

PARLIAMENT
OF KENYA
LIBRARY



Approved
Nanyo
12.08.2026

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FIFTH SESSION – 2026

DIRECTORATE OF DEPARTMENTAL COMMITTEES

**DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL
PLANNING**

REPORT ON:

**THE CONSIDERATION OF THE REPORT ON THE PRESIDENT'S
RESERVATION TO THE PUBLIC PROCUREMENT AND ASSET
DISPOSAL (AMENDMENT) BILL 2024**

**THE NATIONAL ASSEMBLY
PAPERS LAD**

DATE: 12 AUG 2026

DAY.

Wednesday

**TABLED
BY:**

Vice Chairman
Hon. Benjamin Heng

**CLERK-AT
THE-TABLE:**

Halima Ahmed

The Directorate of Departmental Committees
Clerk's Chambers
Parliament Buildings
NAIROBI



AUGUST 2026

TABLE OF CONTENTS

ANNEXURES	iv
CHAIRPERSON'S FOREWORD	v
CHAPTER ONE	1
1.0 PREFACE	1
1.1 ESTABLISHMENT AND MANDATE OF THE COMMITTEE	1
1.2 COMMITTEE MEMBERSHIP	2
1.3 COMMITTEE SECRETARIAT	3
CHAPTER TWO	4
2.0 OVERVIEW OF THE PRESIDENTIAL MEMORANDA OF REFERRAL OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL (AMENDMENT) BILL, 2024 ..	4
2.1 Background	4
2.2 Legislative Process	4
CHAPTER THREE	5
3.0 CONSIDERATION OF THE PRESIDENT'S RESERVATION ON THE PUBLIC PROCUREMENT AND ASSET DISPOSAL (AMENDMENT) BILL, 2024	5
3.1 Legislative Framework	5
3.2 Consideration of the President's Reservations	5
CHAPTER FIVE	12
5.0 COMMITTEE RECOMMENDATION	12

LIST OF ABBREVIATIONS AND ACRONYMS

Amb.	Ambassador
CBS	Chief of the Order of the Burning Spear
CPA	Certified Public Accountant
CRA	Commission on Revenue Allocation
Dr.	Doctor
FCPA	Fellow of the Institute of Certified Public Accountants
Hon.	Honourable
HSC	Head of State Commendation
MP	Member of Parliament
ODM	Orange Democratic Movement
PPRA	Public Procurement Regulatory Authority
Rt. Hon.	Right Honourable
UDA	United Democratic Alliance
UDM	United Democratic Movement
WDM	Wiper Democratic Movement

ANNEXURES

Annexure 1: Adoption Schedule

Annexure 2: Minutes of the Committee on consideration of the referral

Annexure 3: The Message and Memorandum on the President's Referral of the Public Procurement and Asset Disposal (Amendment) Bill, 2024

CHAIRPERSON'S FOREWORD

This Report contains the proceedings of the Departmental Committee on Finance and National Planning on its consideration of the President's reservation on the Public Procurement and Asset Disposal (Amendment) Bill, 2024. On Tuesday, 28th July, 2026, the Rt. Hon. Speaker conveyed a message from His Excellency the President, referring the Bill, accompanied by a memorandum, to the Committee for reconsideration.

The message from His Excellency the President, dated 3rd July 2026, stated that His Excellency the President declined to assent to the Public Procurement and Asset Disposal (Amendment) Bill, 2024 and attached memorandum of referral detailing the reasons for declining to assent, in exercise of the powers conferred to him by Article 115(1)(b) of the Constitution.

The Public Procurement and Asset Disposal (Amendment) Bill, 2024 was considered by both Houses of Parliament. The Bill, sponsored by Hon. FCPA Kuria Kimani, CBS, was published on 1st November 2024 vide Kenya Gazette Supplement No.194 and was read a First time in the National Assembly on 13th November, 2025.

The Bill was passed, with amendments, by the National Assembly on 28th November, 2024 with amendments. Thereafter, the Bill was forwarded to the Senate, which considered and passed it on 12th May, 2026 without amendments and referred it back to the National Assembly for consideration.

In compliance with Article 115 (2) of the Constitution and Standing Order 154, the Committee considered the President's reservations on Tuesday, 4th August 2026.

The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its consideration of the Bill. Similarly, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made invaluable contributions towards the preparation and production of this report.

On behalf of the Departmental Committee on Finance and National Planning and pursuant to the provisions of Standing Order 199(6), it is my pleasure to report that the Committee has considered the President's reservation on the Public Procurement and Asset Disposal (Amendment) Bill, 2024 and wish to report to this august House with the recommendation that the House **agrees** with His Excellency the President, pursuant to Article 115(2)(a) of the Constitution.

Hon. FCPA. Kuria Kimani, CBS, M.P

Chairperson, Departmental Committee on Finance and National Planning

CHAPTER ONE

1.0 PREFACE

1.1 ESTABLISHMENT AND MANDATE OF THE COMMITTEE

1. The Departmental Committee on Finance and National Planning is one of twenty departmental committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows:
 - a) *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
 - b) *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
 - c) *To, on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
 - d) To study and review all legislation referred to it;**
 - e) *To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - f) *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;*
 - g) *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
 - h) *To examine treaties, agreements and conventions;*
 - i) *To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation;*
 - j) *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - k) *To examine any questions raised by Members on a matter within its mandate.*
2. The Second Schedule to the National Assembly Standing Orders assigns the Committee the mandate to consider matters in relation to public finance, public audit policies, monetary policies, financial institutions, economy, investment policies, competition, banking, insurance, national statistics, population, revenue policies including taxation, national planning and development, digital finance, including digital currency.
3. In executing its mandate, the Committee oversees the following Ministries/Departments:
 - a) The National Treasury.
 - b) State Department for Economic Planning.
 - c) State Department for Public Investments and Asset Management.
 - d) The Commission on Revenue Allocation (CRA)
 - e) Office of the Controller of Budget

I.2 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Finance and National Planning was constituted by the House on 27th October 2022 and further reconstituted on Wednesday, 5th March 2025 and Thursday, 28th May 2026. The Committee comprises the following Members:

Chairperson

Hon. FCPA Kuria Kimani, CBS, MP
Molo Constituency
UDA Party

Vice-Chairperson

Hon. (Amb.) FCPA Langat Benjamin Kipkirui, CBS, MP
Ainamoi Constituency
UDA Party

Members

Hon. Peter Kaluma, CBS, MP
Homa Bay Town Constituency
ODM Party

Hon. FCPA Oyula, Joseph H. Maero, MP
Butula Constituency
ODM Party

Hon. Mboni, David Mwalika, MP
Kitui Rural Constituency
WDM Party

Hon. Okuome Adipo Andrew, MP
Karachuonyo Constituency
ODM Party

Hon. Chiforomodo, Munga, MP
Lunga Lunga Constituency
UDM Party

Hon. CPA Rutto Julius Kipletting, MP
Kesses Constituency
UDA Party

Hon. Paul Biego, MP
Chesumei Constituency
UDA Party

Hon. Sunkuyia, R. George, MP
Kajiado West Constituency
UDA Party

Hon. Dr. Gathoni Wamuchomba, HSC, MP
Githunguri Constituency
UDA Party

Hon. Sheikh Umul Sheikh, MP
Mandera County
UDM Party

Hon. (Dr.) Shadrack Mwiti, MP
South Imenti Constituency
Jubilee Party

Hon. (Dr.) Ariko John Namoit, MP
Turkana South Constituency
ODM Party

Hon. Machele M. Soud, MP
Mvita Constituency
ODM Party

I.3 COMMITTEE SECRETARIAT

5. The Committee is facilitated by the following staff:

Ms. Tracy Chebet
Principal Clerk Assistant II

Ms. Jennifer Ndeto
Deputy Director, Legal Services

Mr. Benson Kamande
Clerk Assistant III

Ms. Winfred Kambua
Clerk Assistant III

Mr. Salem Lorot
Senior Legal Counsel

Mr. Eugene Luteshi
Audio Officer III

Ms. Nelly W. Ondieki
Research Officer III

Mr. George Ndenjeshe
Fiscal Analyst II

Mr. James Macharia
Media Relations Officer

Ms. Joyce Wachera
Hansard Reporter II

Mr. Benson Muthuri
Assistant Serjeant-At-Arms

Mr. Jared Onyancha
Protocol Officer

Mr. Allan Ngugi
Administrative Officer II

CHAPTER TWO

2.0 OVERVIEW OF THE PRESIDENTIAL MEMORANDA OF REFERRAL OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL (AMENDMENT) BILL, 2024

2.1 Background

6. On Tuesday, 28th July, 2026, the Rt. Hon. Speaker conveyed a Message from His Excellency, the President, referring the Public Procurement and Asset Disposal (Amendment) Bill, 2024, accompanied by a memorandum, to the Departmental Committee on Finance and National Planning.
7. The Message from His Excellency the President, dated 3rd July, 2026, stated that His Excellency the President declined to assent to the Public Procurement and Asset Disposal (Amendment) Bill, 2024 and attached memorandum of referral detailing the reasons for declining to assent, pursuant to Article 115(1)(b) and (2)(a) of the Constitution.

2.2 Legislative Process

8. The Public Procurement and Asset Disposal (Amendment) Bill, 2024 was considered by both Houses of Parliament. The Bill, sponsored by Hon. FCPA Kuria Kimani, CBS, was published on 1st November, 2024 vide Kenya Gazette Supplement No.194 and was read a First time on 13th November, 2025 in the National Assembly.
9. The National Assembly passed the Bill with amendments on 28th November, 2024. Thereafter, the Bill was forwarded to the Senate, which considered and passed it on 12th May, 2026 without amendments and referred it back to the National Assembly for consideration, thereby concluding the bicameral consideration of the Bill.

CHAPTER THREE

3.0 CONSIDERATION OF THE PRESIDENT'S RESERVATION ON THE PUBLIC PROCUREMENT AND ASSET DISPOSAL (AMENDMENT) BILL, 2024

3.1 Legislative Framework

10. Article 115 of the Constitution makes provision on Presidential assent and referral. Article 115(1) of the Constitution provides that within fourteen days after receipt of a Bill, the President shall assent to the Bill or refer the Bill back to Parliament for reconsideration, noting any reservations that the President has concerning the Bill.
11. Article 115(2) of the Constitution provides that if the President refers a Bill back for reconsideration, Parliament may amend the Bill in light of the reservations of the President; or pass the Bill a second time without amendment.
12. Article 115(3) of the Constitution provides that if Parliament amends the Bill fully accommodating the reservations of the President, the Speaker shall re-submit the Bill to the President for assent.
13. Article 115(4) of the Constitution provides that Parliament may pass the Bill a second time, without amendment, or with amendments that do not fully accommodate the reservations from the President, by a vote supported by two-thirds of members of the National Assembly.

3.2 Consideration of the President's Reservations

14. Below is an analysis of the memorandum of referral of the Public Procurement and Asset Disposal (Amendment) Bill, 2024 detailing the reasons by His Excellency the President for declining to assent to the Bill —

Clause 2

15. The President recommended that Clause 2 of the Bill be amended by—
 - a) deleting the proposed new definition of “foreign firm”;
 - b) deleting the proposed new definition of “local firm”.

Justification

The proposed definition of a “foreign firm” is inconsistent with the Government's overarching policy of promoting investment, improving the ease of doing business, and attracting foreign direct investment into Kenya.

In particular, the proposed definition departs from the legislative approach adopted under the Companies Act, Public-Private Partnerships Act and the National Infrastructure Fund framework, all of which recognise companies incorporated in Kenya as Kenyan entities irrespective of the nationality of their shareholders. The proposed amendment would therefore introduce an inconsistent statutory standard governing the legal status of business entities operating within the country.

As drafted, the definition would classify as “foreign firms” a broad category of companies that are lawfully incorporated in Kenya, including entities with minority foreign shareholding, infrastructure special purpose vehicles, companies financed by development finance institutions, and other Kenyan enterprises with international equity participation. Such a classification would create legal uncertainty, undermine investor confidence, and discourage capital inflows by subjecting Kenyan-incorporated entities to differential treatment solely on account of their ownership structure.

The proposed amendment would also have significant implications for the implementation of strategic infrastructure and development projects, many of which are structured through blended public and private financing arrangements involving both domestic and international investors. In effect, the amendment risks undermining the very investment framework established by Government to mobilise private capital for national development and could diminish Kenya’s competitiveness as a preferred regional investment destination.

Clause 3

16. The President recommended that the Bill be amended by deleting Clause 3.

Justification

Clause 3 of the Bill seeks to amend section 4 of the Public Procurement and Asset Disposal Act on foreign-funded procurement. This matter is already addressed under the existing legal framework, including bilateral and multilateral financing agreements and the Regulations. The proposed amendment may create uncertainty in donor-funded, development finance, public-private partnerships and infrastructure financing arrangements.

Clause 6

17. The President recommended that the Bill be amended by deleting Clause 6.

Justification

Clause 6 of the Bill proposes to amend section 33 of the Public Procurement and Asset Disposal Act to require that goods and services manufactured in the

respective county to be prioritized. This is already addressed under the existing preference and reservation framework and may be better implemented through procurement plans, tender documents and administrative guidelines.

Clause 7

18. The President recommended that the Bill be amended by deleting Clause 7.

Justification

Clause 7 of the Bill proposes to amend section 35 of the Public Procurement and Asset Disposal Act to require the referral of procurement offences to investigative agencies. This duplicates the existing investigative and referral powers under the Act and other investigative laws.

Clause 8

19. The President recommended that the Bill be amended by deleting Clause 8.

Justification

Clause 8 of the Bill proposes to repeal section 40 of the Public Procurement and Asset Disposal Act, which safeguards the jurisdiction and effectiveness of the Public Procurement Administrative Review Board by precluding parallel investigations or proceedings in respect of matters that are subject to review before the Board, except where new and material information subsequently emerges.

The proposed repeal would dismantle this statutory safeguard and create concurrent avenues for the determination of procurement disputes, thereby giving rise to jurisdictional overlap, duplicative proceedings and conflicting decisions. In effect, it would undermine the established statutory hierarchy for the review of procurement decisions, under which challenges to decisions of procuring entities are, in the first instance, determined by the Review Board before recourse may be had to other oversight or adjudicative mechanisms.

Clause 10

20. The President recommended that the Bill be amended by deleting Clause 10.

Justification

Clause 10 of the Bill proposes to amend section 44 of the Public Procurement and Asset Disposal Act to require accounting officers to prioritise locally produced products and technology transfer plans. These matters are already addressed under the preference and reservation framework and are better dealt with through regulations, tender documents and sector-specific guidelines.

Clause 11

21. The President recommended that the Bill be amended by deleting Clause 11.

Justification

Clause 11 of the Bill proposes to amend section 53 of the Public Procurement and Asset Disposal Act to require that the procurement of up to one billion shillings to be awarded to local firms, and to require that foreign firms in procurements above one billion shillings must enter into joint venture procurement with local firms for not less than thirty per cent of the procurement value. The proposed amendment also creates new offences relating to registration of companies by or on behalf of foreigners. This proposal is overly rigid, may discourage foreign investment, duplicates existing preference and reservation provisions, and may conflict with the Public Private Partnerships Act and the National Infrastructure Fund Act, 2026.

Clause 12

22. The President recommended that the Bill be amended by deleting Clause 12.

Justification

Clause 12 of the Bill proposes to amend section 70 of the Public Procurement and Asset Disposal Act to require tender documents for procurements above one billion shillings to specify goods, works and services to be undertaken by local firms under joint venture procurement. This is an operational matter that should be dealt with in tender documents and not fixed in primary legislation.

Clause 13

23. The President recommended that the Bill be amended by deleting Clause 13.

Justification

Clause 13 of the Bill proposes to amend section 81 of the Public Procurement and Asset Disposal Act to provide for the process of clarification of tenders. The amendment is unnecessary because the existing provision already prevents a clarification from changing the terms of the tender.

Clause 14

24. The President recommended that the Bill be amended by deleting Clause 14.

Justification

Clause 14 of the Bill proposes to amend section 83 of the Public Procurement and Asset Disposal Act to prescribe specific due diligence actions. Due diligence is procurement-specific and should remain flexible depending on the nature,

complexity and scope of the procurement. This is better addressed through tender documents and PPRA Guidelines.

Clause 15

25. The President recommended that the Bill be amended by deleting clause 15.

Justification

Clause 15 of the Bill proposes to amend section 86 of the Public Procurement and Asset Disposal Act to bar citizen contractors from subcontracting foreign companies unless the relevant knowledge, skills, goods or services are unavailable locally. This may delay project delivery, restrict access to specialized expertise and conflict with technology transfer objectives.

Clause 16

26. The President recommended that the Bill be amended by deleting Clause 16.

Justification

Clause 16 of the Bill proposes to amend section 89 of the Public Procurement and Asset Disposal Act to require an advisory from the Attorney-General on the propriety of funding where a foreign tenderer participates. This may delay procurement processes and create uncertainty, especially where projects are already budgeted for, financed under approved instruments, or structured under public-private partnerships or infrastructure financing frameworks.

Clause 18

27. The President recommended that the Bill be amended by deleting Clause 18.

Justification

Clause 18 of the Bill proposes to amend section 136 of the Public Procurement and Asset Disposal Act to provide for the notification and award of the tender to the next evaluated tenderer. These matters are already addressed under sections 87, 136 and 167 of the Act.

Clause 19

28. The President recommended that the Bill be amended by deleting Clause 19.

Justification

Clause 19 of the Bill proposes to amend section 139 of the Public Procurement and Asset Disposal Act to provide for contract variations. This clause should be reconsidered because changes to variation rules may reintroduce mischief previously cured by Parliament, particularly in relation to professional services and contract variation controls.

Clause 20

29. The President recommended that the Bill be amended by deleting Clause 20.

Justification

Clause 20 of the Bill proposes to introduce a new section 139A in the Public Procurement and Asset Disposal Act to provide for prompt payment by procurement entities. The objective is commendable, but prompt payment is already addressed under the Act and regulations made thereunder, including section 150 and the relevant regulations.

Clause 21

30. The President recommended that the Bill be amended by deleting Clause 21.

Justification

Clause 21 of the Bill proposes to amend section 149 of the Public Procurement and Asset Disposal Act to provide for subcontracting to citizen and foreign contractors. This overlaps with clause 15 and the existing preference and reservation framework and may unnecessarily restrict project-specific subcontracting arrangements.

Clause 22

31. The President recommended that the Bill be amended by deleting Clause 22.

Justification

Clause 22 of the Bill proposes to amend section 150 of the Public Procurement and Asset Disposal Act to create new offences relating to accounting officers and heads of procurement. This is unnecessary because accountability for procurement approvals, delegated authority and sanctions is already addressed under the Act.

Clause 23

32. The President recommended that the Bill be amended by deleting Clause 23.

Justification

Clause 23 of the Bill proposes to amend section 155 of the Public Procurement and Asset Disposal Act to provide for matters relating to locally available skilled and unskilled labour. This is already addressed under the existing preference and reservation framework and may be addressed through tender documents and local content guidelines.

Clause 24

33. The President recommended that the Bill be amended by deleting clause 24.

Justification

Clause 24 of the Bill proposes to amend section 157 of the Public Procurement and Asset Disposal Act to increase the threshold for exclusive preference and to require foreign tenderers in international tenders to source at least forty per cent of supplies from citizen contractors prior to tender submission.

The threshold is already capable of being prescribed by the Cabinet Secretary through Regulations, and the forty per cent sourcing requirement is impractical before a tenderer has been awarded a contract.

Clause 25

34. The President recommended that the Bill be amended by deleting Clause 25.

Justification

Clause 25 of the Bill proposes to amend section 175 of the Public Procurement and Asset Disposal Act to omit the timelines for procurement judicial review. Procurement disputes are time-sensitive and the existing timelines are intended to prevent the delay of public projects and programmes.

Clause 26

35. The President recommended that the Bill be amended by deleting Clause 26.

Justification

Clause 26 of the Bill proposes to amend section 176 of the Public Procurement and Asset Disposal Act to provide for substandard works, goods or services. The conduct targeted is already addressed under existing procurement offenses, fraudulent practices, inspection, certification and contract.

Clause 27

36. The President recommended that the Bill be amended by deleting clause 27.

Justification

Clause 27 of the Bill proposes to amend section 177 of the Public Procurement and Asset Disposal Act on general penalties. This should be reconsidered because sections 176 and 177 already provide penalties and sanctions, including fines, imprisonment, disciplinary action, debarment, disqualification from contracting, voiding of contracts and complaints to professional bodies.

CHAPTER FIVE

5.0 COMMITTEE RECOMMENDATION

37. The Committee having considered the President's reservations on the Public Procurement and Asset Disposal (Amendment) Bill, 2024 recommends that the House **agrees** with His Excellency the President, pursuant to Article 115(2)(a) of the Constitution.

SIGNED..........DATE.....10th Aug 2024.....

HON. FCPA KURIA KIMANI, CBS, MP
CHAIRPERSON
DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL
PLANNING

 THE NATIONAL ASSEMBLY PAPERS AND	
DATE: 12 AUG 2024	
D.Y. Wednesday	
TABLED BY:	Vice chairperson Hon. Benjamin Lanyi CBS, MP
CLERK AT THE TABLE:	Halima Ahmed

