- (a) 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;
- (a) Enforce any standards developed under the Act;
- (a) Monitor classified procurement information, including that of specific items of security organs and making recommendations to the Cabinet Secretary;
- (a) Monitor the implementation of the preference and reservation schemes by procuring entities,
- (a) Prepare, issue and publish standard public procurement and asset disposal documents and formats to be used by public entities and other stakeholders;
- (a) Provide advice and technical support upon request.
- (a) Investigate and act on complaints received on procurement and asset disposal proceedings from procuring entities, tenderers, contractors or the general public that are not subject of administrative review;

- (a) Co-operate with other organizations undertaking functions similar to its own, whether within or outside Kenya as it may consider appropriate and in furtherance of the functions of the Authority.

1.1.2 Public Procurement Administrative Review Board

The Public Administrative Review Board is established under section 27 (1) of the Act. It is a central independent procurement appeals review board that should ensure reasonable access to its services in all parts of the Republic as far as it is appropriate to do so. The functions of the Review Board include, review, hear and determine disputes arising from procurement and asset disposal activities; and perform any other function conferred to it by the Act, Regulations or any other written law.

1.3 Vision, Mission and Quality Policy Statement

Vision

A dynamic public procurement and asset disposal system for a prosperous nation.

Mission

To regulate the public procurement and asset disposal system through monitoring and enforcement for socio-economic development in Kenya.

Quality Policy Statement

PPRA is committed to providing quality regulatory services by facilitating and ensuring the implementation of an effective and efficient public procurement and disposal system that exceeds our customers and stakeholder's expectations.

The Authority is ISO 9001:2008 certified and shall endeavour to consistently achieve goals through continuously improving existing processes, systems and analyzing methodologies in accordance with international standards and in line with changing needs of customers and stakeholders.

1.1 Introduction

The Public Procurement Regulatory Authority (the Authority) is established under Section 8 (1) of the Public Procurement and Disposal Act, 2015 (the Act) and is charged with monitoring, assessing and reviewing the public procurement and asset disposal system to ensure that they respect the national values and other provisions of the constitution.

1.2 Corporate Governance

The operations of the Authority is guided by the Public Procurement and Asset Disposal Act and other relevant Acts of Parliament and Regulations. The Authority also adopted and continues to be guided by the Mwongozo code of governance in its operations.

1.2.1 Public Procurement Regulatory Board

The Public Procurement Regulatory Board is established under section 10(1) of the Act. Further, the Act provides for a regulatory Board to comprise of nine members and a Director General who shall be the Chief Executive Officer of the Authority and the Secretary to the Board. The Regulatory Board functions are:

- (a) Ensure the proper and effective performance of the functions of the Authority;
- (a) Approve and ratify the policies of the Authority;
- (a) Oversee the management, control and administration of the assets of the Authority in a manner and for purposes that promote the object and purpose of the Authority;
- (a) Receive any gifts, grants, donations or endowments made to the Authority;
- (a) Determine the provisions to be made for capital and recurrent expenditure, and for the reserves of the Authority;
- (a) Open bank accounts for the funds of the Authority in accordance with the Public Finance Management Act, 2012;
- (a) Subject to the approval of the Cabinet Secretary, invest any of the Authority funds not immediately required for the purposes of the Act, as it may determine; and

CHAPTER ORGANISATION
01 REVIEW



Appreciation

The support extended by the Government to the Authority is critical to the success we achieve in performing our duties and responsibilities. I wish to thank the National Treasury and Planning, for supporting the developments of the various products and initiatives in Public Procurement.

I would also like to extend my sincere appreciation to the various stakeholders both in Government and private sector that have made the implementation of the public procurement law a reality.

A handwritten signature in black ink, appearing to be 'M.J.O Juma', is written over a diagonal line that extends from the left towards the right.

M.J.O Juma, MBS
Director General

Complaints Management, Investigations, Enforcement and Debarment

The Authority is mandated under sections 9 (1) (c) & (h), 35 and 41 of the PPADA, 2015 to enforce standards developed under the Act; to act on complaints received on procurement and asset disposal proceedings; to undertake investigations and debar a person from participating in procurement and asset disposal proceedings.

During the financial year under review the Authority received 616 complaints from suppliers and the public against various procuring entities. As at the end of the year, 433 complaints had been resolved, while 183 were pending due to delays by parties to submit required documentation to facilitate resolution of the matters. The Authority conducted four investigations.

During this financial year, the Authority developed a draft debarment manual to guide the processing of debarment cases.

Provision of Advisory and technical services

Pursuant to section 9 of the Act, the Authority is mandated to advise and provide technical support to the procuring entities and other stakeholders upon request. During the year under review, the Authority received 100 written requests for advice. (52) requests for technical support from both procuring entities and the general public.

Recommendations

Among the recommendations, the Authority would wish to urge the National Treasury to fast-track the development and gazettment of the regulations as well as review the scheme of service of supply chain practitioners.

The accounting officers should ensure compliance with the Act, regulations and directives in their procurement and asset disposal undertakings and see to it that the mandatory reports are submitted in the prescribed format.

The Authority looks forward to the full implementation of an e-platform for the carrying out of the complete range of procurement and disposal procedures. We are aware that the Government is spearheading this initiative, and will continue to support strategies for its quick implementation as this will greatly enhance the transparency that is at the heart of an effective public procurement and asset disposal system.

Background

The environment within which the Authority operates is always changing and continues to offer new opportunities and challenges. The efforts PPRA has put in place in monitoring and implementation of public procurement laws and procedures in a productive manner have contributed largely in enhancing public confidence in the system as well as decrease violation of procurement rules by procuring entities. Besides a number of initiatives taken so far, the Authority is committed to providing uninterrupted services to stakeholders within the ambit of its legal framework.

This annual report is therefore a summary of activities undertaken by the Authority during the 2017/2018 financial year with highlights of its operations, requisite statistical information; and challenges experienced during the review period and recommendations thereof.

Monitoring compliance

Compliance and Monitoring reviews have continued to ensure value for money is achieved by a public procurement system that pay attention to economy and efficiency. A strategic outcome of compliance has allowed stakeholders to understand and monitor how public funds are spent through public procurement. During the period in review, the Authority monitored compliance through procurement assessments, reviews, contract audits, and review of procurement plans submitted by Procuring Entities. A total of 153 PE's submitted their procurement plans out of which, 110 reserved at least 30% of their procurement budget for enterprises owned by the youth, women and persons with disability (PWDs). The remaining procuring entities had either reserved less than the prescribed minimum threshold of at least 30% or did not clearly indicate the procurements reserved for the target groups. On the other hand, the Authority conducted 27 compliance assessments, 14 reviews. The Authority conducted procurement contract audits in all the county Governments and Assemblies.

Consequently, from the above activities, it was noted that there is a need for collaborative efforts between the Authority and the National Treasury in building capacity and providing technical support to the PE's in regards to reporting and inventory management.



DIRECTOR GENERAL'S STATEMENT



for supporting the developments of the various products and initiatives in Public Procurement. My heartfelt appreciation to the, procuring entities, suppliers and contractors and the public at large for their support in helping the Authority carry out its mandate.



Paul Gicheru

Chairman

Public Procurement Administrative Review Board

The Public Procurement Regulatory Authority (PPRA) is a central cog in the system of gears that drive Kenya's economy. Through purchase of goods and services the government fulfills its promise to citizens in funding education, infrastructure, health, agriculture and security among others. At the same time, suppliers of these goods and services get income to run their businesses whose multiplier effect includes creation of employment leading to economic growth.

In the protection of public resources, the Authority has gathered valuable information and data that will be used to enhance integrity of the procurement process and take remedial action on those found to be flouting the law. Best practice in public procurement adopts the operating principles of Value for Money, Transparency and Accountability.

The Administrative Review Board since its inception has continued to play a central role in ensuring bidders have an avenue to be heard when procurement disputes arise. In discharging this responsibility, I am pleased to note that the Board has strived to exercise impartiality and demonstrate consistency in its decisions and is applying various strategies in its operations with an aim of enhancing efficiency in handling applications for review and compliance with the Public procurement law.

During the year under review, the Review Board received 130 appeals against procurements undertaken by given procuring entities. As per the requirement of section 171 of the Act, all the cases were heard and determined by the Review Board within a period of twenty-one (21) days from filing, and thus this requirement was satisfied in all the cases.

On behalf of the Authority, I wish to reiterate our commitment to the fight against unethical practices, corruption and mismanagement of resources in the public sector and implore every Kenyan citizen to take personal responsibility in its eradication. The Authority will within its mandate ensure that it is in tandem with emerging issues in procurement, technological changes and embrace best practices.

Meanwhile on behalf of the Authority, I wish to take this opportunity to applaud the Government of Kenya, more specifically, the National Treasury and Planning,

MESSAGE FROM



**CHAIRPERSON
OF THE ADVISORY
BOARD**



ABBREVIATIONS AND ACRONYMS USED IN THE REPORT

AGPO	- Access to Government Procurement Opportunities
ICT	- Information Communication Technology
PPRA	- Public Procurement Regulatory Authority
PWDs	- Persons With Disabilities
EAC	- East African Community
KIHBIT	- Kenya Institute of Highways and Building Technology
PEs	- Procuring Entities
EACC	- Ethics and Anti-Corruption Commission
CAJ	- Commission on Administrative Justice
EAPPF	- The East African Public Procurement Forum
GIZ	- Gesellschaft Fur Internationale Zusammenarbeit
MoU	- Memorandum of Understanding
CAK	- Competition Authority of Kenya
NWSG	- National Working Sector Group
CESWG	- Cost Estimation Sub-Working Group
NWSG	- National Working Sector Group
CEO	- Chief Executive Officer
EAPF	- East African Procurement Forum
ARB	- Administrative Review Board
KISM	- Kenya Institute of Supplies Management
ISO	- International Standard Organisation
PPOASPS	- Public Procurement Oversight Authority Staff Pension Scheme
ASK	- Agricultural Society of Kenya

LIST OF TABLES

Table 1	Top Ten Contracts of the Authority by Value
Table 2	Number of Procuring Entities that Submitted Annual Procurement Plans
Table 3	Level of Compliance and Risk Rating
Table 4	Compliance Assessment Ratings and Risk Scores
Table 5	Compliance Reviews Rating and Risk Scores
Table 6	Findings of Procurement Assessments and Reviews
Table 7	Level of Implementation of the Recommendations from Previous Assessments
Table 8	Compliance and Risk Scores for the Inspected Procuring Entities
Table 9	Compliance and Risk Scores for the audited county Governments
Table 10	Compliance and Risk Scores for the audited county assemblies
Table 11	Number of Advice issued by Source
Table 12	Comparison of the Number of Advice Issued by Source
Table 13	Duration of Issuance of Advice
Table 14	Comparative Analysis of the Duration of Issuance of Advice
Table 15	Top Ten Contracts of the Authority by value
Table 16	Number and Value of Contracts Awarded by Category

CHAPTER 02 DESCRIPTION OF
THE ACTIVITIES
OF THE AUTHORITY



2.1 Introduction

This section presents the achievements made by the Authority in carrying out its mandate under Section 9 of the Public Procurement and Asset Disposal Act, 2015. The functions of the Authority are implemented by Compliance; Complaints, Investigations, Enforcement & Debarment, Monitoring & Evaluation, Research, Reporting & Advisory Services; Legal and Corporate Affairs; Internal Audit; ICT; Finance; Human Resource & Administration Departments.

2.2 Compliance Monitoring

Section 9(1)(a) of the Act mandates the Authority to monitor, assess and review the public procurement and asset disposal system to ensure respect for the national values and other provisions of the Constitution, including Article 227 and make recommendations for improvements.

To achieve this, the Authority monitors compliance through procurement assessments, procurement reviews, contract audits, inspections and review of mandatory reports submitted by procuring entities (PEs) and tender notices. During the 2017/2018 financial year, the Authority undertook the following activities:

2.2.1 Review of Annual Procurement Plans

The PEs are required to prepare annual procurement and submit to the Authority the part of the procurement plan demonstrating application of preference and reservation scheme in accordance with section 158 (2) of the Act and PPRA Circular No. 1/2016 of 16th December, 2016.

The Authority reviews the procurement plans to find out whether the plans were prepared in accordance with the provisions of the Procurement law and directives of the Authority. The table below presents the category of PEs that submitted the plans to the Authority.

Table 2: Number of Procuring Entities that Submitted Annual Procurement Plans

S/No	National Government Entities	Number of PEs
	State Corporations	95
	Constitutional Commissions and Independent Offices	21
	Public Colleges/Technical Training Institutions	26
	Public Universities	21
	Ministries and State Departments	8
	County Government Entities	
	County Executives	2
	County Assemblies	1
	Total	153

From the analysis of the annual procurement plans submitted by the 153 procuring entities, we noted that:

- (a) Only 3 of the county government entities submitted the Annual procurement plans as required
- (b) Out of 153 PEs that submitted reports, 110 reserved at least 30% of their procurement budget for enterprises owned by the youth, women and persons with disability (PWDs). The remaining procuring entities had either reserved less than the prescribed minimum threshold of at least 30% or did not clearly indicate the procurements reserved for the target groups. A list of procuring entities that submitted the procurement plans is presented as annex 1.
- (c) There has been continued failure by the majority of the procuring entities to submit the mandatory reports as prescribed in the Act.

2.2.2 Review of Mandatory Reports

Procuring entities are required to submit the following mandatory reports: all contracts awards; terminations of procurement proceedings; direct procurement above KES 500,000; disposal to employees; and contract awards under the preference and reservation schemes. The Authority reviewed the submitted reports to assess their compliance with the provisions of the Procurement Law and directives. The areas of non-compliance included failure

by majority of the procuring entities to submit the mandatory reports and failure by some of the procuring entities that reported to provided supporting documents.

2.2.3 Procurement Assessments

Section 43 of the Act mandates the Authority to conduct procurement assessments and reviews to ensure that the procurement systems and processes as provided for in the Procurement Law are complied with by the PEs. A procurement assessment is the process of reviewing and evaluating the procurement system to determine their strengths and weaknesses in order to make appropriate recommendations for improvement of the system. Procurement assessments are spots checks which are undertaken within a period of not more than three (3) days.

The key indicators used for assessments were institutional arrangements and the procurement & disposal processes. The Authority evaluated the level of compliance with the Act by the PEs against pre-set scoring criteria in the Compliance Monitoring Manual. The interpretation of compliance level and risk rating is as follows:

Table 3: Level of Compliance and Risk Rating

S/No	Compliance Rating	Compliance level	Risk Rating	Risk Level
1	Below 50%	Non-compliant	70-100%	High
2	51-80%	Average compliant	30-70%	Moderate
3	81-99%	Above Average compliant	Below 30%	Low
4	100%	Fully Compliant	0%	No Risk

The higher the compliance rating, the lower the risk score and vice versa. When the compliance level is low, the procurement performance by the PE is low and the risk for getting value for money expended in procurement is high.

During the 2017-2018 financial year, the Authority conducted compliance assessments in 27 procuring entities. The compliance and risk scores for each of the PEs assessed are presented in the table 3 below.

Table 4: Compliance Assessment Ratings and Risk Scores

S/No	Procuring Entity	Rating	
		Compliance Score (%)	Risks Score (%)
	Konza Technopolis Authority	61.61	38.39
	Kenya Vision 2030 Delivery Secretariat	66.17	32.39
	Kenya National Shipping Line Ltd	38	62
	Ramogi Institute of Advanced Technology	40.8	59.2
	National Museums of Kenya	30	70
	East African Portland Cement Company.	63.4	36.6
	Bomas of Kenya Limited	55.53	44.47
	Kenya Maritime Authority	52.98	47.02
	Lake Victoria South Water Service Board	63	37
	Kenya Industrial Research and Development Institute (KIRDI)	46.4	53.6
	National Cereals and Produce Board	69.3	30.7
	National Drought Management Authority	64.88	35.12
	Mavoko Water and Sewerage Company Ltd	57.87	42.13
	Sacco Societies Regulatory Authority (SASRA)	41.7	58.3
	KSLH, Head Office / Mombasa Beach Hotel	57.8	42.2
	National Aids Control Council	75	25
	Lake Victoria North Water Service Board	48.2	51.8
	KSLH, Golf Hotel, Kakamega	24	66
	Nzoia Sugar Co.	67	33
	Kibabii University	58.3	41.7
	Mombasa Water Supply & Sanitation Co.	57.3	42.6
	Tana Water Services Board	47.9	52.1
	Nyeri Water and Sewerage Company Ltd	69.56	30.44
	Agrochemical and Food Company Ltd	60.4	39.6
	Tavevo Water & Sewerage Company	55	45
	Taita Taveta University	39.8	60.2
	Kenya Ferry Services	58	42
	Aggregate Score	55.5%	44.5%

From the above table, the 27 procuring entities that were assessed during the year had an aggregate compliant score of 55.5% which

is considered average compliance and a moderate risk rating of 44.5%. The compliance rating is below the cut-off score of 60%. A low compliance rating demonstrates high risk rating which calls for urgent management action to mitigate the risks associated with non-compliance with the Procurement Law.

2.2.4 Procurement Reviews

A procurement review is a detailed/comprehensive audit of the procurement and disposal activities of a procuring entity for a specified period of time to ascertain their compliance with the procurement law. During the year under review, the Authority conducted compliance reviews in 14 procuring entities. The compliance scores and risks scores for the s that were reviewed as tabulated below:

Table 5: Compliance Reviews Rating and Risk Scores

No.	Procuring Entity	Rating	
		Compliance Score (%)	Risk Score (%)
	National Social Security Fund	55	45
	ICT Authority	54	46
	Kenya Medical Supplies Authority	67	33
	Agriculture, Fisheries & Food Authority	50	50
	National Industrial Training Authority	57	43
	Kenya Electricity Transmission Company	49	51
	National Environmental Management Authority	51	49
	Kenya Forest Service	68	32
	Kenya Airports Authority	62	38
	Kenya Agricultural & Livestock Research Organization	56	44
	Tourism Finance Corporation	85	15
	State Department of Irrigation, Ministry of Water & Irrigation	55.4	44.6
	Central Bank of Kenya	65.6	34.4
	National Transport and Safety Authority	62.3	37.7
	Average Score (%)	59.80%	40.20%

From the above table, the average compliance rating of the procurement system of the PEs that were reviewed during the year was 59.80% and a risk level of 40.20%. From the analysis of the procurement operations in the assessed and reviewed procuring entities, the findings and recommended remedial actions are presented in table 6 below.

Table 6: Findings of Procurement Assessments and Reviews

Indicator	Key Findings	Recommendations
Procurement Function	All the PEs assessed had established procurement functions except Bomas of Kenya and Kenya National Shipping Lines. The Procurement Functions reports to the Accounting Officer. Some of the procurement functions were understaffed while a few of the staff were not members of KISM.	All PEs should establish procurement functions in accordance with Section 2 of the PPADA.
Disposal Committee	Most of PES had established Disposal Committees but the committees were not functional. The PEs did not have Disposal Plans and as a result they had a lot of disposal items	Disposal Committee should conduct its functions in accordance with Sections 164 and 165 of the PPADA. Prepare Annual Disposal Plan and adhere to it.
Record Keeping	Weak record keeping. All the procurement files were incomplete as some of the procurement records were kept in separate files. Contract files were not maintained.	Maintain complete procurement files in accordance with Regulation 34(3) of the PPADA and the PPRMPM.
Reporting	Most of the PEs assessed did not submit reports on procurements to the Authority. None of the entity publicised their contract awards in the website and notice board.	Authority should enforce compliance with reporting timelines and formats by rejecting non-compliant reports.
Inventory Management	The PEs had storage facilities and relevant store records were used. In some cases, the storage facilities were inadequate and the stores records were not updated. Stocks taking were not conducted regularly.	Provide adequate and secure storage facilities. Update stores records.

2.2.5 Follow-ups on Action Plans

During the year under review, the Authority conducted follow-ups in five (5) procuring entities. The follow-ups were intended to ascertain the implementation status of the recommendations made by the Authority during the assessments conducted in the previous financial years. The scores were awarded according to the level of implementation of the recommendations in the action plans. The PEs implemented the recommendations as indicated in table 6 below:

Table 7: Level of Implementation of the Recommendations from Precious Assessments

S/No.	Procuring Entity	Implementation status of the recommendations (%)
	National Oil Corporation	100
	National Construction Authority	100
	Technical University of Mombasa	61
	Agricultural Finance Corporation	64.3
	Agricultural Development Corporation	54
	Average Score (%)	75.8%

From the above information, National Oil Corporation and National Construction Authority implemented all the recommendations made by the Authority while the other three (3) procuring entities had implemented only a portion of the recommendations with Agricultural Development Corporation implementing the least represented by 54%. The scope of the follow-ups was limited to the implementation of the recommendations made by the Authority in the previous assessments as indicated in the action plans.

2.2.6 Procurement Inspections

Section 49 of the PPADA mandates the Authority to conduct procurement inspection to measure the level of compliance of a procuring entity with the Procurement Law. The key indicators used in the inspections included establishment of procurement function, management of procurement records, inventory management and security of tenders. During the year under review, the Authority

conducted compliance inspections in eight (8) procuring entities. The compliance and risk scores for the procuring entities inspected are indicated in table 7.

Table 8: Compliance and Risk Scores for the Inspected Procuring Entities

No.	Procuring Entity	Rating	
		Compliance Score (%)	Risks Score (%)
	Masinde Muliro University of Science & Technology	65	35
	Sigalagala National Polytechnic	41	59
	Thika Technical Training Institute.	32	68
	Shanzu Teachers Training College	48	52
	Siaya Institute of Technology	58	42
	Nairobi Technical Training Institute	76	24
	Kabete National Polytechnic	53	47
	Kisumu National Polytechnic	74	26
	Average Score (%)	55.9%	44.1%

From the information above, the average compliance level for the inspected procuring entities was 55.90% which is considered marginally compliant and a moderate risk level of 44.1%. Among the key non-compliance issue identified in most of the procuring entities inspected was failure to maintain complete procurement files and failure to submit mandatory reports to the Authority.

2.2.7 Procurement Contract Audits

Section 49 of the PPADA mandates the Authority to conduct Procurement Audits to ensure that the procurement systems and processes as provided for in the Procurement Law are complied with by the PEs. The key indicators used for contract audits were institutional arrangements, procurement processes and management of contracts. The Authority evaluated the level of compliance with the Act by the PEs against pre-set scoring criteria in the Compliance Monitoring Manual.

During the 2017-2018 financial year, the Authority conducted contract audits in all the County Governments and County

Assemblies. The compliance and risk scores of the audited procuring entities are presented in tables 8 and 9 below.

Table 9: Compliance and Risk Scores for the Audited County Governments

No.	Procuring Entity	Compliance Score (%)	Risks Score (%)
	Nyeri County Government	52	48
	Tharaka Nithi County Government	12.7	87.3
	Kiambu County Government	59	41
	Meru County Government	36.6	63.4
	Muranga County Government	26.6	73.4
	Nairobi County Government	59.23	40.8
	Makueni County Government	51.8	48.2
	Turkana County Government	35.6	64.4
	Machakos County Government	38.3	61.7
	Kajiado County Government	26.5	73.5
	Nakuru County Government.	51.5	49.5
	Tana River County Government	44	56
	Lamu County Government	49.6	50.4
	Kwale County Government	31	69
	Nyamira County Government.	43.6	56.4
	Kisii County Government.	56	44
	Kericho County Government.	35	65
	Nandi County Government.	49.8	50.2
	Wajir County Government.	50.6	49.5
	Nyandarua County Government	55.8	44.2
	Isiolo County Government	15.9	84.1
	Narok County Government.	69.1	30.9
	Kitui County Government	37.8	67.2
	Samburu County Government	48.8	51.2
	Kilifi County Government	65.5	34.5
	Homa Bay County Government.	4	96
	Trans-Nzoia County Government	41.5	58.5
	Uasin Gishu County Government	45	55
	Mombasa County Government	38.5	61.5
	West Pokot County Government	34.1	65.9

No.	Procuring Entity	Compliance Score (%)	Risks Score (%)
	Embu County Government	40.7	59.3
	Bungoma County Government	63.5	36.5
	Mandera County Government.	32.93	67.07
	Baringo County Government.	38.6	61.4
	Laikipia County Government	21.2	78.8
	Siaya County Government	30	70
	Kirinyaga County Government	19.6	80.4
	Garissa County Government.	38.5	61.5
	Marsabit County Government.	13.6	86.4
	Bomet County Government.	43	57
	Taita Taveta County Government	56	44
	Kakamega County Government	52.3	47.7
	Vihiga County Government	29.5	70.5
	Elgeyo-Marakwet County Government.	36.1	63.9
	Migori County Government.	0	100
	Busia County Government	50.2	49.8
	Kisumu County Government	35.2	64.9
	Average Scores (%)	39.7%	60.3%

From the above information, the average score for all the county executives was 39.70% which is considered non-compliant and a high risk level of 60.30%. Migori County Government failed to provide the documents required to progress the assignment and as a result the entity was scored zero (0) on compliance and thus a high risk score of 100%. The higher the risk score, the higher the possibility of a procuring entity failing to obtain value for money expended in procurement.

Table 10: Compliance and Risk Scores for the Audited County Assemblies

No.	Procuring Entity	Rating	
		Compliance Score (%)	Risks Score (%)
1	Kericho County Assembly	82	18
2	Tana River County Assembly	69	31
3	Nyandarua County Assembly	67.5	32.5
4	Nakuru County Assembly	67.5	32.5

No.	Procuring Entity	Rating	
		Compliance Score (%)	Risks Score (%)
6	Taita Taveta County Assembly	63	37
7	Garissa County Assembly	61.9	38.1
8	Garissa County Assembly	61.9	38.1
9	Nandi County Assembly	60.4	39.6
10	Laikipia County Assembly	59.9	40.1
11	Nyamira County Assembly	57.3	42.7
12	Mombasa County Assembly	55	45
13	Marsabit County Assembly	54	46
14	Embu County Assembly	53.8	46.2
15	Bomet County Assembly	52.8	47.2
16	Meru County Assembly	52.5	47.5
17	Elgeyo-Marakwet County Assembly	52.5	47.5
18	Kajiado County Assembly	52.4	47.6
19	Kiambu County Assembly	51	49
20	Siaya County Assembly	50	50
21	Wajir County Assembly	49.8	50.2
22	Kilifi County Assembly	49.8	51.2
23	Kitui County Assembly	49.3	50.7
24	Muranga County Assembly	48.6	51.4
25	Mandera County Assembly	48.2	51.9
26	Uasin Gishu County Assembly	45.5	54.5
27	Turkana County Assembly	44.8	55.1
28	Homa Bay County Assembly	44.5	55.5
29	Vihiga County Assembly	44.5	55.5
30	Nyeri County Assembly	44.1	55.9
31	Tharaka Nithi County Assembly	42.4	57.6
32	West Pokot County Assembly	41.5	58.5
33	Bungoma County Assembly	40.5	59.5
34	Busia County Assembly	40.1	59.9
35	Lamu County Assembly	37.7	62.3
36	Nairobi County Assembly	37.5	62.5
37	Makueni County Assembly	37	63

No.	Procuring Entity	Rating	
		Compliance Score (%)	Risks Score (%)
39	Samburu County Assembly	33.4	66.6
40	Kisumu County Assembly	31.4	68.6
41	Kakamega County Assembly	31	69
42	Isiolo County Assembly	29.2	70.8
43	Migori County Assembly	27	73
44	Narok County Assembly	19.8	80.2
45	Kirinyaga County Assembly	16.5	83.5
46	Trans-Nzoia County Assembly	0	100
47	Mandera County Assembly	36	64
Average Score (%)		46.6%	53.4%

The aggregate compliance score of all the County Assemblies was 46.6% while the risk level was 53.4%. Trans Nzoia County Assembly failed to provide the documents required to progress the assignment and as a result the entity scored zero (0) on compliance and a high risk of 100%. The higher the risk score, the higher the possibility of a procuring entity failing to obtain value for money expended in procurement.

2.3 Complaints Management, Investigations, Enforcement and Debarment

The Authority is mandated under sections 9 (1) (c) & (h), 35 and 41 of the PPADA, 2015 to enforce standards developed under the Act; to act on complaints received on procurement and asset disposal proceedings; to undertake investigations and debar a person from participating in procurement and asset disposal proceedings. During the 2017/2018 financial year, the Authority undertook the following activities.

2.3.1 Complaints Management

The Authority through its Complaints, Investigations and Enforcement department receives complaints from PEs, suppliers, and the general public. The Authority seeks information from the PEs concerned pursuant to Section 34 or initiates an investigation as provided for in Section 35 of the Act. On completion of analysis

of responses and documents from PEs or investigation reports, both the complainant and the PE are advised accordingly on the outcome of the investigation.

2.3.2 Complaints Handled

During the financial year under review the Authority received 616 complaints from suppliers and the public against various procuring entities. As at the end of the FY, 433 complaints had been resolved, while 183 were pending due to delays by parties to submit required documentation to facilitate resolution of the matters. The table below presents the number of complaints handled.

Table 11: Number of Complaints Handled

Category of PEs Complained Against	Number	Resolved	Pending as at 30 th June 2018
Ministries	213	171	42
County Government	192	130	62
County Assembly	31	16	15
State Corporations	111	64	47
Universities & Colleges	52	43	9
Technical Institutions & Schools	17	9	8
Total	616	433	183

2.3.3 Nature of Complaints

Out of the 613 complaints handled, 46% were on flaws in tender evaluation and specifications, 26% of the complaints were on delayed payments, 10% on notification of awards, 7% on errors in tender notices, 5% on alleged corrupt practices during procurement proceedings, 4% on termination of procurement proceedings 2% on failure by procuring entities to respond to bidder' requests for information regarding tenders. The figure below shows a summary of the nature of complaints received by the Authority.

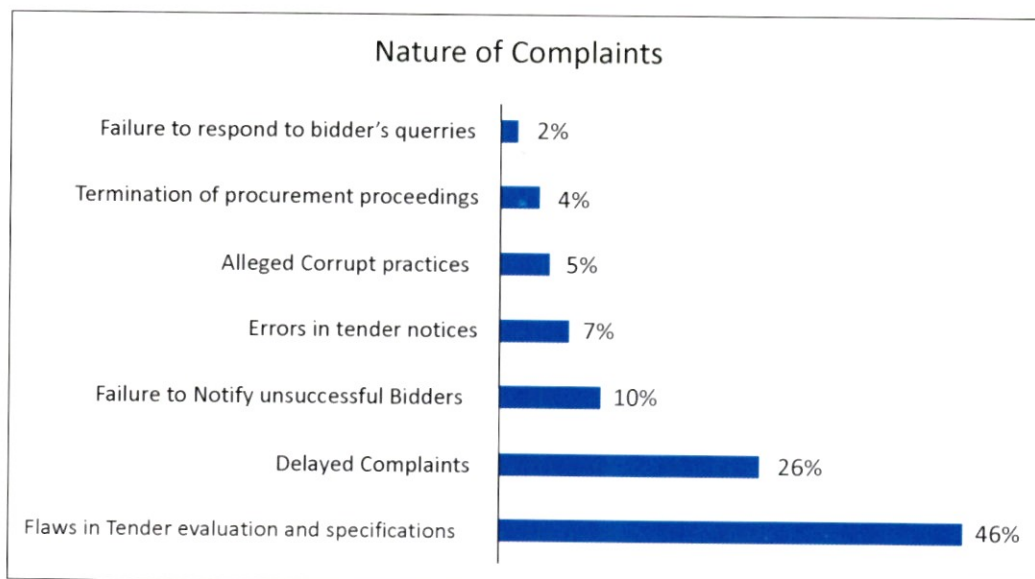


Figure 1: Nature of Complaints Lodged at the Authority

2.3.4 Investigations Undertaken

Pursuant to Sections 9 (1) (h) and 35 of the PPADA 2015, the Authority to institutes investigations when necessary in addressing complaints received. During the 2017/2018 FY, the Authority conducted four investigations. The investigation reports were shared with the PEs and the complainants.

Table 12: Findings from the Investigations

S/No. S/No.	Procuring Entity	Complainant	Description	Status
	KPA Retirement Benefits Scheme 2012	Kilindini Retirees Welfare Association	Repairs And Renovations of Scheme Property at Pandya Housing Estate, Mombasa	Report shared with EACC
	Kakamega County	The Senate	Tender No: CGKK/14/15/049 Proposed Construction of Bukhungu Stadium – Kakamega County	Report shared with the Senate

S/No. S/No.	Procuring Entity	Complainant	Description	Status
	Ministry of Transport and Infrastructure – Supplies Branch	The High Court	Tender No: CGKK/14/15/049 Proposed Construction of Bukhungu Stadium – Kakamega County	Report shared with the High Court
	Youth Enterprise Fund	National Assembly	Procurement of ICT Strategic Plan and ERP System and Procurement of Youth Enterprise Development Fund 8 th Anniversary	Report shared with National Assembly

2.3.5 Debarment

Section 41 of the Act mandates the Authority to debar suppliers/contractors from participating in procurement and asset disposal proceedings on various grounds. During this financial year, the Authority developed a draft debarment manual to guide the processing of debarment cases. Five (5) debarment cases were not progressed due to the absence of Regulatory Board.

2.4 Monitoring, Evaluation, Research, Reporting and Advisory Services

On a continuous basis, procuring entities and other entities request for clarifications or guidance on the application of the Public Procurement Law. The Authority responds to the requests through issuance of advice or technical support based on the needs of the entities. The Act therefore mandates the Authority under section 9 to provide advisory services and technical support upon request; monitor and evaluate the public procurement and asset disposal system; as well as conduct research on the system.

2.4.1 Provision of Advisory Services

Pursuant to section 9 of the Act, the Authority is mandated to advise and provide technical support to the procuring entities and

other stakeholders upon request. During the year under review, the Authority received 100 written requests for advice. The requests were analysed and written advice issued as appropriate. Table 11 presents the number of advices issued by source.

Table 13: Number of Advice Issued by Source

Source	Q1	Q2	Q3	Q4	Total
State Corporations	10	2	13	6	31
Commissions and Independent Offices	7	6	3	2	18
Ministries	5	1	3	3	12
Universities/Colleges/schools	2	1	2	0	5
County Executives	3	3	8	3	17
County Assemblies	1	3	3	0	7
Other Stakeholders (suppliers and general public)	0	3	4	3	10
Total	28	19	36	17	100

In comparison with the previous financial year, fewer requests for advice were issued during the current financial year at 100 compared with 166 in the 2016/2017. The table 12 below presents the details.

Table 14: Comparison of the Number of Advice Issued by Source

Category of PEs	2017/2018	2016/17
State Corporations	31	47
Commissions and Independent Offices	18	26
Ministries	12	13
Pension Funds	0	3
Universities/Colleges	5	21
County Service Delivery Coordinating Units	0	2
County Executives	17	18
County Assembly	7	12
Other Stakeholders (Suppliers and General Public)	10	24
Total	100	166

2.4.2 Major areas of Requests for Advice

The following areas were identified as the most common areas where different entities requested to be advised on:

- (i) Variation/amendments of contracts
- (ii) Renewal of insurance contracts
- (i) Use of direct procurement method
 - (ii) Use of single source selection method for procurement of consultancy services
 - (iii) Use of supplies branch contracts to procure motor vehicles
 - (iv) Clarifications on various sections of the Act

Upon review of the clarifications sought, the Authority observed that most of them were due to the absence of the Regulations to operationalize certain sections of the Act.

2.4.3 Duration of Processing of Requests for Advice

The table below presents the summary of duration taken by the Authority to issue written advices as per the requests. Majority of the requests were handled between 8-14 days at 37%, and between 1-7 days at 30% amongst others. On the other hand, 9% of the requests were finalized after 30 days due to consultations with other government agencies on the subjects under consideration. Table 12 below presents the summary on the duration of issuance of advice by the Authority.

Table 15: Duration of Issuance of Advice

Duration in Day	Frequency	Percentage of Total Advice
1 – 7	30	30%
8 – 14	37	37%
15 – 21	17	17%
22 – 30	7	7%
30+	9	9%
Total	100	100%

From table 13, most requests for advice were analysed and issued within 14 days represented by 67%, compared to 57% in the 2916/2017 financial year, with only 9% being issued after 30 days. In addition, 91% of the advices were analysed and issued within 30

days, compared with 84% in the previous year, as prescribed in the Authority's service charter. The table below presents the details.

Table 16: Comparative Analysis of the Duration of Issuance of Advice

Duration in Days	2017/2018	Percentage of Total Advice (%)	2016/17	Percentage of Total Advice (%)
1 – 7	30	30%	44	27%
8 – 14	37	37%	50	30%
15 – 21	17	17%	27	16%
22 – 30	7	7%	18	11%
30+	9	9%	27	16%
Total	100	100%	166	100%

2.4.4 Technical Support

The Authority is mandated to provide technical support to stakeholders upon request pursuant to Section 9 of the Act. During the year under review, the Authority received fifty-two (52) requests for technical support from both procuring entities and the general public. The major areas for request for support included: training on the Public Procurement and Asset Disposal Act, 2015 (the Act) and Regulations, sensitization of the youth, women and PWDs under the AGPO programme, review of draft manuals, review of training curriculum, participation in consultative forums as resource persons and trained officers in the roads sector on procurement procedures for Performance Based Contracting Road Maintenance programme organised by the Kenya Institute of Highways Building.

Capacity Building of the County Government on the Act

The Authority by way of providing resource persons participated in the Counties Capacity Building programme organised by the National Treasury & Planning. The programme entailed sensitization of the 47 Counties leadership (both at the Executive and Assembly levels) and the Public Finance Management Staff on Public Procurement and Asset Disposal Act, 2015. The programme was conducted between February, 2018 and June, 2018 and a total of two thousand one hundred and sixty-three (2163) participants were sensitized.

Dissemination of Mandatory Reporting Templates

As part of a continuous transformation of the public procurement and asset disposal system, the Act requires procuring entities to make available to the public information on public procurement and asset disposal transactions. Consequently, the Authority through Circular No.1 of 2016 brought to the attention of the procuring entities the mandatory reports to be disclosed within the prescribed timelines. To enhance the capacity of the procuring entities to disclose the required information, the Authority conducted sensitization sessions for heads of procurement functions for all the procuring entities within the coast region between 4th and 8th June, 2018 at the Kenya School of Government, Mombasa Campus.

2.4.5 Development and Issuance of Standard Tender Documents and Formats

The Authority is mandated under section 9 to prepare, issue and publicise standard public procurement and asset disposal documents and formats to be used by public entities and other stakeholders. To this end, the Authority with technical support from GIZ, embarked on reviewing, updating and developing new standard bid/tender documents, formats and manuals incorporating changes in the procurement law and international best practices.

The consultant submitted the first draft documents which were forwarded to a multi-agency Steering committee/ implementation team whose main responsibility is to ensure the draft documents prepared by the Consultant meet the quality and standards and are aligned to the provisions of the Act and attendant Regulations. Review of the draft documents was ongoing as at the close of the reporting period.

2.4.6 Partnerships and Engagements

2.4.6.1 The Annual East African Public Procurement Forum (EAPPF)

The East African Public Procurement Forum (EAPPF) is an annual forum organized by the respective public

procurement regulatory bodies drawn from the EAC Member states. The participants are drawn from public Sector, Private Sector, Professional Organizations, Civil Society and Training Institutions. The objective of the forum is to serve as a frame work that helps participants learn and benchmark with each other on their respective public procurement systems including policies and enforcement measures.

During the period under review, the 10th EAPPF was held at Kampala Serena International Conference Centre – Kampala - Uganda between 1st and 3rd November, 2017. The theme of the forum was ***‘Leveraging Technology for Improved Procurement Outcomes’***. The resolutions were as follows:

- (i) The East African Community should issue report(s) on consultancies undertaken to address- procurement, green procurement and harmonisation of the procurement curriculum in the East African region
- (ii) The African Procurement Forum recommends to the East African Community Secretariat to expedite the approval of the harmonised East African Public Procurement Policy and Legislation through its structures in accordance with the provisions of the East African Common Market Protocol and the East African Monetary Union.
- (iii) The EAC should facilitate research on “Collaborative Cross Border Public Procurement” intended to create an environment that encourages innovation, competitiveness and stimulate new businesses in the region
- (iv) Regulatory authorities should create a platform/ website for delegates to follow upon the status of implementation of forum resolutions
- (v) Partner states should submit reports on the implementation of previous outstanding forum

resolutions by end of June 2018 that shall be tabled in the next forum.

- (vi) Partner states should support e-Government Procurement in their respective countries through the provision and prioritization of funding to these projects. The system should also be able to integrate with other existing e-government programs.
- (vii) Regulatory authorities should develop mechanism or initiatives that increase transparency and fight against corruption in public procurement
- (viii) Partner states without a legal framework on procurement professionalism should expedite the process
- (ix) Partner states should promote capacity building of local SMEs and special groups to participate in public procurement.
- (x) The draft terms of reference for the establishment of Sub-Committees on Procurement Affairs at the EAC Secretariat be finalized and approved by the CEOs of the public procurement regulatory bodies.
- (xi) Next host of the EAPF is Kenya.

2.4.6.2 The Project for Strengthening of Capacity on Road Maintenance Management

The Authority is a member of the National Working Sector Group (NWSG) and the Cost Estimation Sub-Working Group (CESWG). The programme is currently under the 3rd phase. The Authority continues to offer technical support to the NWSG and CESWG and participation in training of contractors and road authority officers spearheaded by Kenya Institute of Highways and Building Technology (KIHBT)

2.4.6.3 Memorandum of Understandings (MoUs)

During the year under review, the Authority and Competition Authority of Kenya (CAK) signed a Memorandum of Understanding (MoU) aimed at promoting a fair,

competitive, and sound public procurement environment in Kenya. Subsequently, the two regulators formed a joint working committee to operationalize the MoU.

The MoU would see the two regulators collaborate in handling anti-competitive practices in the public procurement and asset disposal system, including sharing information when conducting inquiries and investigations with a focus on bid rigging/collusive tendering.

2.5 Research Initiatives and Reporting

2.5.1 Development of the Market Price Guide

Section 54 (3) of the Act mandates the Authority to issue a quarterly market price index as reference guide to assist accounting officers make informed price decisions. During this financial year, the Authority analysed the data on prices collected during the survey conducted in Nairobi, Mombasa, Kisumu, Bungoma and Eldoret. The market price reference guide reports were prepared and posted in the website, www.ppoa.go.ke for ease of reference by all stakeholders.

2.5.3 Development of the Research and Data Management Strategy

The research strategy was developed in realization of the commitment made under the Strategic Plan for the 2013-2018 period. The strategy has been developed in the context of increasing public demand for accountability in public procurement and asset disposal processes. The demands have been based on the challenges of non-compliance, inadequate contract management, limited enforcement, unavailability of critical data and information, and governance challenges, that have riddled the public procurement and asset disposal system in Kenya. Building of new knowledge on the causes of these challenges as a result of research is critical for evidence-based policy decision making as well as continual improvement of the efficiency and effectiveness system.

The Strategy therefore provides a framework for strengthening understandings of public procurement and asset disposal issues amongst, practitioners, professional bodies, policy-makers, business community, academia, non-state actors and the public. The Strategy will enable the Authority to provide data and information on the public procurement and asset disposal system in a structured, coordinated and timely manner.

A consultative and collaborative approach was adopted in the development of the Strategy, from literature review, collection of stakeholder views to concurrence on the strategic objectives. The development was overseen by a multi-agency team comprising of representatives from the Authority, State Department for Planning, Competition Authority of Kenya, National Commission for Science and Innovation, Kenya Institute for Public Policy Research and Analysis and Jomo Kenyatta University of Agriculture and Technology.

2.6 Submission of Preference and Reservation Reports to Parliament

Pursuant to section 157 (14) the Authority is mandated to prepare and submit to Parliament every six (6) months a report on the contracts awarded to youth, women and persons living with disabilities. During the year under review, the Authority submitted to Parliament the preference and reservation reports for the January – June, 2017 for the 2016/2017 financial year and July – December, 2017 for the 2017/2018 financial year.

2.6.1 Preference and Reservation Report for the January – June, 2017 Half-Year

During the half-year, **134** public entities reported to the Authority on the contracts awarded to the youth, women and PWDs. From the **134** entities, **122** were from National Government, comprising 5 Ministries, State Departments and Office of the Attorney General & Department of Justice; 89 State Corporations, 23 Universities & Colleges and 4 Commissions and Independent Offices. The

remaining **12** were from County Governments, comprising of 7 County Executives and 5 County Assemblies

From the review of the requirement that the entities reserve at least 30% of their procurement spend for the target groups; cumulatively, the two levels of government reported to have reserved an average of 18.17% of the total annual procurement budget. Thus, a number of entities at both levels of government did not reserve the requisite 30% of their procurement budgets to the target groups.

In terms of number and value of contracts awarded to the target groups by different entities, the 134 entities that reported awarded a total of **15,280**(14,346 contracts by National Government and 934 contracts by County Governments) contracts amounting to Kes.**9,853,695,561**.

When disaggregated, women category received the highest share of 7,562 contracts followed by youth category at 6,662 contracts while PWDs received the least at 934 contracts. In terms value, the Youth category received the highest amount of Kes. 4,969,404,278 followed by Women at Kes 4,309,075,738 and the PWDs received the least at Kes 495,479,298.

The State Corporations reported the highest number of contract awards at 8,263 and value at Kes. 4,959,358,191 followed by Universities, Colleges and polytechnics in terms of number and Ministries and State Departments in terms of value. Commissions and Independent Offices and County Assemblies awarded the least number of contracts standing at 177 and 59 and of Kes. 195,494,520.93 and 56,314,825 respectively. The low number of contracts awarded by the Commissions and Independent Offices and County Governments was attributed to their dismal reporting to the Authority.

In summary, we noted that PWDs were awarded the least number of contracts across all the categories of entities that reported with some entities awarding nil contracts to this target group We

further noted that a number of public entities did not reserve at least the required minimum of 30% of their procurement spends to the target groups

2.6.2 Preference and Reservation Report for the July – December, 2017 Half-Year Report

During the half year, only **155** procuring entities reported to the Authority on contract awarded to the enterprises owned by youth, women and persons with disabilities (PWDs); of which, **148** were from National Government and **7** from the County Governments. The National Government procuring entities comprised of **6** Ministries, State Departments and State House; **105** State Corporations, **29** Universities & Colleges and **7** Constitutional Commissions and Independent Offices. The remaining **7** were from County Governments, comprising of **5** County Executives and **2** County Assemblies. This reporting half recorded a **15.7%** increase in the number of procuring entities that submitted reports to the Authority on contracts awarded to the target groups; from **134** in the previous half. There is however, a persistent poor reporting to the Authority by the procuring entities.

From the review of the requirement that the procuring entities reserve at least **30%** of their annual planned procurement spends for the target groups; cumulatively, the two levels of reserved **Kes. 46,869,469,839.06** for the target groups (Youth, women and PWDs) out of an aggregated annual planned procurement budget of **Kes. 256,199,255,070.20**. Therefore, cumulatively, the two levels of reserved an average of **18.29%** of the total planned annual procurement budget. Thus a number of procuring entities at both levels of Government did not reserve the requisite **30%** of their procurement budgets for the target groups.

In terms of number and value of contracts awarded to the target groups by different entities, the **155** procuring entities that

reported awarded a total of **14,737 (14,499 contracts by National Government and 238 contracts by County Governments)** contracts amounting to **Kes. 15,913,758,978.50**.

When disaggregated, the Women category received the highest share of **7,788** contracts followed by youth category at **6,048** contracts while PWDs received the least at **901** contracts. In terms value, the Youth category received the highest amount of **Kes.8,021,293,162.68** followed by Women at **Kes 6,647,437,849.46** and the PWDs received the least at **Kes 1,245,028,466.34**.

The State Corporations reported the highest number of contract awards at **10,463** followed by Universities, Colleges, and Polytechnics & Technical Institutions at **3,318**, then Ministries, State Departments & State House at **510**, Constitutional Commissions & Independent Offices at **208**, County Executives at **2014** and County Assemblies awarded the least number of contracts standing at **34 contracts**. The low number of contracts awarded by the Ministries & State Departments, Constitutional Commissions & Independent Offices and County Governments was attributed to their continued poor reporting to the Authority

In terms of value of contracts awarded to the target groups, State Corporations reported the highest value at **Kes. 12,603,825,411.64** followed by Ministries, State Departments & State House at **Kes 1,841,981,548.35**, then Universities, Colleges, Polytechnics & Technical Institutions at **1,003,612,738.80**. Constitutional Commissions and Independent Offices and County Assemblies awarded least value standing at **Kes. 120,389,082.81** and **17,039,995.00** respectively.

During this period, we noted that PWDs were awarded the least number of contracts across all the categories of procuring entities that reported with some entities awarding nil contracts to this target group. We further noted that a number of public entities did not reserve at least the required minimum of **30%** of their procurement spends to the target groups.

CHAPTER PUBLIC PROCUREMENT
03 ADMINISTRATIVE REVIEW



3.1 Introduction

Section 27 of the Public Procurement and Asset Disposal Act (PPADA), 2015 establishes the Public Procurement Administrative Review Board (the Review Board). The Review Board has the mandate to receive and determine cases of complaints from candidates who claim to have suffered or risk suffering, loss or damage due to the breach of a duty imposed on a procuring entity by the Act or the Regulations. The main function of the Review Board under the Act is to review, hear and determine public procurement tendering and asset disposal disputes.

The operations of the Review Board are aimed at progressing the following strategies: -

- (i) Enhance Efficiency in Handling Applications for Review
- (ii) Enhance Compliance with The Public Procurement Law
- (iii) Enhance the Capacity of the Board
- (iv) Provision of Relevant Reference Materials for the Board
- (v) Promote A Culture of Continuous Learning and Improvement
- (vi) Increase Access to the Review Board Services

2.3 Handling of Applications for Review

During the year under review, the Review Board received 130 appeals against procurements undertaken by given procuring entities. As per the requirement of section 171 of the Act, all the cases were heard and determined by the Review Board within a period of twenty-one (21) days from filing, and thus this requirement was satisfied in all the cases.

3.3 Common Grounds of Appeals

The two main common grounds for filing requests for review were:

- (a) Tender evaluation
 - (i) Failure to set forth the evaluation criteria in tender documents by the procuring entities
 - (ii) Failure to apply the criteria set forth in the tender documents during evaluation by the procuring entities
- (b) Tender Award

- (i) Failure to award the contract to the lowest evaluated tenderer
- (ii) Failure to award the contract to the most responsive bidder

3.4 Common Grounds for Preliminary Objections

Procuring entities and interested parties are allowed by law to file preliminary objections to the grounds of the requests for review. Common grounds for preliminary objections noted were mainly a challenge against:-

- (a) The Review Board's Jurisdiction: This is usually challenged on the grounds that a contract could already have been entered into by the PE with the successful tenderer, or that the time for filing the Request for Review had already lapsed before the Applicant filed the appeal, as per the requirements of Section 167 of the Act;
- (b) The *locus standi* (status) of the Applicant: An Applicant's standing is challenged so as to determine whether the Applicant is a candidate or not, as per Section 167 of the Act.

3.5 Judicial Review

Thirty-two (32) out of the hundred and thirty (130) cases lodged were subjected to judicial review at the High Court. Therefore, 24.6% of all cases determined were subject of judicial review, compared to 27.3% in the previous period.

The Review Board Secretariat ensured that for all cases that were referred for Judicial Review all the necessary documents and the draft affidavits were submitted to the State Law Office, including the Instructions to the Attorney-General to represent the Board in Court.

CHAPTER **MANAGEMENT OF**
04 **INTERNAL ORGANISATION**



4.1. Procurement Operations

The Authority performed its role in the facilitation of the achievement of its mandate through the implementation of the 2017/2018 financial year approved Procurement Plan and the Asset Disposal Plan, which were executed. The Authority's procurement budget for the year under review was Ksh 60,203,300.

Top Ten Contracts of the Authority by Value

The top ten procurement contracts during the year were:

Table 16: Top Ten Contracts of the Authority by Value

#	FIRM	Goods/Service Description	Amount (KES)
1	Spa Infosuv	Consultancy for Country Procurement Assessment Service	16,285,000
2	Britam Insurance Co	Provision of Medical Cover	11,576,934
3	Techsource Point	Supply of Virtualized server infrastructure & Data Backup Solution	8,236,000
4	Hill & Knowlton Strategies	Provision of Public Relations Consultancy Services	6,670,000
5	Uniglobe Northline Travel	Provision of Air Travel Ticketing Services	4,000,000
6	Jubilee Insurance Co	Provision of General Insurance	2,166,789
7	Soft Technologies	Provision of Cloud e-board	1,832,800
8	Super Broom	Provision of Cleaning Services	1,722,673
9	ICEA Insurance Co	Provision of Motor Vehicle Insurance	1,613,761
10	UAP Insurance Co	Provision of Group Life Cover	1,354,959
	Total		55,458,916

Implementation of 30% Preference and Reservation Scheme

Pursuant to sections 53 (6) and 157 (5) the Authority set aside KES 22,133,400 of its procurement budget of Kes 73,778,000 in the financial year 2017/2018 to the target groups (women, youth and PWDs); representing 30% of the total procurement budget. Of the 30%, KES. 442,668 being 2% was reserved for Persons Living with Disabilities (PWDs). During the 2017/18 FY, the Authority awarded contracts valued at KES 27,957,535.50 to the special groups as tabulated below.

Table 17: Number and Value of Contracts Awarded by Category

Category	No. of Contracts	Percent (%)	Value of the Contracts. Kshs.	%
Youth	30	52	14,350,981.60	51
Women	26	45	12,727,403.90	46
PWDs	2	3	879,150	3
TOTAL	58	100	27,957,535.50	100

It was observed that majority of the contracts (52%) was awarded to Youth followed by Women at 45% and Persons with Disability got 3% and in terms of the value of the contracts, the trend did not change as the youth emerged top taking 51% of the value of contracts awarded followed by women at 46% and persons with disability at 3%.

During the year, the Authority conducted a sensitization programme in March 2018 for the special groups on Government Procurement Procedures; Requirements for accessing government procurement opportunities; Procurement Opportunities at the PPRA; Rights and obligation of Suppliers; Bid winning strategies and Offences and General penalties. Resulting from the sensitization, the cumulative total spend on the reservation groups exceeded the overall target of **Kes. 22,133,400** by **Kes. 5,824,135.5 being 26% above target**. The target for PWD's was also exceeded by **Kes 436,482 being 99 % above target**.

4.2 Human Resource Management

PPRA being a service organization Human resource plays a major role in the success of the Authority and towards this the Authority has continued to invest in employee related matters. These investments were channelled to areas of recruitment, training and development, employee compensation, welfare schemes administration and transport and security/safety compliance.

(a) Staff Recruitment

The approved staff establishment stood at 115 and the in-post was 64 including one staff seconded to the National Treasury, who was appointed as a state officer by His Excellency the president of the Republic of Kenya in April 2018. During the F/Y the Authority recruited

17 employees to fill vacancies in the cadres of Principal Officers/ Head of regional office, Senior Officers Regional Office, Senior Policy & Research Officer, Senior Legal Officer, Legal Officer, Compliance officers and drivers. The 17 officers were scheduled to report in the 2018/2019 FY.

The difference between the in-post and establishment was because the Authority had not recruited for functions that have not been rolled out like Levy Administration and regional offices that had not been opened.

A summary of the number of employees that were in the organization and their positioning is as follows;

Position	Grade	No of Employee		Total
		Male	Female	
Management	1-3	7	4	11
Technical experts in respective cadres	4-7	30	6	36
Support Cadres	8-12	9	7	16
Total		46	17	63

The table below presents key Human Resource data for the 2017-2018 financial year

Description	Data	
Staff Deployments per Workstation	Number of staff at the Head Office	58
	Number of staff at the Kisumu Regional Office	3
	Number of staff at the Mombasa Regional Office	2
Age Segment	Number of employees aged Less than 30 Years	4
	Number of employees aged between 31-40 years	25
	Number of employees aged between 41-50 Years	26
	Number of employees aged between 51-60 years	8

(a) Decentralization of Services

During the 2017-2018 financial year the Authority commenced the process of opening two additional regional offices in Eldoret and Nyeri

and office space was availed within buildings owned by the National government. The Eldoret office is located at the Deputy County Commissioner's offices, Anabkoi sub-county while the Nyeri office is located at the County Commissioner's offices.

(b) Staff Development

In order to strengthen the skills that each employee needs and to continuously improve performance at individual and organization levels during the 2017-2018 F/Y various trainings were conducted. The broad theme areas on which staff were trained were as follows

- (a) Procurement & Supply Chain management
- (b) Finance
- (c) Customer care
- (d) Leadership and management
- (e) Corporate Governance
- (f) Monitoring & Evaluation
- (g) Research
- (h) Information Communication Technology
- (i) Corporate Communications
- (j) Enterprise Risk Management
- (k) Implementation and Audit of ISO 9001:2015 Quality Management System

During the year, the Authority also supported staff to meet the requirements under Continuous Professional Development programs.

(c) Performance Contracting and Evaluation

The Authority implemented a results-based performance management system by negotiating with the National Treasury on an annual performance contract. This contract was subsequently vetted by Performance Contract Coordinating Office and signed by the Cabinet Secretary, National Treasury.

(d) Staff Welfare

Towards enhancing employee satisfaction, service provision and support was availed throughout the year. This was through provision of conducive working environment and facilities, adequate transport management, security, medical and general insurances.

The authority facilitated the trustees to execute their responsibilities of managing the Public Procurement Oversight Authority Staff Pension Scheme (PPOASPS). During the 2017-2018 financial year the Scheme made an overall Investment Return of 12.9% and the total fund value at the end of the F/Y was Ksh 177,961,940.

4.3 Corporate Services

Publicity and Awareness Creation

The Authority has a duty to promote its brand as well as to inform members of the public on the activities and programmes it undertakes in the execution of its mandate. During the year, the Authority continued to inform the public about the existence of its regional offices in Mombasa and Kisumu counties.

The Authority also showcased its services by participating in four (4) Agricultural Society of Kenya (ASK) shows in Nyeri, Eldoret, Meru and Kisumu.

The website was also used continuously to reach the public and disseminate information. In total, the website received a total of 294,301 hits in the financial year.

Customer Service

During the year in review, the Authority continued to positively address customers' complaints. The efforts saw the Authority attain a composite score of 99% on the performance indicator on resolution of customer complaints by Commission on Administrative Justice (CAJ), an improvement from last financial year's score of 86%.

The Authority continued to face litigation risks as a result of business operations. During the financial year, two (2) litigation matters were filed against the Authority. Three (3) matters filed in the previous years were successfully concluded in favor of the Authority with the support of the Office of the Attorney General. At the close of the financial year there were six (6) active litigation matters pending before various courts in the country.

4.4 Integration of ICT in Service Delivery

The Authority has continued to embrace and enhance innovative use of ICT products and services to support its core mandate as well as its administrative processes. This is achieved through provision of end-user support, initiation of ICT projects, management of computing equipment and systems, technology training as well as spearheading ICT policy implementation.

ICT Policy

In order to enhance ICT governance and mainstream operations, the department embarked on the revision and operationalization of the ICT Policy. The Policy aims at achieving efficiency and effectiveness accruing from the application of ICT, and ultimately improving service delivery. It will consider three pillars: Information Systems, Information Technology Security and Human Resources.

Development of eBook Mobile App for the Act

During the financial year under review, the Authority developed and rolled out an eBook mobile app for the Public Procurement and Asset Disposal Act, 2015 (the Act). This was an innovative way adopted by PPRA in order to facilitate the achievement of its mandate as per Section 64 of the PPADA Act, 2015, which provides for the use of ICT in communicating matters relating to procurements including the dissemination of laws, regulations and directives. The eBook currently resides as a free downloadable mobile app (***Public Procurement and Asset Disposal Act, 2015 (KE)***) in several app stores and is expected to have additional functionalities and features to be added in future.

Infrastructure

The Authority endeavoured to make its staff more self-sufficient in terms of operational tools and also achieve a staff to computer ratio of 1:1 by investing in ICT infrastructure and procuring various hardware and software for both the headquarters and the regional offices.

Both the Local and Wide Area Networks were set up for the Regional Offices in Mombasa and Kisumu and high speed internet connectivity availed to them so as to sustain internal and external communication and enhance service delivery.

Online Presence

The Authority aims at sustaining communication both internally and externally through the use of various online platforms. To this end the Authority completed the design and development of the website.

4.5 Internal Controls

As per the requirements of the *Mwongozo: Code of Governance for State Corporations*, the Authority had an established Internal Audit Function that reports administratively to the accounting officer/Director General and functionally to the Board Audit Committee.

The Internal Audit function provides reasonable assurance and consultancy services in order to add value as well as improve the Authority's operations and internal control systems. The department assists the Authority to accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.

During the period under review, the Internal Audit function evaluated a number of areas and made recommendations on the effectiveness of governance, risk management and control processes within the Authority. Internal control deficiencies were only brought to the attention of management for review and action since there was no Board Audit Committee.

Risk Management

Risk management is an integral part of the Authority's Strategic management. It aims at identifying, measuring and mitigating various intrinsic as well as extrinsic risks.

The Authority has put in place a risk management framework in line with the requirements of *Mwongozo: The Code of Governance for State Corporations*. During the year, the Authority undertook a number of activities in the implementation of the risk management framework including;

- (i) Implementation of the Enterprise Risk Management Policy;

- (ii) Mapping out of key risks facing the Authority;
- (iii) Review of departmental risk registers; and
- (iv) Staff training on risk and risk management.

As the first line of defense, functional heads own and manage risks in their respective areas. They are also responsible for implementing corrective actions to address process and control deficiencies. The various risks and their mitigation strategies within the Authority have been consolidated in a risk register.

Key risks facing the Authority

A number of key risks likely to impede the implementation of the Authority's mandate have been identified and include;

(a) Litigation risks

- (b)** The Authority is exposed to legal actions arising from execution of its mandate in such areas as compliance monitoring, advisory services, investigations, enforcement, complaints management, and procurement among other functions.

The mitigation strategies include strengthening of the Authority's legal capacity; acquisition of relevant insurance covers and promotion of amicable settlement of matters.

(c) Compliance monitoring risk

During the year, the Authority encountered some challenges while undertaking its mandate of monitoring the public procurement system and reporting on its overall functioning. Some of the barriers faced include; delayed/non provision of documents by procuring entities, under staffing, lack of IFMIS rights and limited automation of procurement operations and processes.

The mitigation measures undertaken include; requisition for supervisory rights to Procure to Pay (P2P) module of IFMIS, strengthening the capacity of technical functions and commencement of recruitment for technical officers.

(d) Lack of the Regulatory Board

The Authority had set aside funds to cater for capital and recurrent expenditures and could not be utilised within the financial year

without Board's approvals. The mitigation measure was following-up with the National Treasury for appointment of Regulatory Board as required by the Act.

(e) Records and Information Management Risk.

The Authority had limited storage facilities and had not fully automated its documents management system. This posed a challenge in storage and retrieval of documents.

The mitigation measures implemented included, continuous trainings of staff on records and information management, acquisition of secure and convenient storage facilities and implementation of a records management policy.

The Authority intends to invest in IT innovations in records management; acquisition of adequate secure and convenient storage facilities; and revision and operationalization of the ICT Policy.

(f) Reputational risks

The Authority was exposed to potential negative publicity; whether true or false, this could have a negative impact on the delivery of Authority's services.

The mitigation strategies included continuous awareness creation on the Authority's mandate and services, addressing customer feedbacks, engagement of key stakeholders, and communicating and enforcing the employees' code of conduct and Ethics.

(g) Safety, Security, Health and Environmental risks

The Authority has been expanding and thus the number of staff has increased. However, the office space has remained constant leading to staff congestion which posed a risk on the safety and health of staff members and service providers.

The mitigation strategy included commencement of acquisition of adequate office space and continuous maintenance of existing facilities.

(h) Staffing risks

The authority's mandate expanded following the operationalization of the Act. However, the staffing levels and capacity remained the same, negatively affecting delivery of services. To bridge the gap,

there was need to recruit additional staff as well as build capacity of existing staff. As a mitigation strategy, the Authority recruited additional staff and trained the existing employees.

4.6 Emerging Issues and Challenges

The Authority faced a number of challenges in execution of its mandate during the period under review. Major challenges encountered were:

- (a) **Lack of the Regulatory Board:** A number of key and strategic decisions that required Board approval, have not been progressed. These include, approval of the Authority's strategic plan, restructuring of the Authority, rebranding, approval of policy documents and manuals for the new functions and undertaking of job evaluation to determine the work load and optimal staffing levels to deliver on the enhanced mandate.
- (b) **Inadequate capacity:** The Authority had a staff complement of 63 employees against an establishment of 115. This staffing level was inadequate relative to the scope of the expanded mandate of ensuring compliance with the Act at both levels of Government, monitoring performance of the public procurement and asset disposal system and offering secretariat services to the Public Procurement Administrative Review Board.
- (c) **Statutory Reports:** Majority of the PE's are not complying with the statutory requirement to file quarterly reports to the Authority. These reports are needed for monitoring and evaluating performance of the public procurement and asset disposal system, compliance with Public Procurement Law as well as receipt of relevant data to facilitate reporting to Parliament.
- (d) **Complaints Management:** timely resolution of complaints was affected by failure by public entities to submit required information and documents within the prescribed timelines.
- (e) **Monitoring and review of procurements processed through the IFMIS procure to pay module by the Authority, has been hampered by lack of access to supervisory rights to the IFMIS system.**



**CHAPTER CONCLUSION AND
05 RECOMMENDATIONS**



5.1 Conclusion

The Authority during the period under review, undertook a number of activities towards realization of its mandate as well as strengthening service delivery to the stakeholders. From compliance activities implemented, a number of shortcomings were noted, including failure to use standard tender documents or using standard tender documents without amending/customizing as appropriately; some requisitions not having adequate information and estimated costs, invitations to tender did not include a requirement for serialization of bid documents by the bidder before submitting them; failure by tender opening committees to adhere to some of the tender opening procedures, failure to adhere to evaluation criteria as well as failure by the evaluation committees to evaluate tenders independently and maintain individual score sheets, and failure to notify unsuccessful bidders or notifying them without disclosing to them the reason/s for rejection of their bids and the unsuccessful.

The Authority received a majority of complaints on flaws in tender evaluation and specifications, on complaints were on delayed payments and on notification of awards to unsuccessful bidders. The Authority also received a large number of enquiries on the implementation of certain sections of the Act due to absence of its attendant Regulations, as some of the provisions were not covered in the regulations issued under the repealed Act.

There was an increase in the number of cases filed at the Review Board by the bidders aggrieved by the decisions made by the procuring entities. The increase could be due to the increased knowledge, confidence and effectiveness in the dispute resolution mechanism in public procurement.

5.2 Recommendations

5.2.1 To National Treasury

The National Treasury to:

- (i) Fast-track the appointment of the Regulatory Board to provide strategic direction to the Authority.

- (ii) Ensure that the Review Board is fully constituted to enhance in its capacity to undertake its mandate effectively.
- (iii) Fast-track the development and gazettment of the regulations.
- (iv) Review the scheme of service of supply chain practitioners to be aligned to the strategic roles and mandates of Procurement Function as prescribed in the Act.

5.2.2 To Accounting Officers

The accounting officers should;

- (i) Ensure compliance with the Act, regulations and directives in their procurement and asset disposal undertakings.
- (ii) Submit mandatory reports in the prescribed formats and avail relevant information and documents to the Authority upon request and within the stipulated timelines.
- (iii) Strengthen records and inventory management systems within their entities.
- (iv) Continuously build capacity of their staff on the procurement law and other relevant areas.

5.2.3 Suppliers and other stakeholders to:

- (i) provide all relevant information when lodging complaints to the Authority.
- (ii) provide feedback on matters that affect their participation in the public procurement and asset disposal system and for improvement of the system.

CHAPTER FINANCIAL
06 STATEMENTS



**ANNUAL REPORT AND FINANCIAL
STATEMENTS FOR THE
YEAR ENDED 30TH JUNE 2018**

*Prepared in accordance with the Accrual Basis of
Accounting Method under the International Public
Sector Accounting Standards (IPSAS)*

REPUBLIC OF KENYA



OFFICE OF THE AUDITOR-GENERAL

REPORT



THE AUDITOR-GENERAL

ON

THE FINANCIAL STATEMENTS OF
PUBLIC PROCUREMENT REGULATORY
AUTHORITY

FOR THE YEAR
ENDED 30 JUNE 2018

REPUBLIC OF KENYA

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OFFICE OF THE AUDITOR-GENERAL

**REPORT OF THE AUDITOR-GENERAL ON PUBLIC PROCUREMENT
 REGULATORY AUTHORITY FOR THE YEAR ENDED 30 JUNE 2018**
REPORT ON THE FINANCIAL STATEMENTS
Qualified Opinion

I have audited the accompanying financial statements of Public Procurement Regulatory Authority set out on pages 27 to 55, which comprise the statement of financial position as at 30 June 2018, statement of financial performance, statement of changes in net assets, statement of cash flows and statement of comparison of budget and actual amounts for the year ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effects of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of Public Procurement Regulatory Authority as at 30 June 2018 and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Accrual basis) and comply with the Public Procurement and Asset Disposal Act, 2015 of the Laws of Kenya.

Basis for Qualified Opinion
1. Unexplained Variances Between Trial Balance and the Ledger

The trial balance provided in support of the financial statements submitted for audit had variances with the ledger as detailed below:-

Account Description	Account Type	Trial Balance (Kshs.)	Ledger Balance (Kshs.)	Variance (Kshs.)
Motor Vehicle depreciation expense	Expense	4,422,960	8,994,992	(4,572,032)
Motor vehicle accumulated depreciation expense	Asset	54,069,861	58,641,892	(4,572,031)
Equipment and Computer Cost	Asset	59,567,432	59,532,432	35,000
Equipment & computer accumulated depreciation	Asset	51,980,423	51,556,565	423,858
NBK Account	Asset	538,397,524	533,545,046	4,852,478
Trade and other Payables	Liability	27,401,641	38,739,185	11,337,544

Report of the Auditor-General on the Financial Statements of Public Procurement Regulatory Authority for the year ended 30 June 2018

Effectiveness in Use of Public Resources section of my report, I confirm that, nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way

Basis for Conclusion

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan to perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON INTERNAL CONTROLS EFFECTIVENESS, GOVERNANCE AND RISK MANAGEMENT SYSTEMS

Conclusion

As required by Section 7 (1) (a) of the Public Audit Act, 2015, based on the audit procedures performed, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

The audit was conducted in accordance with ISSAI 1315 and ISSAI 1330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal control, risk management and governance were operating effectively. In all material respects, I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and Those Charged with Governance

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Accrual Basis) and for maintaining effective internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal control, risk management and governance.

In preparing the financial statements, management is responsible for assessing the ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the management either intends to liquidate or to cease operations, or have no realistic alternative but to do so.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act.


In addition to the responsibility for the preparation and presentation of the financial statements described above, management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

Report of the Auditor-General on the Financial Statements of Public Procurement Regulatory Authority for the year ended 30 June 2018

- Identify and assess the risks of material misstatements of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the management
- Conclude on the appropriateness of the management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the ability to continue as a going concern or to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Authority to cease to continue as a going concern or to sustain its services
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Authority to express an opinion on the financial statements
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that are identified during the audit

I also provide management with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards



FCPA Edward R. O. Ouko, CBS
AUDITOR-GENERAL

Nairobi

10 July 2019

Report of the Auditor-General on the Financial Statements of Public Procurement Regulatory Authority for the year ended 30 June 2018

STATEMENT OF FINANCIAL PERFORMANCE FOR THE YEAR ENDED 30TH JUNE 2018

	Note	2018 KShs.	2017 KShs.
Revenue from non-exchange transactions			
Unconditional Government Grants	6	360,000,000	360,000,000
Revenue from exchange transactions			
Rendering of services	7	18,393,851	15,333,444
Finance Income	8	4,987,800	9,606,986
Other Income	9	68,134	1,596,312
Total Revenue from exchange transactions		<u>23,449,785</u>	<u>26,536,742</u>
Total Revenue		<u>383,449,785</u>	<u>386,536,742</u>
EXPENSES			
Employee Costs	10	230,696,575	201,660,329
Board Expenses	11	43,267,811	43,859,069
General Expenses	12	52,089,780	47,438,863
Repairs and Maintenance	13	5,389,624	3,257,363
Contracted Services	14	24,054,401	42,034,880
Finance Costs	15	239,416	2,285,398
Depreciation and Amortization	16	20,789,935	20,242,487
Total Expenses		<u>376,527,542</u>	<u>360,778,389</u>
Surplus / (Deficit) for the year		<u>6,922,243</u>	<u>25,758,353</u>

STATEMENT OF FINANCIAL POSITION

AS AT 30TH JUNE 2018

	Note	2018 KShs.	2017 KShs.
ASSETS			
Current Assets			
Cash and cash equivalents	17	631,892,646	545,047,730
Receivables from exchange transactions	18	10,730,793	25,262,273
Receivables from non-exchange transactions	19	5,918,214	3,163,899
Total Current Assets		<u>648,541,653</u>	<u>573,473,902</u>
Non- current Assets			
Property, Plant and Equipment	20	24,183,802	31,618,125
Intangible Assets	21	6,188,974	2,563,770
Work In Progress	22	6,705,432	11,332,092
Total Non-Current Assets		<u>37,078,208</u>	<u>45,513,987</u>
Total Assets		<u>685,619,861</u>	<u>618,987,889</u>
LIABILITIES			
Current Liabilities			
Trade & Other Payables from exchange transactions	23	38,739,185	39,122,256
Provisions	24	858,400	765,600
Deferred income	26	<u>120,000,000</u>	<u>60,000,000</u>
Total current liabilities		<u>159,597,585</u>	<u>99,887,856</u>
Net Assets			
Accumulated Fund	27	<u>526,022,276</u>	<u>519,100,033</u>
Total Net Assets and Liabilities		<u>685,619,861</u>	<u>618,987,889</u>

The financial statements and accompanying notes on page 27 to 56 were signed on behalf of the Authority by:

M.J.O Juma, MBS
Director General

C. Sakwa
Manager, Finance
ICPAK M/No 9008

STATEMENT OF CHANGES IN NET ASSETS FOR THE YEAR ENDED 30TH JUNE 2018

	Accumulated Fund KShs.	Revaluation Reserve KShs.	Total KShs.
Balance at 01.07.2016	492,110,007	1,231,673	493,341,680
Transfer to revenue reserve	1,231,673	(1,231,673)	0
Surplus for the year	25,758,353	0	25,758,353
Balance at 30.06.2017	<u>519,100,033</u>	<u>0</u>	<u>519,100,033</u>
Surplus for the year	6,922,243	0	6,922,243
Balance at 30.06.2018	<u>526,022,276</u>	<u>0</u>	<u>526,022,276</u>

STATEMENT OF CASH FLOWS

	Notes	2018 KShs.	2017 KShs.
CASH FLOWS FROM OPERATING ACTIVITIES			
Net Cash flows from Operating Activities	28	<u>103,790,733</u>	<u>105,346,502</u>
CASH FLOWS FROM INVESTING ACTIVITES			
Acquisition of tangible assets		(9,254,486)	(11,415,035)
Acquisition of intangible assets		<u>(7,691,330)</u>	(2,319,327)
Net cash flow from Investing Activities		<u>(16,945,816)</u>	<u>(13,734,362)</u>
Net changes in Cash and Cash Equivalents		<u>86,844,917</u>	<u>91,612,140</u>
Cash & Cash Equivalents opening balance		<u>545,047,730</u>	<u>453,435,590</u>
Cash & Cash Equivalents closing balance		<u>631,892,647</u>	<u>545,047,730</u>

STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS

Revenue	Note	Original Budget KShs.	Actual on Comparable KShs.	Performance difference basis KShs.	Foot Note
Government Grants	2	420,000,000	420,000,000	0	
Rendering of services	3	7,000,000	18,393,851	11,393,851	a
Finance Income	4	18,000,000	4,987,800	(13,012,200)	b
Other income	5	0	68,134	68,134	
Transfers from other Gov't Institutions		4,356,000	6,257,522	1,901,522	
Balances carried forward from previous FY		187,842,800	187,842,800	0	
Staff Loan facility		76,500,000	76,500,000	0	
Sinking Fund		2,000,000	2,000,000	0	
Reserves		40,100,000	40,100,000	0	
Total Revenue		755,798,800	756,150,107	351,307	
Expenses					
Employee Costs	6	310,570,000	230,696,575	79,873,425	c
Board Allowances & Exp	7	69,756,000	43,267,811	26,488,189	d
General Expenses	8	166,240,000	52,089,780	114,150,220	e
Repairs and Maintenance	9	11,800,000	5,389,624	6,410,376	f
Contracted Services	10	28,300,000	24,054,401	4,245,599	g
Finance Costs	11	300,000	239,416	60,584	
Depreciation and Amortization	12	23,000,000	20,789,935	2,210,065	h
Purchase of Tangible Assets	16	128,500,000	9,289,486	119,210,514	i
Purchase of Intangible Assets	17	<u>17,332,800</u>	<u>7,691,330</u>	9,641,470	j
Total Expenses		755,798,800	393,508,358	362,290,442	
Difference for the year		0	362,641,749		

Notes explaining variance

- a. More cases were filed than anticipated leading to higher revenue.
- b. Shortfall attributed to low interests during the year with the coming into force of the interest capping law and National Treasury circular instructing MDA's intending to invest in the money market to invest in treasury bills and at non-competitive interest rate.
- c. Budget figure included Ksh 76.5 million for roll out of the staff loan scheme. The scheme was not rolled out during the financial year.
- d. PPRA had anticipated appointment of a Regulatory Board and made budget provision for its activities. The board was not constituted during the financial year as expected.
- e. Unutilized amount is for a number of activities which had either been put on hold as they needed Board approval or ongoing activities whose expenditure had not been actualized.
- f. Attributed to a number of service level agreements that were not actualized.
- g. Consultancies planned for implementation during the year commenced in the 4th quarter and so their payments spilled over to FY 2018/18 when they are expected to conclude the assignments and present fee notes for payment.
- h. Depreciation and amortization estimate was based on existing assets and those planned for acquisition during the financial year. Not all planned acquisitions were realized.
- i. The balance includes an amount of Ksh 120m for establishment of regional offices. Temporary office space was secured to facilitate operations in the four regions while modalities having in place permanent office space are being explored.
- j. Some of the software planned for acquisition during the financial year were not realized.

NOTES TO THE FINANCIAL STATEMENTS

1. General Information

Public Procurement Regulatory Authority is established by and derives its authority and accountability from The Public Procurement and Asset Disposal Act, 2015. PPRA is wholly owned by the Government of Kenya and is domiciled in Kenya.

2. Statement Of Compliance And Basis Of Preparation

The Authority's financial statements have been prepared in accordance with and comply with International Public Sector Accounting Standards (IPSAS). The financial statements are presented in Kenya shillings, which is the functional and reporting currency of the entity. The accounting policies have been consistently applied to all the years presented.

The financial statements have been prepared on the basis of historical cost, unless stated otherwise. The cash flow statement is prepared using the indirect method. The financial statements are prepared on accrual basis.

3. Adoption Of New And Revised Standards

i. Relevant new standards and amendments to published standards effective for the year ended 30 June 2018

Standard	Impact
IPSAS 39: Employee Benefits	<p>Applicable: 1st January 2018</p> <p>The objective to issue IPSAS 39 was to create convergence to changes in IAS 19 Employee benefits. The IPSASB needed to create convergence of IPSAS 25 to the amendments done to IAS 19. The main objective is to ensure accurate information relating to pension liabilities arising from the defined benefit scheme by doing away with the corridor approach.</p>

ii. New and amended standards and interpretations in issued but not yet effective in the year ended 30 June 2017

NOTES TO THE FINANCIAL STATEMENTS

Standard	Effective date and impact:
IPSAS 40: Public Sector Combinations	Applicable: 1st January 2019: The standard covers public sector combinations arising from exchange transactions in which case they are treated similarly with IFRS 3 (applicable to acquisitions only) Business combinations and combinations arising from non exchange transactions which are covered purely under Public Sector combinations as amalgamations.

iii. Early adoption of standards

The Authority did not early – adopt any new or amended standards in year 2017.

4. Summary Of Significant Accounting Policies

(a) Revenue recognition

(i) Revenue from non-exchange transactions

Fees, taxes and fines

The Authority recognizes revenues from fees, taxes and fines when the event occurs and the asset recognition criteria are met. To the extent that there is a related condition attached that would give rise to a liability to repay the amount, deferred income is recognized instead of revenue. Other non-exchange revenues are recognized when it is probable that the future economic benefits or service potential associated with the asset will flow to the entity and the fair value of the asset can be measured reliably.

Transfers from other government entities

Revenues from non-exchange transactions with other government entities are measured at fair value and recognized on obtaining control of the asset (cash, goods, services and property) if the transfer is free from conditions and it is probable that the economic benefits or service potential related to the asset will flow to the entity and can be measured reliably.

NOTES TO THE FINANCIAL STATEMENTS

(ii) Revenue from exchange transactions

Rendering of services

The Authority recognizes revenue from rendering of services by reference to the stage of completion when the outcome of the transaction can be estimated reliably. The stage of completion is measured by reference to labour hours incurred to date as a percentage of total estimated labour hours.

Where the contract outcome cannot be measured reliably, revenue is recognized only to the extent that the expenses incurred are recoverable.

Sale of goods

Revenue from the sale of goods is recognized when the significant risks and rewards of ownership have been transferred to the buyer, usually on delivery of the goods and when the amount of revenue can be measured reliably and it is probable that the economic benefits or service potential associated with the transaction will flow to the entity.

Interest income

Interest income is accrued using the effective yield method. The effective yield discounts estimated future cash receipts through the expected life of the financial asset to that asset's net carrying amount. The method applies this yield to the principal outstanding to determine interest income each period.

(b) Budget information

The original budget for FY 2017-2018 was approved by the management of the Authority. Subsequent revisions were made to the approved budget in accordance with specific approvals from the appropriate authorities.

The entity's budget is prepared on a different basis to the actual income and expenditure disclosed in the financial statements. The financial

NOTES TO THE FINANCIAL STATEMENTS

statements are prepared on accrual basis using a classification based on the nature of expenses in the statement of financial performance, whereas the budget is prepared on a cash basis. The amounts in the financial statements were recast from the accrual basis to the cash basis and reclassified by presentation to be on the same basis

Budget information continued

as the approved budget. A comparison of budget and actual amounts, prepared on a comparable basis to the approved budget, is then presented in the statement of comparison of budget and actual amounts.

In addition to the Basis difference, adjustments to amounts in the financial statements are also made for differences in the formats and classification schemes adopted for the presentation of the financial statements and the approved budget.

(c) Taxes

Current income tax

Current income tax assets and liabilities for the current period are measured at the amount expected to be recovered from or paid to the taxation authorities. The tax rates and tax laws used to compute the amount are those that are enacted or substantively enacted, at the reporting date in the area where the Entity operates and generates taxable income.

Current income tax relating to items recognized directly in net assets is recognized in net assets and not in the statement of financial performance. Management periodically evaluates positions taken in the tax returns with respect to situations in which applicable tax regulations are subject to interpretation and establishes provisions where appropriate.

(d) Property, plant and equipment

All property, plant and equipment are stated at cost less accumulated

NOTES TO THE FINANCIAL STATEMENTS

depreciation and impairment losses. Cost includes expenditure that is directly attributable to the acquisition of the items. When significant parts of property, plant and equipment are required to be replaced at intervals, the entity recognizes such parts as individual assets with specific useful lives and depreciates them accordingly. Likewise, when a major inspection is performed, its cost is recognized in the carrying amount of the plant and equipment as a replacement if the recognition criteria are satisfied. All other repair and maintenance costs are recognized in surplus or deficit as incurred. Where an asset is acquired in a non-exchange transaction for nil or nominal consideration the asset is initially measured at its fair value.

(e) Leases

Finance leases are leases that transfer substantially all of the risks and benefits incidental to ownership of the leased item to the Entity. Assets held under a finance lease are capitalized at the commencement of the lease at the fair value of the leased property or, if lower, at the present value of the future minimum lease payments. The Entity also recognizes the associated lease liability at the inception of the lease. The liability recognized is measured as the present value of the future minimum lease payments at initial recognition.

Subsequent to initial recognition, lease payments are apportioned between finance charges and reduction of the lease liability so as to achieve a constant rate of interest on the remaining balance of the liability. Finance charges are recognized as finance costs in surplus or deficit.

An asset held under a finance lease is depreciated over the useful life of the asset. However, if there is no reasonable certainty that the Entity will obtain ownership of the asset by the end of the lease term, the asset is depreciated over the shorter of the estimated useful life of the asset and the lease term.

Operating leases are leases that do not transfer substantially all the risks and benefits incidental to ownership of the leased item to the

NOTES TO THE FINANCIAL STATEMENTS

Entity. Operating lease payments are recognized as an operating expense in surplus or deficit on a straight-line basis over the lease term.

(f) Intangible assets

Intangible assets acquired separately are initially recognized at cost. The cost of intangible assets acquired in a non-exchange transaction is their fair value at the date of the exchange. Following initial recognition, intangible assets are carried at cost less any accumulated amortization and accumulated impairment losses. Internally generated intangible assets, excluding capitalized development costs, are not capitalized and expenditure is reflected in surplus or deficit in the period in which the expenditure is incurred. The useful life of the intangible assets is assessed as either finite or indefinite.

(g) Depreciation

The Assets are depreciated as and when they are available for use by the Authority. Depreciation charge is calculated on a straight line basis for the various categories of assets as follows:

Motor vehicles	25.0%
Equipment and computers	33.3%
Furniture and fittings	12.5%
Office partitions	12.5%
Intangible assets	33.3%

(h) Financial instruments

(i) Financial assets

Initial recognition and measurement

Financial assets within the scope of IPSAS 29 Financial Instruments: Recognition and Measurement are classified as financial assets at fair value through surplus or deficit, loans and receivables, held-to-maturity investments or available-for-sale financial assets, as appropriate. The Entity determines the classification of its financial assets at initial recognition.

NOTES TO THE FINANCIAL STATEMENTS

Loans and receivables

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. After initial measurement, such financial assets are subsequently measured at amortized cost using the effective interest method, less impairment. Amortized cost is calculated by taking into account any discount or premium on acquisition and fees or costs that are an integral part of the effective interest rate. Losses arising from impairment are recognized in the surplus or deficit.

Held-to-maturity

Non-derivative financial assets with fixed or determinable payments and fixed maturities are classified as held to maturity when the Entity has the positive intention and ability to hold it to maturity. After initial measurement, held-to-maturity investments are measured at amortized cost using the effective interest method, less impairment. Amortized cost is calculated by taking into account any discount or premium on acquisition and fees or costs that are an integral part of the effective interest rate. The losses arising from impairment are recognized in surplus or deficit.

Impairment of financial assets

The Entity assesses at each reporting date whether there is objective evidence that a financial asset or a entity of financial assets is impaired. A financial asset or a entity of financial assets is deemed to be impaired if, and only if, there is objective evidence of impairment as a result of one or more events that has occurred after the initial recognition of the asset (an incurred 'loss event') and that loss event has an impact on the estimated future cash flows of the financial asset or the entity of financial assets that can be reliably estimated. Evidence of impairment may include the following indicators:

NOTES TO THE FINANCIAL STATEMENTS

- The debtors or a entity of debtors are experiencing significant financial difficulty
- Default or delinquency in interest or principal payments
- The probability that debtors will enter bankruptcy or other financial reorganization
- Observable data indicates a measurable decrease in estimated future cash flows (e.g. changes in arrears or economic conditions that correlate with defaults)

(ii) Financial liabilities

Initial recognition and measurement

Financial liabilities within the scope of IPSAS 29 are classified as financial liabilities at fair value through surplus or deficit or loans and borrowings, as appropriate. The Entity determines the classification of its financial liabilities at initial recognition.

All financial liabilities are recognized initially at fair value and, in the case of loans and borrowings, plus directly attributable transaction costs.

Loans and borrowing

After initial recognition, interest bearing loans and borrowings are subsequently measured at amortized cost using the effective interest method. Gains and losses are recognized in surplus or deficit when the liabilities are derecognized as well as through the effective interest method amortization process.

Amortized cost is calculated by taking into account any discount or premium on acquisition and fees or costs that are an integral part of the effective interest rate.

(i) Inventories

Inventory is measured at cost upon initial recognition. To the extent that inventory was received through non-exchange transactions (for no cost or for a nominal cost), the cost of the inventory is its fair value at the date of acquisition.

NOTES TO THE FINANCIAL STATEMENTS

Costs incurred in bringing each product to its present location and conditions are accounted for, as follows:

- Raw materials: purchase cost using the weighted average cost method
- Finished goods and work in progress: cost of direct materials and labor and a proportion of manufacturing overheads based on the normal operating capacity, but excluding borrowing costs

After initial recognition, inventory is measured at the lower of cost and net realizable value. However, to the extent that a class of inventory is distributed or deployed at no charge or for a nominal charge, that class of inventory is measured at the lower of cost and current replacement cost.

Net realizable value is the estimated selling price in the ordinary course of operations, less the estimated costs of completion and the estimated costs necessary to make the sale, exchange, or distribution. Inventories are recognized as an expense when deployed for utilization or consumption in the ordinary course of operations of the Entity.

(j) Provisions

Provisions are recognized when the Entity has a present obligation (legal or constructive) as a result of a past event, it is probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation.

Where the Entity expects some or all of a provision to be reimbursed, for example, under an insurance contract, the reimbursement is recognized as a separate asset only when the reimbursement is virtually certain. The expense relating to any provision is presented in the statement of financial performance net of any reimbursement.

Contingent liabilities

The Entity does not recognize a contingent liability, but discloses details of any contingencies in the notes to the financial statements,

NOTES TO THE FINANCIAL STATEMENTS

unless the possibility of an outflow of resources embodying economic benefits or service potential is remote.

Contingent assets

The Entity does not recognize a contingent asset, but discloses details of a possible asset whose existence is contingent on the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the Entity in the notes to the financial statements. Contingent assets are assessed continually to ensure that developments are appropriately reflected in the financial statements. If it has become virtually certain that an inflow of economic benefits or service potential will arise and the asset's value can be measured reliably, the asset and the related revenue are recognized in the financial statements of the period in which the change occurs.

(k) Nature and purpose of reserves

The Entity creates and maintains reserves in terms of specific requirements.

(l) Changes in accounting policies and estimates

The Entity recognizes the effects of changes in accounting policy retrospectively. The effects of changes in accounting policy are applied prospectively if retrospective application is impractical.

(m) Employee benefits

Retirement benefit plans

The Entity provides retirement benefits for its employees and directors. Defined contribution plans are post employment benefit plans under which an entity pays fixed contributions into a separate entity (a fund), and will have no legal or constructive obligation to pay further contributions if the fund does not hold sufficient assets to pay all employee benefits relating to employee service in the current and prior periods. The contributions to fund obligations for the payment of retirement benefits are charged against income in the year in which they become payable.

NOTES TO THE FINANCIAL STATEMENTS

Defined benefit plans are post-employment benefit plans other than defined-contribution plans. The defined benefit funds are actuarially valued tri-annually on the projected unit credit method basis. Deficits identified are recovered through lump sum payments or increased future contributions on proportional basis to all participating employers. The contributions and lump sum payments reduce the post-employment benefit obligation.

(n) Foreign currency transactions

Transactions in foreign currencies are initially accounted for at the ruling rate of exchange on the date of the transaction. Trade creditors or debtors denominated in foreign currency are reported at the statement of financial position reporting date by applying the exchange rate on that date. Exchange differences arising from the settlement of creditors, or from the reporting of creditors at rates different from those at which they were initially recorded during the period, are recognized as income or expenses in the period in which they arise.

(o) Borrowing costs

Borrowing costs are capitalized against qualifying assets as part of property, plant and equipment. Such borrowing costs are capitalized over the period during which the asset is being acquired or constructed and borrowings have been incurred. Capitalization ceases when construction of the asset is complete. Further borrowing costs are charged to the statement of financial performance.

(p) Related parties

The Entity regards a related party as a person or an entity with the ability to exert control individually or jointly, or to exercise significant influence over the Entity, or vice versa. Members of key management are regarded as related parties and comprise the directors, the CEO and senior managers.

NOTES TO THE FINANCIAL STATEMENTS

(q) Service concession arrangements

The Entity analyses all aspects of service concession arrangements that it enters into in determining the appropriate accounting treatment and disclosure requirements. In particular, where a private party contributes an asset to the arrangement, the Entity recognizes that asset when, and only when, it controls or regulates the services the operator must provide together with the asset, to whom it must provide them, and at what price. In the case of assets other than 'whole-of-life' assets, it controls, through ownership, beneficial entitlement or otherwise – any significant residual interest in the asset at the end of the arrangement. Any assets so recognized are measured at their fair value. To the extent that an asset has been recognized, the Entity also recognizes a corresponding liability, adjusted by a cash consideration paid or received.

(r) Cash and cash equivalents

Cash and cash equivalents comprise cash on hand and cash at bank, short-term deposits on call and highly liquid investments with an original maturity of three months or less, which are readily convertible to known amounts of cash and are subject to insignificant risk of changes in value. Bank account balances include amounts held at the Central Bank of Kenya and at various commercial banks at the end of the financial year. For the purposes of these financial statements, cash and cash equivalents also include short term cash imprests and advances to authorized public officers and/or institutions which were not surrendered or accounted for at the end of the financial year.

(s) Comparative figures

Where necessary comparative figures for the previous financial year have been amended or reconfigured to conform to the required changes in presentation.

NOTES TO THE FINANCIAL STATEMENTS

5. Significant Judgments and Sources of Estimation Uncertainty

The preparation of the Entity's financial statements in conformity with IPSAS requires management to make judgments, estimates and assumptions that affect the reported amounts of revenues, expenses, assets and liabilities, and the disclosure of contingent liabilities, at the end of the reporting period. However, uncertainty about these assumptions and estimates could result in outcomes that require a material adjustment to the carrying amount of the asset or liability affected in future periods.

Estimates and assumptions

The key assumptions concerning the future and other key sources of estimation uncertainty at the reporting date, that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year, are described below. The Entity based its assumptions and estimates on parameters available when the consolidated financial statements were prepared. However, existing circumstances and assumptions about future developments may change due to market changes or circumstances arising beyond the control of the Entity. Such changes are reflected in the assumptions when they occur. IPSAS 1.140

Useful lives and residual values

The useful lives and residual values of assets are assessed using the following indicators to inform potential future use and value from disposal:

- The condition of the asset based on the assessment of experts employed by the Entity
- The nature of the asset, its susceptibility and adaptability to changes in technology and processes
- The nature of the processes in which the asset is deployed
- Availability of funding to replace the asset
- Changes in the market in relation to the asset

Provisions

Provisions were raised and management determined an estimate based

NOTES TO THE FINANCIAL STATEMENTS

on the information available. Additional disclosure of these estimates of provisions is included in Note 24.

Provisions are measured at the management's best estimate of the expenditure required to settle the obligation at the reporting date, and are discounted to present value where the effect is material.

(u) Subsequent events

There have been no events subsequent to the financial year end with a significant impact on the financial statements for the year ended June 30, 2018.

6. Unconditional Government Grants

Operational grants Government of Kenya funding of PPRA operations through Exchequer during the financial year.

	2018 KShs.	2017 KShs.
Operational Grant	360,000,000	360,000,000
Total Government Grants	<u>360,000,000</u>	<u>360,000,000</u>

7. Rendering Services

Appeals fee: Relates to fees paid by parties seeking administrative review of public procurement disputes.

	2018 KShs.	2017 KShs.
Income from appeals	<u>18,393,851</u>	<u>15,333,444</u>

8. Finance Income

This relates to interest earned from short term deposits during the financial year.

	2018 KShs.	2017 KShs.
Gross Interest Income	4,987,800	9,606,986
Total	<u>4,987,800</u>	<u>9,606,986</u>

NOTES TO THE FINANCIAL STATEMENTS

9. Other Income

This includes income from the sources listed below:

	2018 KShs.	2017 KShs.
Disposal Income	0	1,596,312
Insurance recoveries	68,134	0
Total	<u>68,134</u>	<u>1,596,312</u>

10. Employee Costs

This comprises of the wage bill, subsistence allowance paid to employees going out for field assignments and other employee related costs. The Authority's activities are mainly field based. A breakdown of the employee costs is as shown below:

	2018 KShs.	2017 KShs.
Salaries and wages	100,403,749	92,900,999
Contributions to pensions	19,328,600	17,450,821
Housing benefits & allowances	46,772,300	44,383,769
Medical & Personal Accident	16,497,682	13,745,790
Club membership	239,000	411,920
Car Park expenses	6,654,224	5,902,080
Staff recruitment and induction	207,500	123,334
Staff welfare	964,383	1,052,838
Training	7,996,740	4,298,650
Travel, accommodation & subsistence	<u>31,632,397</u>	<u>21,390,128</u>
Total	<u>230,696,575</u>	<u>201,660,329</u>

NOTES TO THE FINANCIAL STATEMENTS

11. Board Expenses

This comprises of all costs related to the Boards.

	2018 KShs.	2017 KShs.
Administrative Review Board expenses	6,921,897	10,986,749
Administrative Review Board Emoluments	33,172,154	31,536,000
Car park expenses	3,173,760	1,336,320
Advisory Board expenses	0	0
Advisory Board Emoluments	0	0
Total	43,267,811	43,859,069

12. General Expenses

Below are the general expenses of the Authority.

	2018 KShs.	2017 KShs.
Description		
Advertising	1,402,220	2,785,400
Branding PPOA	1,820,428	165,460
Corporate Car park expenses	0	445,440
Catering	2,140,481	1,726,382
Conference and delegations	3,406,740	2,189,550
Consumables	285,192	162,276
Corporate Social Investment	299,778	0
Fuel and Oil	1,396,080	1,078,076
Insurance Costs	2,610,227	3,206,891
ISO	1,257,890	255,200
Legal expenses	715,611	1,012,851
Newspapers/Journals	308,569	436,554
Office Expenses	1,299,146	2,115,759
Printing & stationery	6,403,120	2,183,930
Rental	17,804,348	18,665,592
Software upgrades and licences	483,700	334,948
Telecommunication	3,554,656	5,000,535
Trade shows and exhibitions	1,196,000	408,948
Travel Costs	5,705,594	5,265,071
Total	52,089,780	47,438,863

NOTES TO THE FINANCIAL STATEMENTS

13. Repairs and Maintenance

The Authority spent Ksh 5,389,624 on maintenance of vehicles, equipment, computers and general maintenance. A breakdown of the expenditure is shown below:

	2018 KShs.	2017 KShs.
Vehicles	992,282	812,655
Equipment	3,831,854	2,004,990
Property	565,488	439,718
Total	<u>5,389,624</u>	<u>3,257,363</u>

14. Contracted Services

These are services outsourced by the Authority.

	2018 KShs.	2017 KShs.
Audit fees	858,400	858,400
Cleaning Services Fees	1,734,917	1,527,344
Security Costs	1,710,774	2,389,396
Consultancy Fees	19,750,310	37,259,740
Total	<u>24,054,401</u>	<u>42,034,880</u>

15. Finance Costs

	2018 KShs.	2017 KShs.
Withholding Tax on Interest Income	0	2,035,456
Bank charges	239,416	249,942
Total	<u>239,416</u>	<u>2,285,398</u>

16. Depreciation and Amortization

	2018 KShs.	2017 KShs.
Property and equipment	16,723,809	18,674,378
Intangible assets	4,066,126	1,568,109
Total	<u>20,789,935</u>	<u>20,242,487</u>

NOTES TO THE FINANCIAL STATEMENTS

17. Cash and cash equivalents

	2018 KShs.	2017 KShs.
Bank	533,545,046	545,047,730
Cash on hand and in transit	0	0
Short-term deposits	<u>98,347,600</u>	<u>0</u>
Total	<u>631,892,646</u>	<u>545,047,730</u>

18. Receivables from exchange transactions

	2018 KShs.	2017 KShs.
Prepaid Car Park	0	9,771,840
Contracted Services	391,500	4,034,470
Prepaid Insurance	9,748,700	8,999,763
Prepaid newspapers	226,593	0
Guarding & Receptionist Services	0	0
Air Ticketing Services	0	0
Prepaid fuel	0	0
Employee Costs	0	2,092,200
Rent Deposit - Mombasa Office	<u>364,000</u>	<u>364,000</u>
Total	<u>10,730,793</u>	<u>25,262,273</u>

19. Receivables from non-exchange transactions

	2018 KShs.	2017 KShs.
Imprest advance	4,793,230	2,237,228
Salary advance	<u>1,124,984</u>	<u>926,671</u>
Total	<u>5,918,214</u>	<u>3,163,899</u>

NOTES TO THE FINANCIAL STATEMENTS

20. Property, Plant & Equipment

	Motor Vehicles KShs.	Equipment & Computers KShs.	Furniture & Fittings KShs.	Office Partitions KShs.	Total KShs.
Cost					
At 1st July 2016	68,041,313	43,929,310	13,223,377	45,158,491	170,352,491
Additions	0	8,994,458	2,420,577	0	11,415,035
Transfers/ adjustments	0	0	0	0	0
At 30th June 2017	68,041,313	52,923,768	15,643,954	45,158,491	181,767,526
Additions	0	8,991,986	297,500	0	9,289,486
Transfers/ adjustments	0	(35,000)	0	0	(35,000)
At 30th June 2018	<u>68,041,313</u>	<u>61,880,754</u>	<u>15,941,454</u>	<u>45,158,491</u>	<u>191,022,012</u>
Depreciation & Impairment					
At 1st July 2016	38,417,881	39,124,972	9,187,485	44,744,685	109,185,318
Depreciation	11,229,019	5,810,591	1,565,800	68,968	18,674,378
Transfers/ adjustments	0	0	0	0	0
At 30th June 2017	49,646,900	44,935,563	10,753,285	44,813,653	127,859,696
Depreciation	8,994,992	6,656,002	1,003,847	68,968	16,723,809
Disposals	0	0	0	0	0
Transfers/ adjustments	0	(35,000)	0	0	(35,000)
At 30th June 2018	<u>58,641,892</u>	<u>51,556,565</u>	<u>11,757,132</u>	<u>44,882,621</u>	<u>144,548,505</u>
Net book values					
At 30th June 2018	<u>9,399,421</u>	<u>10,324,189</u>	<u>4,184,322</u>	<u>275,870</u>	<u>24,183,802</u>
At 30th June 2017	<u>18,394,413</u>	<u>7,988,205</u>	<u>4,890,669</u>	<u>344,838</u>	<u>31,618,125</u>

NOTES TO THE FINANCIAL STATEMENTS

Note:

FY 2016/2017 additions for asset class computer was overstated by Ksh 35,000. FY 2016/2017 depreciation charge for asset class computer was also overstated by Ksh 35,000

21. Intangible assets

Intangible assets comprises ICT Systems and software used by the Authority in its operations.

	2018 KShs.	2017 KShs.
Cost		
At beginning of the year	36,799,840	34,480,513
Additions	7,691,330	2,319,327
At end of the year	44,491,170	36,799,840
Amortization and Impairment		
At beginning of the year	34,236,070	32,667,961
Amortization	4,066,126	1,568,109
Transfers/adjustments	0	0
At end of the year	38,302,196	34,236,070
Net book value	6,188,974	2,563,770

22. Work In Progress

Implementation of the fleet management system and upgrade from Microsoft Navision 2009 to Microsoft Navision 2015 was ongoing as at 30.06.2018. The intangible assets will be recognized once the projects are completed, commissioned and handed over to the Authority.

Details	2018 KShs.	2017 KShs.
Navision upgrade to 2015	5,760,432	5,760,432
Fleet Management System	945,000	945,000
HRMIS - Netcom Information System	0	4,626,660
Balance as at 30th June 2016	6,705,432	11,332,092

NOTES TO THE FINANCIAL STATEMENTS

28. Cash generated from operations

A computation of the net cash flows generated from operating activities during the year under review is as below:

	2018 KShs.	2017 KShs.
Surplus / Deficit for the year	6,922,243	25,758,353
Adjusted for:		
Depreciation	16,723,809	18,674,378
Amortization of intangible assets	4,066,126	1,568,109
Adjustment for prior year overstated depreciation charge	(35,000)	
Cash flows from operating activities before working capital changes	27,677,178	46,000,840
Working capital changes		
Increase/(Decrease) in Trade and other payables	59,216,396	83,241,355
Decrease/(Increase) in receivables and prepayments	12,177,699	(15,309,863)
Decrease/(Increase) in Work In Progress	4,626,660	(8,678,630)
Increase/(Decrease) in provisions	92,800	92,800
Net Cash flows from Operating Activities	103,790,733	105,346,502

29. Financial Risk Management

The Authority's activities expose it to a variety of financial risks including credit and liquidity risks. The overall risk management programme focuses on unpredictability of changes in the business

30. Contingent Assets

The Authority had no contingent assets as at 30th June 2018.

31. Contingent Liabilities

Litigation Matters: As at 30th June 2018, there were some cases before

NOTES TO THE FINANCIAL STATEMENTS

the courts in which the Authority is a party that had not been concluded. The outcome of the cases and the likely costs of the suits (damages/other court awards) that the Authority may have to bear cannot be estimated with certainty. This disclosure has been provided in conformity with IPSAS 19.

32. Subsequent Events

There were no subsequent events after year end that affect the Authority and that would affect the decisions made by a third party.

33. Operating Lease Rentals

The Authority has two rental lease agreements under which it will pay Ksh 19,856,602 over the next 2 years. The details are as below:

Lease with National Bank of Kenya:

Period	2018	2017
Not later than 1 year	16,208,448	16,208,448
Later than 1 year and not later than 5 years	0	16,208,448
Later than 5 years	0	0
Total	16,208,448	32,416,896

Lease with Mombasa Trade Centre:

Period	2017	2016
Not later than 1 year	1,824,077	1,520,064
Later than 1 year and not later than 5 years	1,824,077	3,648,154
Later than 5 years	0	0
Total	3,648,154	5,168,218

34. Currency

The financial statements are presented in Kenya Shillings (Kshs).

NOTES TO THE FINANCIAL STATEMENTS

35. Progress on Follow Up of Auditor Recommendations

There were no audit queries arising from audit of FY 2016/2017 financial statements.

Ref No. on the external audit Report	Issue / Observations from Auditor	Management comments	Focal Point person to resolve the issue (Name and designation)	Status: (Resolved / Not Resolved)	Timeframe: (Put a date when you expect the issue to be resolved)
FY 2016/17 audit report	None	N/A	N/A	N/A	N/A

APPENDIX 1: INTER-ENTITY TRANSFERS

ENTITY NAME: PUBLIC PROCUREMENT REGULATORY AUTHORITY				
Breakdown of Transfers from The National Treasury				
FY 2017/2018				
a	Recurrent Grants			
	Details	Bank Statement Date	Ksh	FY to which amount relates
	Quarter 1 Exchequer	31-Aug-17	90,000,000	FY 2017/18
	Quarter 2 Exchequer	27-Oct-17	90,000,000	FY 2017/18
	Quarter 3 Exchequer	29-Jan-18	90,000,000	FY 2017/18
	Quarter 4 Exchequer	24-May-18	90,000,000	FY 2017/18
	Total		360,000,000	
b	Development Grants			
	Details	Bank Statement Date	Ksh	FY to which amount relates
	Quarter 1 Exchequer	07-Sep-17	15,000,000	FY 2017/18
	Quarter 1 Exchequer	24-Oct-17	15,000,000	FY 2017/18
	Quarter 3 Exchequer	01-Mar-18	15,000,000	FY 2017/18
	Quarter 3 Exchequer	02-May-18	15,000,000	FY 2017/18
	Total		60,000,000	
c	Direct Payments -Refund of salary for staff on secondment to IFMIS			
	Details	Bank Statement Date	Ksh	FY to which amount relates
	Refund	27-Oct-17	2,921,400	FY 2016/17 Ksh 2,092,200 FY 2017/18 Ksh 829,200
	Refund	17-May-18	3,336,122	FY 2017/18
	Total		6,257,522	

The above amounts have been communicated to and reconciled with The National Treasury (Parent Ministry)

C. Sakwa

Manager, Finance