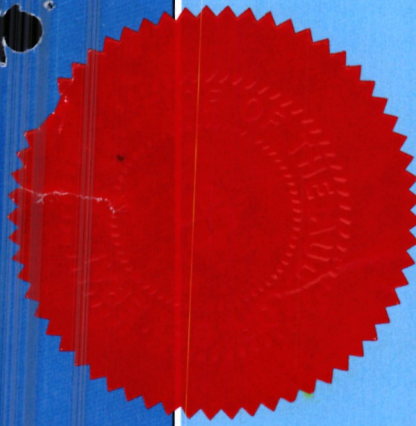


REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY PAPPOG I AD	
DATE: 26 APR 2023	Day: Wednesday
TABLED	Hon. Naomi Wago Deputy Majority Whip
CLERK-AT-THE-TABLE:	Finlay Mundi

**REPORT**

**OF**

**THE AUDITOR-GENERAL**

**ON**

**PUBLIC PROCUREMENT REGULATORY  
AUTHORITY**

**FOR THE YEAR ENDED  
30 JUNE, 2022**



# PPRA

PUBLIC PROCUREMENT  
REGULATORY AUTHORITY

OFFICE OF THE AUDITOR GENERAL  
P. O. Box 30084 - 00100, NAIROBI  
REGISTRY

20 FEB 2023

RECEIVED

## **ANNUAL REPORT AND FINANCIAL STATEMENTS FOR THE YEAR ENDED 30TH JUNE 2022**

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

31

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## KEY ENTITY INFORMATION AND MANAGEMENT

### a) Background Information

The Public Procurement Regulatory Authority (the Authority) is established under Section 8 (1) of the Public Procurement and Disposal Act, 2015 (PPADA, 2015) 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 of Kenya, 2010. To ease access to its services, the Authority has four (4) regional offices situated in Mombasa, Kisumu, Eldoret and Nakuru.

### b) Vision, Mission and Core values

#### **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.

#### **Core values**

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

## KEY ENTITY INFORMATION AND MANAGEMENT CONTINUED

### c) Principal Activities

The Authority has a mandate to among other functions; monitor, assess and review the Public Procurement and Asset Disposal system in Kenya to ensure they respect the National Values and other provisions of the law including Article 227 of the Constitution of Kenya, 2010.

The functions of the Authority as spelt out under section 9 of the PPADA, 2015, include:

- (a) Monitor, assess and review the public procurement and asset disposal system to ensure that they respect the national values and other provisions of the Constitution, including Article 227 and make recommendations for improvements;
- (b) Monitor the public procurement system and report on the overall functioning of it and present to the Cabinet Secretary and the county executive member for finance in each county, such other reports and recommendations for improvements;
- (c) Enforce any standards developed under the Act;
- (d) Monitor classified procurement information, including that of specific items of security organs and make recommendations to the Cabinet Secretary;
- (e) Monitor the implementation of the preference and reservation schemes by procuring entities;
- (f) Prepare, issue and publish standard public procurement and asset disposal documents and formats to be used by public entities and other stakeholders;
- (g) Provide advice and technical support upon request;
- (h) 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;
- (i) Research on the public procurement and asset disposal system and any developments arising from the same;
- (j) Advise the Cabinet Secretary on the setting of standards including international public procurement and asset disposal standards;
- (k) Develop and manage the State portal on procurement and asset disposal and ensure that it is available and easily accessible;

**KEY ENTITY INFORMATION AND MANAGEMENT CONTINUED**

- (l) Monitor and evaluate the preference and reservations provided for under the Act and provide quarterly reports;
- (m) 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
- (n) Inform as applicable, the Cabinet Secretary, Parliament, the relevant County Executive member for finance, the relevant County Assembly or Auditor-General on issues of 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;
- (o) Generally, report to Parliament and the relevant County Assembly;
- (p) Develop a code of ethics to guide procuring entities and winning bidders when undertaking public procurement and asset disposal with State organs and public entities;
- (q) 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;
- (r) Ensure the procurement entities implement the preference and reservations and provide data to the Authority disaggregated to indicate the number of disadvantaged groups that have benefitted;
- (s) Perform such other functions and duties as are provided for under the Act and any other relevant law.

## KEY ENTITY INFORMATION AND MANAGEMENT CONTINUED

### d) Key Management

The Authority's day-to-day management is under the following key organs:

- The Public Procurement Regulatory Board
- Director General
- Management

### e) Fiduciary Management

The key management personnel who held office during the financial year ended 30th June 2022 and who had direct fiduciary responsibility were:

S/No.	Name	Designation
1.	Patrick K. Wanjuki	Director General. Appointed effective 1 <sup>st</sup> April 2022.
2.	Ms. Pauline Opiyo	Served as Acting Director General from November 2020 up to 31 <sup>st</sup> March 2022.
4.	Rose Nyamweya (Mrs.)	General Manager, Finance & Administration.
5.	Henock K. Kirungu	Appointed General Manager, Technical Services effective 1 <sup>st</sup> March 2022.
6.	Lucy J. Barno	Corporation Secretary and Head of Legal & Corporate Affairs
7.	Chris Sakwa	Manager, Finance
8.	Maximus K. Siwa	Head of Procurement

### f) Fiduciary Oversight Arrangements

The operations of the Authority are guided by the Public Procurement and Asset Disposal Act 2015, Public Finance Management Act 2012, relevant Acts of Parliament and Regulations and the Mwongozo Code of Governance for State Corporations.

Key fiduciary arrangements covering the Authority include:

- The Public Procurement Regulatory Board;
- Audit and Risk Committee;
- Finance and Administration Committee;
- Compliance, Strategy & Communication Committee;
- Parliamentary Oversight Committees;

**KEY ENTITY INFORMATION AND MANAGEMENT CONTINUED**

**g) Entity Headquarters**

P.O. Box 58535-00200,  
KISM Towers, 6<sup>th</sup> Floor,  
Ngong Road,  
Nairobi, Kenya.

**h) Entity Contacts**

Tel: +254 20 3244000  
Email: [info@ppra.go.ke](mailto:info@ppra.go.ke),  
Website: [www.ppra.go.ke](http://www.ppra.go.ke)

**i) Entity Bankers**

National Bank of Kenya  
Harambee Avenue Branch  
P.O. Box 41862-00200  
Nairobi, Kenya

**j) Independent Auditors**

Auditor General  
Office of Auditor General  
Anniversary Towers, University way  
P.O. Box 30084 - 00100  
Nairobi, Kenya

**k) Principal Legal Adviser**

The Attorney General  
State Law Office  
Harambee Avenue  
P.O. Box 40112 - 00100  
Nairobi, Kenya

## THE BOARD OF DIRECTORS

The Act has established two Boards; the Public Procurement Regulatory Board which is the Board of Directors of the Authority, and the Public Procurement Administrative Review Board, an independent quasi-judicial body that presides over public procurement disputes.

### THE PUBLIC PROCUREMENT REGULATORY BOARD

The Public Procurement Regulatory Board (PPRB) is the management Board of the Public Procurement Regulatory Authority. The Regulatory Board is established under section 10(1) of the PPADA 2015. Its main responsibility being oversight of management, operations and activities of the Authority. The PPRB was constituted in September 2018.



#### **Mr Andrew M. Musangi: Board Chairperson**

Mr Musangi is an advocate of the High Court of Kenya with more than 26 years in legal practice. He is the managing partner at Mukite Musangi & Company Advocates and was previously an associate at Sheth & Wathigo Advocates.

He is a previous Chairman of the Law Society of Kenya, Rift Valley Branch and a past Director of the Kenya Rugby Union. From 2005-2012 Mr. Musangi served as a Council member of the Nakuru Business Association. He has also served as a Chairman, of the KRA Local Committee, South Rift Region

Currently Mr Musangi also serves as the Chairman of GenAfrica Asset Managers; and as a Director at Smart Applications and at Resolution Insurance.

He holds a Bachelor of Laws degree (LL.B) (Hons) from University of Hull (UK) and a Postgraduate Diploma in Law from Kenya School of Law

**PUBLIC PROCUREMENT REGULATORY BOARD CONTINUED**



**Commissioner Lydia W. Gachoya: Board Member**

Commissioner Lydia is a seasoned Human Resources specialist having worked in the private sector both locally and internationally up to Director level.

She has previously held the following positions: Head of HR, Unga Ltd; HR Team Leader, UN-The Netherlands; Regional HR Director, Colgate Palmolive and Commissioner, National Gender & Equality Commission.

Currently she serves as the Chairperson of the Finance & Administration Committee of the Public Procurement Regulatory Board. She is also the current Vice President, Regional Women Forum of International Conference of the Great Lakes Region. She also serves in the Board of St. Monica Childrens Orphanage in Machakos.

She holds; Bachelor of Education from the University of Nairobi and a Post Graduate Diploma in Institutional and Project Management.



**Ms. Linda Susan Ingari: Board Member**

Linda is a Supply Chain Management Specialist with over 19 years of experience having worked in the Manufacturing, Education, Telecommunication, Banking, and the Agriculture sector up to senior management level.

She currently serves as the Chairperson of the Compliance, Strategy and Communication Committee of the Regulatory Board.

Linda is also a Trainer and Consultant in Supply Chain Management with over 12 years of experience having facilitated various workshops and lectures in the SCM field. She spearheaded the development of the National Curriculum for Procurement and Supply Profession in Kenya. She currently serves in the Kenya Institute of Supplies Examination Board (KISEB). She holds a First-Class Honors bachelor's degree with a Master of Business Administration from Kenyatta University; Postgraduate Diploma in Procurement and Supply from Chartered Institute of Procurement and Supply (CIPS, UK); an International Diploma in Supply Chain Management from International Trade Centre (ITC, Switzerland) and a Diploma in Business Management from Kenya Institute of Management.

## PUBLIC PROCUREMENT REGULATORY BOARD CONTINUED



### **Mr Paul Nyamodi: Board Member**

Mr. Nyamodi is an Advocate of the High Court of Kenya with vast experience in legal practice. He has been practicing law for more than 22 years. He is the proprietor of V.A Nyamodi & Co Advocates and was previously an Associate at the same firm.

He is also a director at Jamii Bora Bank, at Brook House International Schools and Uhoreru Ltd. He has previously served as a director at the Kenya Rugby Union and as Chairman of the Privatization Appeals Tribunal

Mr Nyamodi is the current Chairman of the Debarment Committee of the Regulatory Board. He holds a Bachelor of Laws (LLB) degree from the University of Central England and a Diploma in Legal Practice from the Kenya School of Law



### **FCPA Jane Wanja Muthaura: Board Member**

FCPA Jane has over 34 years' experience in the fields of Finance, Accounting and Company Secretary. Jane currently serves in among other positions as: Chairperson Salaries and Remuneration Commission (SRC) Audit committee, Director – Mhasibu Sacco, Director -Empire microsystem, Director – Association of Women Accountants of Kenya (AWAK).

She has previously held directorship and senior management positions in various institutions including: Director – Institutional Consultants Ltd, Council member - Institute of Certified Secretaries, Acting CEO – EACC, Director Finance & Admin – Mater Hospital, warehouse manager/chief accountant/Company secretary – East Kenya/Nairobi Bottlers Ltd.

FCPA Muthaura is the current Chairperson of the Audit and Risk Committee of the Regulatory Board. Jane holds Bachelor of Commerce (University of Nairobi, Master of Arts (ongoing) – Pan Africa Christian University. In addition she is a Certified Secretary, Certified Public Accountant, Certified Professional Mediator and Certified Financial Analyst. In addition, she holds professional membership of: Institute of Public Accountant of Kenya (ICPAK), Institute of Certified Secretaries (ICS), Institute of Directors, Kenya Institute of Management, Institute of Certified Investments & Financial Analysts among others.

**PUBLIC PROCUREMENT REGULATORY BOARD CONTINUED**

**Ms. Lilian M. Abishai: Board Member**

Lilian has served as an alternate director at the Kenya Film Commission, and is a current alternate director at Kerio Valley Development Authority. She has a wealth of experience in negotiating high level financing, and contracts on behalf of the Government. She participated in the drafting of the Public Private Partnership legislation for Kenya.



Lilian holds a Bachelor of Laws degree from the University of Nairobi and a Diploma in Legal Studies from the Kenya School of Law.



**Ms. Allyce Kureiya Esintelle: Board Member**

Ms. Esintelle has 25 years of progressive experience in the promotion of good governance practices and social development, having worked with local and international organizations, as well government institutions.

She has served as the Vice Chairperson for the Intergovernmental Relations Technical Committee (IGRTC), one of the intergovernmental institutions established through the Intergovernmental Relations Act 2012.

Some of her key experiences include the strengthening the capacities of local organizations to manage their own development agenda, building strategic relationships between government institutions and the civil societies, and the development of lobby and advocacy strategies for effective and efficient public governance for service delivery.

She has worked with GTZ (now GIZ), a German Bilateral Technical Assistance Programme, and also The Netherlands Development Organization (SNV), an International Development Agency, both in Kenya and Tanzania. She is currently working as the Partnership Portfolio Manager, ChildFund Kenya.

Ms. Esintelle holds a Master of Arts in Leadership and Governance and a Bachelor of Education degree both from Kenyatta University.

## PUBLIC PROCUREMENT REGULATORY BOARD CONTINUED



### **Livingstone Bumbe: Board Member**

Mr Livingstone Bumbe is the alternate to the Cabinet Secretary/National Treasury on the Board. He is a Deputy Director, Debt Management at the National Treasury

He holds a Masters in Public Sector Management from the Africa University, Mutare, Zimbabwe and a Bachelor of Arts from the University of Nairobi.

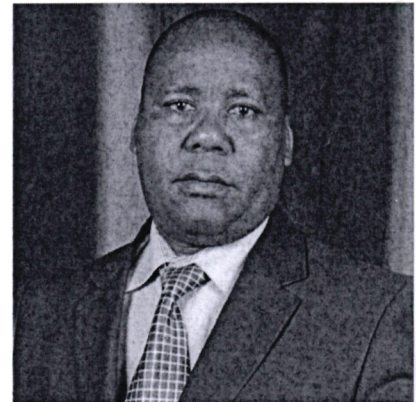
### **Dr. Godfrey Kyalo Makau: Board Member**

Dr. Makau has vast experience in the education sector. He is trained in Business Management, sociology, marketing, information systems management and MIS strategy up to expert level.

He also has sound experience in government high-level leadership, and drawing of policy guidelines for allocation of resources and management of public funds within the public procurement sector.

Dr. Makau offers consultancy services in areas of eCommerce, eBusiness strategy and strategic management.

He is currently serving as a Lecturer at Jomo Kenyatta University of Agriculture and Technology. He holds a PhD. In Business Administration from University of Nairobi and a BA (Sociology, Kiswahili, History and Government) from Kenyatta University.



### **THE PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD**

The PPARB is established under section 27 (1) of the Act. It is a central independent procurement appeals Review Board. The functions of the PPARB 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. The profiles of members of the PPARB are provided below.



#### **Faith Waigwa: Chairperson**

Ms. Faith Waigwa is an advocate of the High Court of Kenya and has been practicing law for more than 15 years. She is the Managing Partner of NOW Advocates LLP since March 2011. She has served as: Council member of the Law Society of Kenya, Deputy Secretary General of the East Africa Law Society and Vice President of the Law Society of Kenya. She has served as the Chairperson of the Review Board since 21<sup>st</sup> September, 2018 and her first term is set to expire on 20<sup>th</sup> September, 2021.

She holds a Bachelor of Laws degree (LL.B) (Hons) from the University of Nairobi and a Postgraduate Diploma in Law from Kenya School of Law. She is currently a Post Graduate student at the University of Nairobi pursuing a Master of Laws degree (LL.M) in Environment and Natural Resources Law; with a specific interest in Regulation of Power and Energy and a Master of Laws (LL.M) degree in Oil and Gas at Strathmore University.



#### **Mr. Hussein Were: Member**

Hussein Were has over 27 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.

**PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD CONTINUED**



**Irene N. M. Kashindi: Member**

Mrs. Irene Kashindi is an advocate of the High Court of Kenya, a Commissioner for Oaths and Notary Public with over 12 years' experience as a practicing advocate. She is a partner in the firm of Munyao Muthama and Kashindi Advocates. She was until June 2018 a partner in Hamilton Harrison & Mathews. She has a wealth of experience in commercial and civil litigation as well arbitration.

She has been a Partner and an Advocate in two leading law firms in Kenya, having been an advocate of the High Court of Kenya for over 12 years, six of which at partner level. She is a co-author of the Kashindi's Digest of Employment Cases. She holds a Masters and a Bachelor's Degrees in Law, and a Post-Graduate Diploma in Law, having done her thesis on public procurement.



**Dr. Paul Akida Jilani, DBA, MCIPS, CHSCA, CSSC, CSCA: Member**

Dr. Paul Jilani is a seasoned Supply Chain Specialist with over 15 years' extensive experience in industry procurement, logistics and supply chain management. He has extensive training and expertise in procurement and logistic processes, humanitarian supply chain, operations management, strategic sourcing and management, warehousing and distribution, shipping and imports management among others.

Dr. Jilani has previously worked as a Supply Chain Director, Advisory Contractual Role and been the Chairman of the Tetra Pak Sacco Limited. He has also been a part-time faculty of the KCA and JKUAT universities.

He holds a Doctor of Business Management in Global Supply Chain Management, a Master of Business Administration in Supply Chain Management, a Bachelor of Business Administration in Entrepreneurship, and a Graduate Diploma in Procurement & Supplies Management, UK.

He is a licensed member of the Kenya Institute of Supplies Management; a Certified Executive Coach and an alumnus of the Strathmore Business School Executive Coaching for Managers Program (ICF certified); and Public Policy Executive Program.

**PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD CONTINUED**

**Mr. Jackson Awele Onyango: Member**

Mr. Awele is a partner at Awele Jackson Advocates LLP and a Board Member at the LSK SACCO Board of Management. He was instructed as a pupil and began practice as an Advocate at Kaplan & Stratton and later joined Oraro & Co, Clifford chance LLP and One Essex Court Chambers (London) before founding his current private practice – Awele Jackson Advocates LLP.



Mr. Awele advises and represents local and international clients in criminal, civil, public law and commercial legal disputes including property disputes, private client, insolvencies, labor, shareholder disputes, debt recoveries, redemption actions among others before the High Court, Court of Appeal, the Supreme Court and Chartered Arbitrators.

He holds a Bachelor of Laws degree (Moi University), Postgraduate Diploma in Law (Kenya School of Law) and a Master's in Business Administration (Finance) (University of Nairobi) and various advanced certifications in Intellectual Property and other fields.

**CPA Isabel Juma: Member**



CPA Isabel Juma is a Finance Professional with over 20 years of experience across Education, FMCG and Beverages. Seasoned in leading multi-faceted teams across Strategy, Capital Structuring and Financial Management functions, resulting in improved business efficiency and resource utilization. She currently holds the position of Finance Director in a leading brewing company in the region, and has been a Chief Finance Officer in an international private university.

She holds directorships at the CPF Financial Services Ltd and the Association of Women Accountants of Kenya, and is a member of the Institute of Certified Public Accountants of Kenya).

CPA Isabel is a Certified Public Accountant – Kenya, and a holder of Master in Business Administration and a Bachelor's in International Business Administration from the USIU.

**PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD CONTINUED**



**Nicholas Sauka Mruttu: Member**

Mr. Mruttu has been a successful General Manager & commercial executive with over 20 years' experience in the FMCG, Telecommunications, Mobile Payments & Insurance Sectors, and has become an expert in Insurance; Distribution & the value chain; Budget control & management of sales & revenues in a very large organisation. He has previously held the positions of Head of Sales for a leading digital TV organization in Africa, General Manager – Retail for a leading insurance company in Kenya, and Head of Sales for two other leading telcom companies.

He holds, a Global MBA from the United States International University (USIU) and a B.A. Economics from the University of Nairobi.



**Ms. Phyllis Chepkemboi: Member**

Ms. Phyllis Chepkemboi is an Advocate of the High Court of Kenya with over 11 years' experience, a holder of an MBA degree with a bias for Human Resource Management and a certified professional mediator with a rich working experience in diverse fields including general law practice, litigation and conveyancing.

Ms. Chepkemboi has previously been employed at a state corporation in the water sector as a Manager (Legal & Compliance) and at Mumma Nyagaka & Co. Advocates as an Associate. She is a member of the Law Society of Kenya, FIDA-Kenya, and a Life member of the Kenya Red Cross. She was also a member of the national steering committee team that came up with the Water Act 2016.



**Alfred Mumpasoi Keriolale: Member**

Mr. Keriolale has been a Community Based Natural Resource Management (CBNRM) Liaison Officer with the Ministry of Environment and Forestry and previously served in the NGO sector.

He has served as CEO/Secretary of Narok County Bursary Management Board.

He is pursuing a Master's of Business Management (Strategic Management) from the Maasai Mara University, and has a Bachelor of Education Degree from Egerton University

## PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD CONTINUED



### **Njeri Onyango: Member**

Mrs Njeri Onyango She is an Advocate of the High Court of Kenya, and proprietor of Njeri Onyango & Co. Advocates. She previously served as a board member of the Independent Policing Oversight Authority (IPOA). She also serves as a member of the Sports Disputes Tribunal, FIVB Legal Tribunal, FINA Disciplinary Panel and the Africa Continental Result Management Hearing Panel (Anti-Doping).

Mrs. Onyango has also undertaken legal consultancies with various organizations nationally and internationally.

She holds an LLB Degree from the University of Nairobi and a Diploma in Law from the Kenya School of Law.

Mrs. Njeri Onyango is a fellow of the Chartered Institute of Arbitrators London and a member of the Chartered Institute of Arbitrators-Kenya chapter.



### **Hon. Rahab Robi Chacha: Member**

Hon. Rahab Robi Chacha is the founder of the Kuria Women & Youth for Change, that comprises of political and youth activist volunteers. Hon. Robi Chacha was previously a member of the County Assembly of Migori, and has been a Director, Youth & Gender at the Migori County Assembly Senator's Office. She has also been the Deputy Regional Coordinator, Nyanza & Western Region of the Truth, Justice & Reconciliation Commission.

She holds a Bachelor's Degree in Criminology and Security Studies from Rongo University and a Diploma in Human Resource Management.

**PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD CONTINUED**

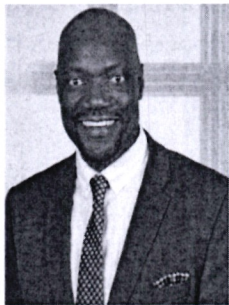


**DR. JOSEPH B. GITARI: Member**

A political economist, Dr. Gitari has over three decades of frontline experience in human rights, governance and strategic communications nationally, regionally and globally.

Dr. Gitari has held senior positions in global development organizations in Kenya, Africa and other worldwide regions. He has also carried out several governance consultancies in public and corporate governance regionally.

Dr. Gitari holds degrees in: PhD (International Relations); an M.A.: International Relations and B.A.: Mass Communications and Political Science, all from the University of Denver, Denver, Colorado, USA.



**Steven Oundo Wandera Bwire, OGW: Member**

Mr. Steven Oundo has over 24 years' experience in the Practice of Architecture and Alternative Dispute Resolution Mechanisms in the Construction Sector.

He is a past Chairman of the National Construction Authority, Past Chairman of the Association of Professional Societies in East Africa and a Past Chairman of the Architectural Association of Kenya (AAK).

Mr. Steven Oundo is a Fellow Member of the Chartered Institute of Arbitrators, A Fellow Member of AAK and a Trustee of the Registered Trustees of AAK.

He has a Bachelor of Architecture, (Hons) and an MBA both from the University of Nairobi.

## PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD CONTINUED

### **Ambrose Ngare, SS: Member**



Mr Ngare is passionate on application of Alternative Dispute Resolution (ADR) in Conflict Management and Criminal Justice. Notable achievements include being a leader on Prison Reforms and Human Behavior change and Leader in fake seed reduction in Kenya on Promotion of Food Security.

He also serves under Judiciary as Court Annexed mediator, Professional Mediator and Trainer.

Mr. Ngare previously served at Kenya Seed as Head of Security, Egerton University as a Lecturer and Kenya Prisons Service as a Regional Coordinator.

He holds a Master of Arts in Criminal/Social Order; B.A. Sociology/political Science, PgD in Human Recourse Management from the UON,

### **Eng. Mbiu Kimani OGW, HSC: Member**



Eng. Mbiu Kimani is a Practicing Civil and Structural Engineer. Prior to this, Eng. Kimani worked with the Government of the Republic of Kenya, in the State Department of Public Works until he retired on 26th October, 2016. He was Acting Works Secretary from December 2015 up to his retirement in October 2016. He was Chief Engineer (Structural) from 1998 up to December 2015.

Eng. Mbiu Kimani has previously served on the Boards of; Sports Stadia (2012-2014) and Egerton University Council (2006-2013) as alternate to the PS, Public Works. He has also been a Committee Member-Githunguri Constituency Development Fund (2008-2012), Kiambu County.

He holds a M.SC (Construction), BSc (Civil Eng) and a Certificate in Earthquake Engineering and Seismology from the Institute of Earthquake Engineering and Engineering Seismology, University of Kiril and Metodi, Yugoslavia. He has also attended many Arbitration and Dispute Resolution Courses offered by the Chartered Institute of Arbitrators (Kenya Branch).

He is a Fellow of the Institution of Engineers of Kenya and a Registered Consulting Engineer with the Engineers Board of Kenya.

**MANAGEMENT TEAM**



**Patrick K. Wanjuki**  
**Director General**  
**LLM (Nottingham), LLM (Nairobi) LLB (Nairobi) Hons, B.COM (Nairobi)**  
**Hons, PGD (KSL) CIPS (UK) MKISM (K)**



**Mrs Rose M. Nyamweya**  
**GM (Finance & Admin.)**  
**PhD(Candidate), CPA(K), CPS(K)**  
**MBA, B.Com**



**Henock Kirungu**  
**GM (Technical Services)**  
**MBA, B.Com, CIPS, PGD (Computer Sci)**  
**PGD(Purchasing & Supplies)**



**Lucy J. Barno**  
**Corporation Secretary, Head of legal**  
**& Corporate Services**  
**LLM (Candidate), LLB, Dip (Law),**  
**CPS (K), Advocate of the High Court**



**Julius G. Mungai**  
**Manager, Internal Audit**  
**MBA,MA,BA,CPA(K),CPS(K),CISA**

**MANAGEMENT TEAM CONTINUED**



**Peter K Ndung'u**  
Manager, MERRAS  
MA (Econ), BA (Econ), CIPS  
Dip (Purchasing & Supplies)



**James K. Kihara**  
Manager, HR & Admin  
MBA, BA, MCIPS



**Chris Sakwa**  
Manager, Finance  
MBA, BBM, CPA (K)



**Philip J. Okumu**  
Ag. Manager, ARB Secretariat  
BSc (Proc& Logistics),  
Dip (Purchasing & Supply mgt)



**Thomas O. Otieno**  
Manager, CIE  
MSc (Proc& Logistics), BA,  
Dip (Purchasing & Supply mgt)



**Ms. Pauline O. Opiyo**  
Manager, Compliance  
MSc (Proc& Logistics), BA, CIPS  
GDip (Purchasing & Supply Mgt)  
Dip (Forensic & Criminal Investigations)



**Samson Odhiambo**  
Ag. Manager, ICT  
BBIT, Higher Diploma IMIS

## **CHAIRMAN'S STATEMENT**

I am pleased to present the annual report for the Financial Year ended 30<sup>th</sup> June 2022. This report highlights the Authority's achievements and steps undertaken towards the continued actualization of its mandate and vision of creating a dynamic public procurement and asset disposal system for a prosperous nation. The achievements outlined herein are attributed to the continued implementation of the strategic objectives of our Strategic Plan (2018-2023), which is aligned with the United Nations Sustainable Development Goals (SDGs), Vision 2030, and the Big Four Agenda.

The Authority continued to monitor and enforce standards on the public procurement and asset disposal system, to ensure that procuring entities and business community uphold the principles of transparency, accountability, integrity, openness, fairness, competition and value for money. The Authority issued directives, advisories and guidance on emerging issues arising from the implementation of the Public Procurement and Asset Disposal Act, 2015 (the Act) and Regulations, 2020. This was accompanied by the revision of the public procurement and asset disposal standard tender documents and formats, to provide for disclosure of beneficial ownership information for companies awarded public procurement contracts.

In fulfilment of its mandate, the Authority issued policy guidelines for registration and licensing of procuring and or asset disposal agents. The agents are vital in complementing the capacity of procuring entities in the delivery of services to the citizens. The Authority therefore invited qualified persons to apply for registration and licensing effective 1st July, 2022.

The Authority takes cognizance of the fact that disclosure of public procurement information enhances transparency and competition in public procurement and asset disposal system, in line with the Act and the Executive Order No. 2 of June, 2018, through the Public Procurement Information Portal (the Portal). In addition, the Authority continued to support the efforts of the Government to develop and implement an end to end and well-functioning e-Government procurement system. The system will enhance transparency and accountability in public procurement and facilitate seamless disclosure of information through the Portal.

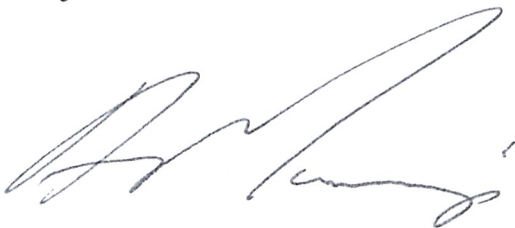
The Authority continued to embrace ICT through automation of its process for efficient service delivery to the stakeholders. These included roll out of the electronic Administrative Review Case Management system ([arcms.ppra.go.ke](http://arcms.ppra.go.ke)), which stakeholders can use to file requests for review of procurement decisions at the Public Procurement Administrative Review Board (Review Board); the complaints management system ([cms.ppra.go.ke](http://cms.ppra.go.ke)), which automates the public procurement complaints management processes. The Authority also automated

the Regulatory Board operations through acquisition of an e-Board Management system. The system has streamlined Board operations to enhance efficiency and effectiveness.

Despite these milestones, the Authority has continued to face challenges in terms of inadequate budgetary allocation that constrained implementation of statutory functions including issuance of the quarterly market price index, sensitization of stakeholders on the new standard tender documents and formats, and compliance monitoring and conducting of investigations. Some procuring entities have continued to fail to submit mandatory reports as prescribed. This has denied the Government and stakeholders' valuable data for informed decision making on public procurement. The Authority made recommendations to the National Treasury and the Accounting Officers towards enhancing effectiveness of the public procurement system.

In conclusion, I wish to acknowledge the support received from the Government and stakeholders during the year; and the dedicated service and commitment of the members of the Regulatory Board, Management and the Staff of the Authority for their invaluable contribution and enthusiasm in supporting the achievement of our mandate.

Going forward, and with the continued support of the Government and stakeholders, we see great opportunities abounding for the Authority as we commit to provide quality regulatory services by facilitating and ensuring the implementation of an effective and efficient public procurement and disposal system.



**Andrew M. Musangi**  
**Chairman, PPRB**

## **REPORT OF THE DIRECTOR GENERAL**

Public procurement is a key catalyst in enhancing the country's development agenda. Over the past two decades, Kenya has implemented an aggressive expansionary fiscal policy aimed majorly at bridging the existing infrastructural gaps in the country. The projects have been implemented to facilitate seamless access to public services and interconnectivity on road, rail and ports. These have been delivered through expended provision of clean water, renewable energy input in the national grid; improved quality of learning and health facilities, and access to electricity by the households, amongst other services.

The Authority is mandated under Section 9 of the Act, to among other functions, monitor, review, assess and report on the overall functioning of the public procurement and asset disposal system in Kenya. As a regulator, the Authority is charged with ensuring that the public procurement system is efficient, effective and delivers value for money and quality services to the citizens. This is done through continuous review of the public procurement and asset disposal system and enhanced disclosure of public procurement information through the Public Procurement Information Portal.

The Authority during the year, implemented a number of programs towards enhancing the efficiency and effectiveness of the public procurement and asset disposal system. The programs were drawn from the thematic areas detailed in the Strategic Plan (2018-2023); to include Compliance and Enforcement of Standards; Research and Information Management; Legal and Regulatory Framework; Capacity Building and Technical Support; Stakeholder Engagement; and Institutional Capacity Strengthening.

On compliance monitoring and enforcement of standards, the Authority undertook 11 procurement assessments, 6 procurement reviews, 100 contract audits, 4 follow-ups on the implementation of the recommendations from previous assessments, and 2 procurement inspections in procuring entities; to determine the level of compliance with the provisions of the Act, Regulations and directives. This resulted in an overall average compliance level of 58.90% which is rated as average compliance.

The weaknesses identified in most of the procuring entities included; lack of Internal Public Procurement and Asset Disposal Manuals/policies, lack of monthly progress reports on procurement contracts, incomplete procurement and contract management files, and or lack individual procurement and contract management files, inadequate customization of standard tender documents, and failure to publish and publicise contract awards. The Authority issued the entities with advice on corrective measures to be implemented in order to mitigate the risks associated with the identified challenges.

The Authority also receives and resolves stakeholder complaints on various matters on public procurement and asset disposal processes. The Authority resolved 173 of the 369 complaints received. Most of the complaints were on delayed payment of contracts performed, flaws in tender evaluation and development of specifications, and alleged corrupt practices during procurement proceedings, among others. Some of the complaints were investigated and findings shared with the parties and the law enforcement agencies.

The Authority continued to provide technical support and advisory services to the procuring entities and stakeholders upon request. This is aimed at providing clarifications on areas that are not clear in the Act, Regulations and Directives issued by the Authority. The requests for advice were mainly on contract Management (Contract award, notifications of commencement, management and termination); customization of the new Standard tender documents and Formats, and development and specification of evaluation Criteria. The Authority strengthened partnerships and engagement with stakeholders through provision of technical support, expert opinion on cases pursued by the law enforcement agencies and implementation of joint programmes.

The Authority will continue to offer technical support to the procuring entities and stakeholders to ensure that they comply with the Public Procurement Policy, Legal and Regulatory Framework. The actions of the Authority during the year were limited by inadequate budgetary provision. The Authority looks forward to cooperation and support from the stakeholders to facilitate realization of the mandate and aspirations detailed in the Strategic Plan, in the coming year.

In this regard, public procurement remains core to the country's economic growth through public investments implemented by the governments. The milestones achieved by the Authority could not have been realized without the support of the Management and staff. I also wish to appreciate the Board of Directors and the National Treasury for their continued support.



**Patrick K. Wanjuki**  
**DIRECTOR GENERAL**

## **CORPORATE GOVERNANCE STATEMENT**

The Public Procurement Regulatory Board is committed to applying and maintaining the highest standards of corporate governance at the Authority as it recognizes this to be a key contributor to the long-term success, value and sustainability of the Authority.

Good corporate governance enables effective and efficient decision-making and gives a structural aid for the Board to discharge their duty to promote the success of the Authority while taking into account the interest of stakeholders. Effective governance is achieved through a combination of strong policies, process and structures, underpinned by the right values and culture.

The operations of the Authority are guided by the Public Procurement and Asset Disposal Act, 2015 (the Act) and other relevant Acts of Parliament and Regulations. The Authority has also adopted and continues to be guided by the *Mwongozo* Code of Governance in its operations.

### **The 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 is responsible for the long-term sustainability and success of the Authority through provision of strategic leadership, steadfast oversight of management and ensuring that the Authority provides its stakeholders with a balanced and understandable assessment of its current position and prospects.

Specifically, the functions of the Regulatory Board are:

- (a) Ensure the proper and effective performance of the functions of the Authority;
- (b) Approve and ratify the policies of the Authority;
- (c) 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;
- (d) Receive any gifts, grants, donations or endowments made to the Authority;
- (e) Determine the provisions to be made for capital and recurrent expenditure, and for the reserves of the Authority;
- (f) Open bank accounts for the funds of the Authority in accordance with the Public Finance Management Act, 2012;
- (g) 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

- (h) 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.

The Regulatory Board's leadership responsibilities involve working together with management to set corporate values and to develop strategy including which risks it is prepared to take in pursuit of strategic objectives. Its oversight responsibilities involve providing constructive challenge to the management team in relation to operational aspects of the Authority's business, including approval of budgets and probing whether risk management and internal controls are sound. It has the responsibility of ensuring that timely and understandable information is provided to stakeholders.

The Board has delegated the responsibility of management of the Authority to the Director General, who is the Chief Executive Officer, and the management team. During the year, the Board recruited a substantive Director General for the Authority to further strengthen the governance role. The main areas where the decisions remain with the Board are the approval of budget and annual corporate plan, approval of policies and approval of financial statements. The Board is also responsible for setting the Authority's risk management policy

As a good corporate governance practice, the Board has delegated some of its responsibilities to committees of the Board. The composition and activities of the committees are detailed later in this report. The Board receives reports at its meetings from the Chairmen of each of the committees on their current activities.

#### **Board Independence, Separation of Roles and Responsibilities**

A clear division of responsibility exists between the Chairman who is non-executive, the non-executive Board members and the Director General. Each of the responsibilities are clearly set out in writing.

#### **Meetings Attended by Board Members**

The law provides that the Board shall hold at least one meeting in every quarter. The Board holds regular scheduled meetings in every year and special meetings as and when necessary. In case of non-attendance of a Board member, the information is communicated to the Chairman in advance.

The table below shows Board membership and attendance at scheduled Board meetings in the financial year.

**Table 1: Attendance of Board Meetings**

S/No	Director	Meetings Attended	Meetings held	% Attendance
1	Mr. Andrew Mukite Musangi	6	6	100%
2	Mr. Paul Nyamodi	4	6	67%
3	Dr. Jared Maaka Siso*	3 of 3	6	100%
4	Ms. Cecilia Mbinya Sereka*	3 of 3	6	100%
5	Comm. Lydia Wanjugu Gachoya	6	6	100%
6	Ms. Lilian Abishai	5	6	83%
7	Mr. Livingstone Bumba	6	6	100%
8	FCCA Jane Muthaura	6	6	100%
9	Ms. Linda Ingari	6	6	100%
10	Dr. Godfrey Makau**	3 of 3	6	100%
11	Ms. Allyce Esintele***	3 of 3	6	100%

\* Term expired on 20<sup>th</sup> September, 2021.

\*\* New appointment to the Board on 6<sup>th</sup> October, 2021.

\*\*\* New appointment to the Board on 6<sup>th</sup> October, 2021. The director resigned from the Board in February 2022

The Board Secretary, who is also the Director General, is responsible for implementing the decisions of the Board and the day-to-day operations of the Authority. The Corporation Secretary provides administrative support to the operations of the Board and convenes Board meetings as directed by the Chairman of the Board. The Board Secretary provides advice on corporate governance principles and plans and on the implementation of corporate governance programs such as Board evaluation. The Corporation Secretary is an advocate of the High Court, qualified certified public secretary and a member of the Institute of Certified Public Secretaries (ICSK) in good standing.

### **Board Committees and Responsibilities**

The Board discharges its functions through committees. All committees of the Board are chaired by a member of the Board. A number of members of the management team are incorporated in the Board Committees as invitees to add value to key Board decisions. This structure ensures that the Board pays attention to critical areas of the Authority's business and provides timely guidance on arising opportunities and mitigation of risks.

To enhance efficiency and effectiveness in discharge of its duties, the Board has formed four (4) board committees:

- a) Finance & Administration Committee
- b) Compliance, Communication & Strategy Committee
- c) Audit, Risk and Governance Committee
- d) Debarment Committee

### **Finance & Administration Committee**

The role of the Finance & Administration Committee is to ensure a very effective supervisory role of the Authority in carrying out financial management and control, human resource management, administration, procurement, ICT and resource mobilization to support the delivery of the core mandate of the Authority.

The specific terms of reference of the Committee are as follows:

- a) To ensure prudent management of the Authority's financial resources
- b) To ensure compliance with statutory financial regulations and, that the Authority has adequate financial resources to fund its programs
- c) To provide a general overview to the Board on the achievement of the Authority's Procurement Plans.
- d) To monitor management's strategy toward ensuring efficiency and integrity of the Authority's procurement systems
- e) To assist the Board in ensuring that the Authority upholds Government policy on performance contracting and other statutory obligations.
- f) To ensure that the Authority has an optimum, well trained and motivated human resource to deliver its mandate.
- g) Review the corporate goals and objectives relevant to the performance of the management, including an annual review of their performance in light of these goals and objectives.
- h) Recommend a management succession plan for the Authority and monitor the implementation of succession strategies approved by the Board.
- i) To ensure efficient and effective operations of the Administrative Review Board Secretariat.
- j) To advise on appropriate human resource policies in view of the changing needs of the Authority.
- k) To advise on appropriate Information and Communication Technology strategies to support delivery of the mandate and in view of the changing needs of the Authority.
- l) To advise on the acquisition and maintenance of office facilities and assets.
- m) To monitor the management of the Pension Scheme on behalf of the Board with a view to ensuring that the obligations of the Authority are properly discharged.

- n) To review on a quarterly basis, the authority's financial, procurement, and human resource management reports; and make appropriate recommendations to the Board.
- o) To make recommendations to the Board on all matters relating to the welfare of the members of Public Procurement Administrative Review Board and the Public Procurement Regulatory Board.

During the period under review the Committee held 5 meetings as shown below:

**Table 2: Attendance of Committee Meetings**

<b>S/No</b>	<b>Board Member</b>	<b>Meetings Attended</b>	<b>Meetings held</b>	<b>% Attendance</b>
1	Comm. Lydia Wanjugu Gachoya	5	5	100%
2	Mr. Livingston Bumbe	5	5	100%
3	FCPA Jane Muthaura*	3 of 3	5	100%
4	Ms. Linda Ingari*	3 of 3	5	100%
5	Dr. Godfrey Makau**	3 of 3	5	100%

\* The Committee was reconstituted.

\*\* New appointment to the Board on 6<sup>th</sup> October, 2021.

**Compliance, Communication & Strategy Committee**

The purpose of the Compliance, Communication and Strategy Committee is to advise and make recommendations to the Board on how to ensure the proper and effective performance of the functions of the Authority. Its role is to ensure a very effective supervisory role of Authority in carrying out its core mandate and strategic functions.

The Terms of Reference of the Committee are as follows:

- a) Advise the Board on compliance monitoring, public procurement policy matters, and any amendments to the Act and the Regulations to be proposed by the Authority.
- b) Advise on strategies to be used by the Authority to ensure compliance with the procurement law.
- c) Review and recommend to the Board best practice for benchmarking.
- d) Advise the Board on the extent and mode of collaborations with other watchdog agencies
- e) Guide the Board on the Authority's technical support and capacity building strategy.
- f) Review policies, guidelines, codes of ethics, standards and manuals to be used in the implementation of the procurement law

- g) Recommend to the Board corporate branding and reputation management strategies that will increase the profile of the Authority as the country's voice on procurement
- h) Advise the Board on communication strategies to be undertaken by the Authority for dissemination of information to facilitate the implementation of procurement standards.
- i) Advise the Board on strategies to be adopted by the Authority to manage key stakeholders.
- j) Provide oversight over the implementation of the Strategic Plan.
- k) To draw the annual calendar and work plan for the Committee

During the period under review the committee held 8 meetings as shown below:

**Table 3: Attendance of Committee Meetings**

S/No	Board Member	Meetings Attended	Meetings Held	% Attendance
1	Mr Paul Nyamodi	3	8	38%
2	Hon. Cecilia Sereka*	6 of 6	8	100%
3	Ms Lilian Abishai	8	8	100%
4	Ms Linda Ingari	8	8	100%
5	Ms Allyce Esintele***	1 of 1	8	100%

\* Term expired on 20<sup>th</sup> September, 2021.

\*\* The Committee Reconstituted.

\*\*\* New appointment to the Board on 6<sup>th</sup> October, 2021. The Board member resigned in February, 2022.

### **Audit, Risk and Governance Committee**

The purpose of the Audit Committee is to support the Authority to enhance oversight over governance, internal controls and risk management in service delivery.

The specific role of the Audit, Risk and Governance Committee of the Board includes:

- a) Evaluate adequacy of management procedures with regard to issues relating to risk management, internal controls and governance.
- b) Review and approving the audit charter and the internal audit annual work plans.
- c) Review the internal and external audit findings, recommendations, and proposing corrective and preventive action where necessary.
- d) Review the systems established to ensure sound financial management and internal controls, as well as compliance with policies, laws, regulations, procedures, plans and ethics.

- e) Initiate special audit/ investigation on any allegations, concerns and complaints regarding corruption, lack of accountability and transparency in consultation with the Director-General.

During the period under review the committee held 6 meetings as shown below:

**Table 4: Attendance of Committee Meetings**

S/No	Board Member	Meetings Attended	Meetings held	% Attendance
1	Dr Jared Maaka Siso*	2 of 2	6	100%
2	Mr. Livingstone Bumbe	6	6	100%
3	Ms Lilian Abishai	6	6	100%
4	FCCA Jane Muthaura**	4 of 4	6	100%
5	Ms. Linda Ingari**	2 of 2	6	100%
6.	Allyce Esintele***	3 of 3	6	100%

\* Term expired on 20<sup>th</sup> September, 2021.

\*\* The Committee Reconstituted.

\*\*\* New appointment to the Board. The director resigned in February 2022

#### **Debarment Committee**

The purpose of the Debarment Committee is provided under Sec. 41 of the Public Procurement and Asset Disposal Act, 2015 read together with Section 22 of the Public Procurement and Asset Disposal Regulations 2020. The main mandate of the Committee is to support the Authority to determine whether there is sufficient grounds for debarment of errant suppliers.

The Terms of Reference of the Debarment Committee are as follows:

- a.) To hear and determine debarment requests that have been submitted to the Authority
- b.) To analyse debarment requests within thirty days and determine whether there is *a prima facie* case for debarment
- c.) To issue a notice of intended debarment to the party who shall be the subject of the debarment proceedings requiring him/her to file a written response with the Board.
- d.) To, within twenty-one days of receipt of the response, hold debarment hearing to determine the disputed facts.
- e.) To prepare a report of its findings and recommendations, and make a determination on the request for debarment within thirty days from the date of hearing.

During the period under review the committee held 19 meetings as shown below:

**Table 5: Attendance of Committee Meetings**

<b>S/No</b>	<b>Board Member</b>	<b>Meetings Attended</b>	<b>Meetings Held</b>	<b>% Attendance</b>
1	Mr Paul Nyamodi	14	19	74%
2	Dr. Jared Siso*	4 of 4	19	100%
3	Ms Lilian Abishai	16	19	84%
4	Ms Linda Ingari	19	19	100%
5	Com. Lydia Gachoya	19	19	100%
6	Dr. Godfrey Makau**	13 of 13	19	100%
7	FCPA Jane Muthaura	18	19	95%

\* Term expired on 20<sup>th</sup> September, 2021.

\*\* New appointment to the Board on 6<sup>th</sup> October, 2021.

### **Board Remuneration**

The Board members are paid taxable sitting allowance as approved by the Minister responsible for finance following guidelines from the State Corporations Advisory Committee. The Chairman is paid honoraria at a rate approved by the Government. Transport expenses are reimbursed on travel for Board business at the prevailing Automobile Association of Kenya (AA) rates. The members are also entitled to outpatient and inpatient medical cover, and a personal accident cover.

### **Board Capacity Development**

Training and development programs were organized to equip the Board with the necessary skills for effective discharge of their duties and enhancing their understanding of the Authority's mandate. Linda Ingari and FCPA Jane Muthaura were trained on Corporate Governance offered by the Centre for Corporate Governance.

### **Conflict of Interest, Code of Conduct and Ethics**

The Board 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.

**Sustainability**

The Authority continues to be fully supported through Exchequer grants. Management confirms that with the support from the Government, the Authority will continue in business for the foreseeable future. For this reason, the Authority continues to adopt the going concern basis when preparing financial statements.

**Risk Management and Internal Control**

The Board has put in place a comprehensive risk management framework which identifies and manages risk. The Authority continues to be guided by this risk management framework in its daily operations. The Audit, Risk and Governance Committee of the Board regularly reviews the effectiveness of the internal control system. The Manager, Internal Audit functionally reports to the Audit Committee and serves as its Secretary.

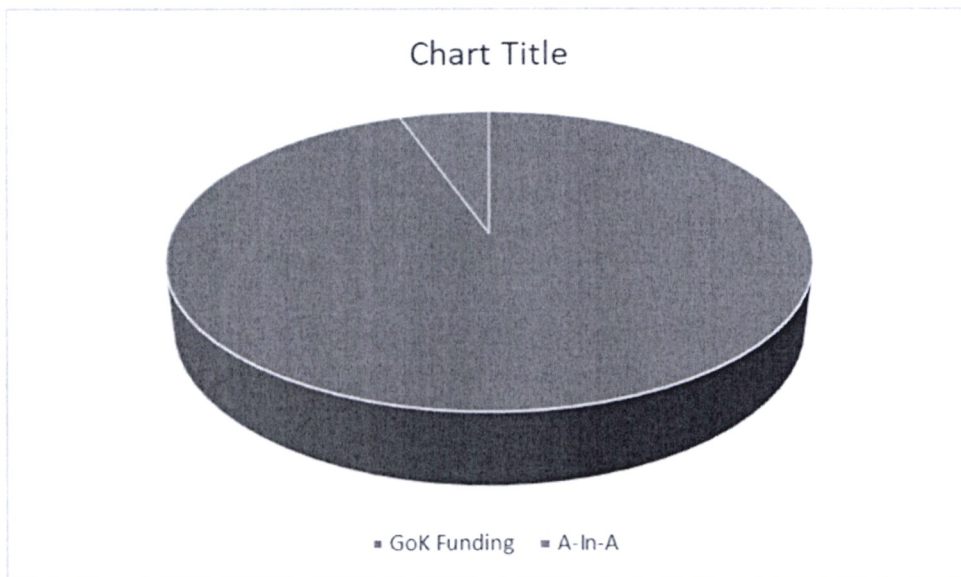
## MANAGEMENT DISCUSSION AND ANALYSIS

The Authority worked closely with all stakeholders to ensure smooth implementation of the Public Procurement and Asset Disposal Act 2015 and the attendant regulations. The financial and operational performance results of the Authority are as detailed in the following sections.

### 1. FINANCIAL PERFORMANCE

In FY 2021/2022, the Authority raised Ksh 322,801,661 to fund its operations. This was a 3.8% reduction in revenues compared to Ksh 335,675,335 raised in FY 2020/2021. The revenues raised during the period under review comprise Government funding of Ksh 306,000,000 translating to 94.8% of total revenues and Appropriation-In-Aid of Ksh 16,801,661, which is 5.2% of the total revenues as illustrated in the diagram below. In addition, the Authority drew Ksh 21,095,000 from the reserves to cover the funding shortfall. Over the same period, the Authority spent Ksh 342,791,117 in the process of executing its mandate and providing services.

**Figure 1: PPRA Sources of Funding**



## 2. OPERATIONAL PERFORMANCE

### OVERVIEW OF PUBLIC PROCUREMENT SYSTEM IN KENYA

#### 2.1 Country Context and Background

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

Public procurement in Kenya is highly decentralised at the level of procuring entities (Ministries & State Departments, State Agencies, County Departments & Agencies and other public entities), as covered under Section 2 of the Public Procurement and Asset Disposal Act, 2015 (the Act). In addition, this decentralisation has been mixed with some level of centralisation for purposes of economies of scale in the procurement of common user items under the Supplies Branch (<https://suppliesbranch.go.ke/>) framework contracts. The Act has also provided for utilisation of Consortium Buying for enhancing efficiency, economy and economies of scale in joint procurement of common interest goods by several procuring entities.

On the economic end, the nominal Gross Domestic Product (GDP) for Kenya in 2021<sup>2</sup> is estimated at KES 12.10 trillion (110.35 billion US Dollars), up from KES 10.75 trillion (98.84 billion US Dollars) in 2020. The Kenya economy is estimated to have experienced a real GDP growth rate of 7.5 percent in 2021 UP from -0.3 percent in 2020, following the advent of the Coronavirus Disease in late 2019 (COVID-19) coupled with the containment measures implemented by most countries, including Kenya. The measures adversely affected economic activities, slowing down the overall growth rate. Economic activities picked up in 2021 following the easing of the containment measures and continued roll-out of vaccination programmes, and implementation of post COVID-19 economic stimulus programmes.

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<sup>1</sup> Kenya National Bureau of Statistics (KNBS): 2019 Kenya Population and Housing Census, Volume I

<sup>2</sup> Kenya National Bureau of Statistics (KNBS): 2021 Economic Survey

On the fiscal side, the total Government expenditure grew from KES 3,030,079 billion in 2020/2021 to KES 3,214,810 billion in 2021/2022 fiscal year. Over the past five fiscal years, (2017/2018 to 2021/2022), total government expenditure has averaged 29.38 per cent and projected to grow further in the 2022/2023 fiscal year.

Globally, public procurement transactions account for, on average, 13% to 20% of Gross Domestic Product (GDP); with the global expenditure in procurement being estimated at over USD 9.5 trillion<sup>3</sup>. The World Bank in 2020 estimated that public procurement in Kenya accounted for 26<sup>4</sup> per cent of GDP; which translates to about KES 3.146 trillion. This is the amount of expenditure that the Public Procurement Regulatory Authority, is required to ensure that it is spent in accordance with the requirements of Article 227 of the Constitution of Kenya, 2010.

The government, being faced with a constrained fiscal space and calls for consolidation, have implemented several measures aimed at ensuring that public procurement delivers value for money, through adoption of among others, electronic procurement systems. The Kenya Vision 2030 also prioritized reforms in public procurement aimed at enhancing efficiency and effectiveness in creating the fiscal space that allows for shifting of resources to implementation of the priority projects.

## **2.2 Public Procurement Legal and Regulatory Framework in Kenya**

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

The Act and the Regulations were developed in line with international best practices, with the aim of enhancing accountability, openness, transparency and value for money in public procurement. These principles were further

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<sup>3</sup> Global Public Procurement Database by World Bank Group

<sup>4</sup> Global Public Procurement Database by World Bank Group

<sup>5</sup> Title: Operationalization of the New Public Procurement and Asset Disposal Act, 2015

underscored by His Excellency the President of the Republic of Kenya, in June 2018, through issuance of the Executive Order No. 2 of 2018<sup>6</sup>. The Executive Order led to the upgrading of the Tender Portal (the Portal); the Public Procurement Information Portal (PPIP) which is accessible through <https://tenders.go.ke>. The Portal is a central system for collection and dissemination of public procurement data and information; including for advertisement of public procurement opportunities as well as for publication of details of all contracts signed by procuring entities.

The institutional framework overseeing the public procurement and asset disposal system in Kenya include the National Treasury responsible for overall policy formulation; Public Procurement Regulatory Authority (the Authority) which regulates the public procurement and asset disposal system, the Public Procurement Regulatory Board which handles debarment of errant tenderers; the Public Procurement Administrative Review Board (the Review Board) mandated to hear and determine tendering appeals; and the Kenya Institute of Supplies Management (KISM) responsible for regulation/management of professional conduct of procurement and supply chain management personnel in accordance with the Supplies Practitioners Management Act, 2007.

### **2.3 Adoption of Electronic Government Procurement System**

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

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

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<sup>6</sup> Title: Procurement of Public Goods, Works and Services by Public Entities.

Reforms Strategy, 2018-2023<sup>7</sup>. The process for implementation of the e-GP system has commenced with the contracted developer on site.

It is envisaged that full implementation of the e-GP System will reduce the challenges that have been experienced in public procurement system; some of which include: cases of weak compliance with public procurement procedures; poor development of specifications; weak data & information management; poor contract management; poor records management; delays in payment for delivered contracts; and high turnover and transfer of procurement professionals, are among others. These systems will also strengthen public procurement principles of integrity, efficiency, competition, economy, accountability and value for money for the services.

## 2.4 Public Procurement Statistics

Open public contracting has gained momentum over the years with efforts by policy makers and government alike implementing reforms aimed at deepening its principles in public procurement. With the aim of enhancing openness, accountability and transparency in Kenya, the President in 2018, issued an Executive Order No. 2 of June 2018 on **Procurement of Public Goods, Works, Services by Public Procuring Entities**. This paved way for the development and implementation of the Public Procurement Information Portal (PIIP/the Portal). The Portal a central system for collection and dissemination of public procurement data and information to stakeholders. The Portal has been collecting data on tender advertisements and details of the resultant contracts, for information to the public.

### 2.4.1 Tendering Opportunities

Since late 2018, a total of 43,195 tendering opportunities have been advertised through the Portal for the period November, 2018 to 30<sup>th</sup> June 2022, of which, 92.08% have been through open tendering. Only 7.92 of all other methods reported have through less competitive methods, as presented in the table below.

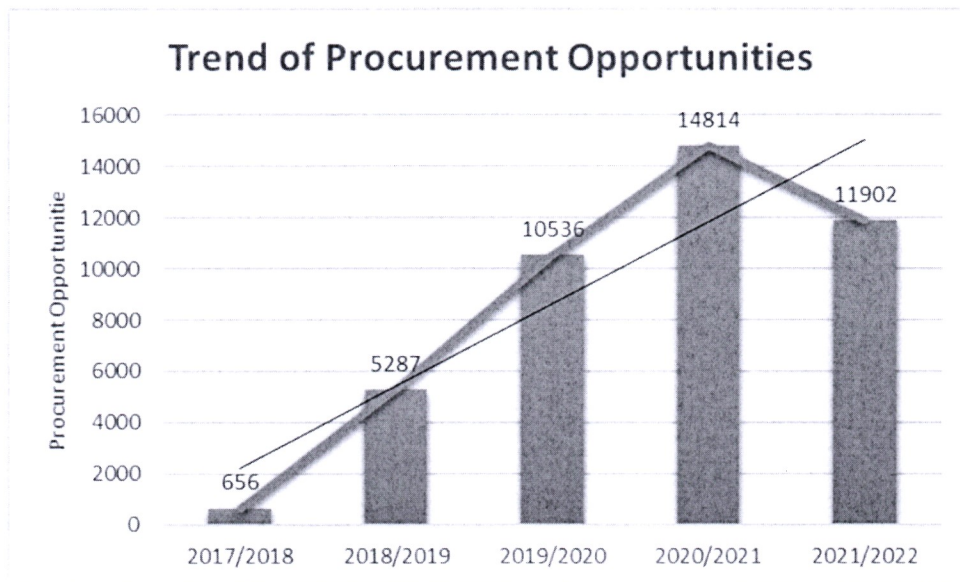
**Table 5: Summary of Tender Advertisements by Procurement Method**

Procurement Method	Number of Tenders	Percent
Open Tender	39,775	92.08%
Framework Agreements	2,024	4.69%
Expression of Interest	476	1.10%
Request for Proposals	461	1.07%
Prequalification	365	0.84%
Disposal of assets	53	0.12%

<sup>7</sup> <http://npfmr.treasury.go.ke/public-financial-management-reforms-strategy-2018-2023/>

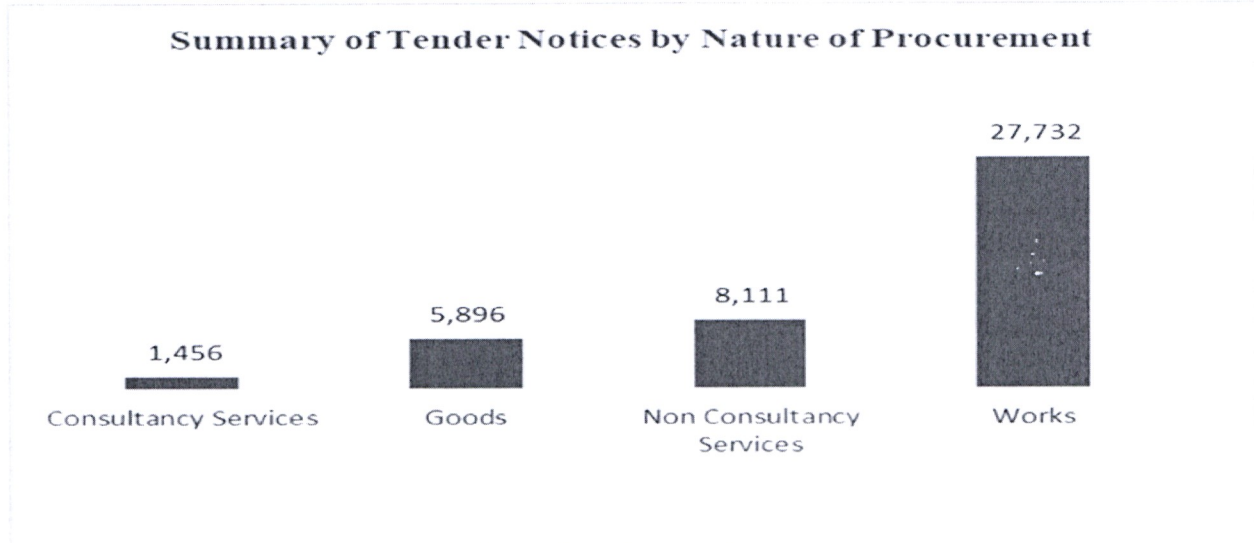
Two-stage Tendering	31	0.07%
Design Competition	10	0.02%
<b>Grand Total</b>	<b>43,195</b>	<b>100%</b>

Public procurement opportunities have been increasing tremendously over the years, from 565 opportunities in FY 2017/2018 to 14,814 opportunities in FY 2020/2021. Despite the slight drop of opportunities in FY 2021/2022, which is a normal happen stance in an electioneering year, there is an overall increasing trajectory of procurement opportunities in Kenya. this information on procurement opportunities advertised in the portal over the years is as shown in the table below:-



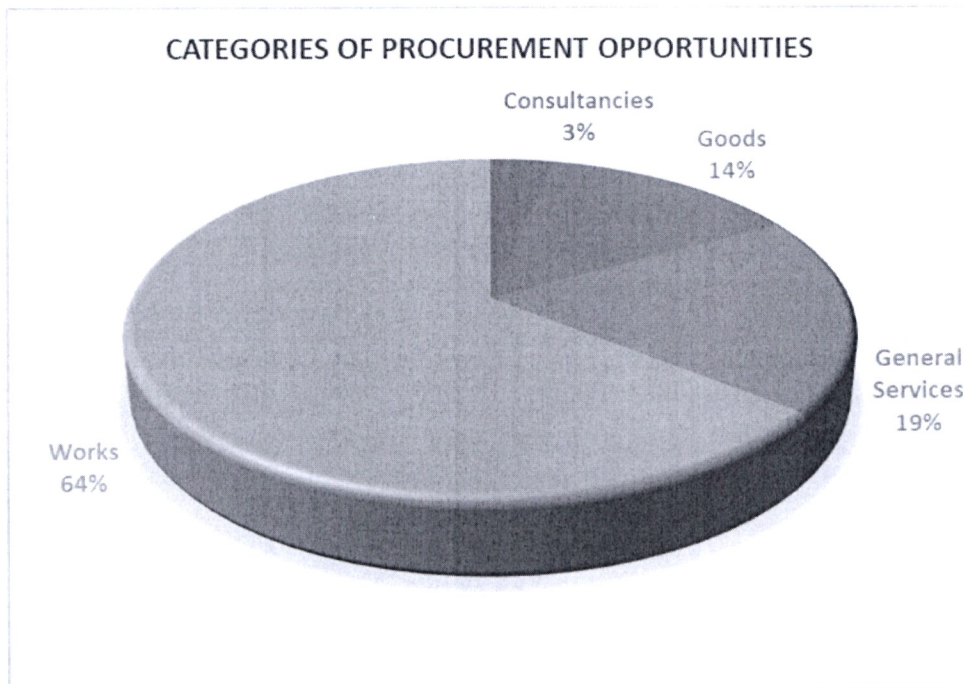
**Figure 1: Summary of Tendering Opportunities by Fiscal Year**

The figure indicates a steady rise in the tenders being advertised through the Portal, with the adverts peaking in 2020/2021 FY. This demonstrates increasing levels of access to tendering opportunities centrally by the business community.



**Figure 2: Summary of Tenders Notices by Nature**

During the period under review, majority of tenders advertised were on procurement of works at 64% and the least were consultancy services at 3% as shown in the figure 2 below.



In terms of category of procuring entities publishing more tender notices in the Portal over the referenced period, is presented in the table below.

**Table 6: Summary of Number of Tenders Published in the Portal by PEs**

<b>Category of Procuring Entities</b>	<b>Number of Tenders</b>	<b>Percent</b>
State Corporations and SAGAs	18,005	41.683 %
County Government	17,155	39.715 %
Public Universities	2,704	6.260 %
Ministries and State Departments	1,750	4.051 %
County Assemblies	1,102	2.343 %
Constitutional Commissions and Independent Offices	1,079	2.498 %
Technical and Vocational Training Institutions	370	0.857 %
Public Colleges and National Polytechnics	321	0.743 %
National Government Constituency Development Fund Committees	307	0.711 %
County Corporations	188	0.435 %
Judiciary and the Courts	97	0.224 %
County Service Delivery Coordination Unit	76	0.176 %
Parliament of Kenya	14	0.032 %
Pension Schemes for Public Entities	14	0.032 %
Public Primary and Secondary Schools	11	0.025 %
National Government Affirmative Action Funds	1	0.002 %
Urban Areas and Cities	1	0.002 %

<b>Grand Total</b>	<b>43,195</b>	100.00 %
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As evident by the table, most tenders have been published by the State Corporations and SAGAs (42%), followed by the County Governments (40%); the least being NGAAFs.

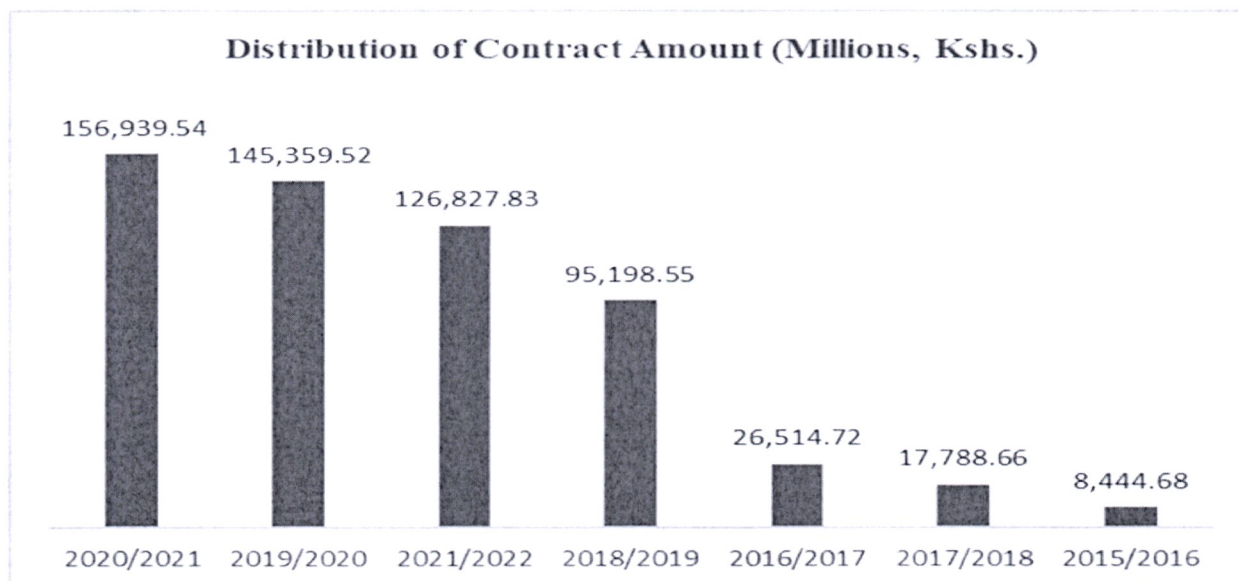
#### 2.4.2 Publication and Value of Contract Awards

Since the inception of the Portal in late 2018, a total of **25,674** contracts worth Ksh. **577,073,478,649.06**, (five hundred and seventy seven billion, seventy three million, four hundred and seventy –eight thousand, six hundred and forty nine and six cents) have been published in the Portal for the period November, 2018 to 30<sup>th</sup> June 2022, of which, **85.1%** have been on open tender, as presented in the table below. This demonstrates that open tendering, being the most competitive method is still the preferred method of procurement by public entities as desired in the Public Procurement and Asset Disposal Law.

**Table 7: Summary of Contracts Published in Portal by Procurement Method**

<b>Procurement Method</b>	<b>Number of Contracts</b>	<b>Contracts Amount</b>
Open Tender	8,852	491,185,536,209.95
Restricted Tendering	1,058	34,391,813,865.09
Direct Procurement	1,746	22,356,009,232.45
Specially Permitted Method	1	9,453,650,605.00
Request for Proposals	126	8,723,746,468.30
Request for Quotations	13,326	8,492,322,051.22
Framework Agreements	492	1,559,986,750.05
Expression of Interest	10	874,771,501.00
Two Stage Tendering	9	23,693,036.00
Design Competition	2	8,600,000.00
Force Account	31	2,878,060.00
Low Value Procurement	20	470,870.00
<b>Grand Total</b>	<b>25,674</b>	<b>577,073,478,649.06</b>

The value of contracts can further be disaggregated by financial year and nature of procurement as presented in the figure below.



On the nature of contracts published in the Portal, majority of them were on works (**77%**), while consultancy services were the least at 2% as shown in the table below.

Nature of Procurement	Number of Contracts	Contract Value (Kshs.)	Percent
Works	14,792	444,115,266,068.12	77%
Non-Consultancy Services	5,734	77,427,414,787.97	13 %
Goods	4,725	44,284,482,503.26	8%
Consultancy Services	412	11,189,534,804.70	2%
<b>Grand Total</b>	<b>25,674</b>	<b>577,073,478,649.06</b>	<b>100.00 %</b>

On the number of suppliers that received the highest value of contracts, is presented in the table below. The ten suppliers awarded 1,025 contracts worth Kshs. **220,900,218,319.00**. this represents 38% of the total of contracts published over the period under consideration.

**Table 8: Summary of to 10 Suppliers by Number and Contract Amount**

<b>No</b>	<b>Suppliers/Contractors/Consultants</b>	<b>Number of Contracts</b>	<b>Contract Amount</b>
1.	Minet Kenya Insurance Brokers Limited	18	50,703,255,668
2.	Frontier Engineering Limited	1	48,352,976,580
3.	M And J Holdings Limited	1	33,346,345,670
4.	China Jiangxi International Kenya Limited	1	19,987,695,934
5.	North Street Cooling Tower (P) Limited	982	16,101,615,585
6.	Pemunje Holdings Limited	1	16,000,351,150
7.	China State Construction Engineering Corp. (Kenya) Limited	2	11,979,375,435
8.	China Communication Construction Company	1	9,453,650,605
9.	West Travel & Tours Ltd	17	7,974,951,692
10.	Value Zone Limited	1	7,000,000,000
	<b>Total</b>	<b>1,025</b>	<b>220,900,218,319</b>

The Authority has institutionalized measures aimed strengthening publication of contract awards by all procuring entities. This has included a directive to ensure that no physical reports are submitted to the Authority. Enforcement measures have also been planned to ensure that the directives are complied within the prescribe timelines. The Authority is committed to enhancing the principles of open contracting and transparency in public procurement in Kenya.

#### **2.4.4 Disposal of Assets**

During the period under review only one disposal contract was published in the portal valued at Kshs. 12,754.00. This demonstrates very low of compliance in disposal of assets by public entities.

## **DESCRIPTION OF ACTIVITIES OF THE AUTHORITY**

### **3.1 Introduction**

The Authority's functions in the 2021/2022 financial year focused on implementation of programmes under the six thematic areas outlined in the Strategic Plan for the 2018-2023 period. The thematic areas include: Compliance and Enforcement of Standards; Research and Information Management; Legal and Regulatory Framework; Capacity Building and Technical Support; Stakeholder Engagement; and Institutional Capacity Strengthening.

Each thematic area has a set of strategic objectives and strategies being implemented to facilitate achievement of our mission and vision. The strategic objectives are to:

- a) Strengthen performance and compliance monitoring of the public procurement and asset disposal system;
- b) Enhance enforcement of the public procurement and asset disposal standards;
- c) Conduct quality research on public procurement and asset disposal issues for enhanced service delivery;
- d) Strengthen the public procurement and asset disposal legal & regulatory framework;
- e) Equip persons involved in public procurement with requisite knowledge and skills on public procurement and asset disposal;
- f) Leverage and enhance partnerships and collaborations with stakeholders; and
- g) Strengthen institutional capacity.

This annual report describes the work and activities implemented by the Authority between 1<sup>st</sup> July, 2021 and 30<sup>th</sup> June, 2022. It summarizes work carried out through the different strategic objectives, to meet the regulatory obligations for the realization of the vision.

### **3.2 Strategic Objective 1: To Strengthen Performance and Compliance Monitoring of the Public Procurement and Asset Disposal System**

The Authority is mandated under Section Section 9 (1), (a, b, d, e, n, r) of the Act to monitor, assess and review the public procurement and asset disposal system to ensure that they respect national values and other provisions of the Constitution, including those under Article 227 and make recommendations for improvement. This includes monitoring the performance of the system and reporting on its overall functioning. This subsection details the strategies deployed by the Authority to realize this goal and the milestones realized thus far.

### **3.2.1 Monitoring Compliance with the Legal and Regulatory Framework**

The Authority monitors compliance with the Legal and Regulatory Framework through a number of strategies including: procurement assessments, procurement reviews, contract audits, inspections, follow up of implementation of recommendations and review of mandatory reports submitted by procuring entities (PEs). During the year under review, the Authority implemented a number of activities as discussed below.

#### **3.2.1.1 Review of Mandatory Reports**

Pursuant to the provisions of the Act, Regulations and Directives of the Authority, procuring entities (PEs) are required to submit mandatory reports to the Authority within the prescribed timelines. The reports include, all contract awards; terminations of procurement proceedings; direct procurement above Ksh. 500,000; disposal to employees; contract variations/amendments, contract awards under the preference and reservation schemes, terminated contracts, and part of the consolidated annual procurement plan demonstrating application of preference and reservation schemes. The Authority reviews the reports to assess compliance with the provisions of the Procurement Law and relevant directives.

#### **(a) Review Part of Annual Procurement Plans on Preference and Reservation Schemes**

Procuring entities are required to submit to the Authority the part of the consolidated annual procurement plan demonstrating compliance with Section 158(2) of the Act on preference and reservation schemes and PPRA Circular No.1/2021 of 22<sup>nd</sup> April, 2021. This part of plan should be submitted to the Authority within 60 days after commencement of the financial year. The Authority reviews the plans to determine whether they are prepared in accordance with Sections 53 (6) and 157(5) & (10) of the Act, Regulations 40 and 41 of the Public Procurement and Asset Disposal Regulations, 2020 (the Regulations) and the directives issued by the Authority.

The Act and the Regulations requires every procuring entity to promote preference and reservations schemes for small and micro enterprises and other disadvantaged groups, citizen contractors, women, youth, persons with disabilities, minorities and marginalized groups in public procurement. Specifically, the procuring entities should reserve at least 30% of their total annual procurement budget for procurement of goods, works and services from enterprises owned by youth, women and persons with disabilities.

On the other hand, County Government procuring entities are also required to apply preference and reservation scheme whereby 20% of their annual procurement budgets should be reserved for procurement of goods, works and

services from tenderers resident within the respective counties. This is pursuant to Section 33(2) (g) of the Act and Regulation 40(5) of the Regulations.

During the year, **117** PEs submitted part of the consolidated annual procurement plans for the 2021/2022 financial year to the Authority. The total procurement budget for is Kshs. **36,275,302,004.93** out of which procurements valued Kshs. **7,707,864,266.60** are reserved to the enterprises owned by Youth, Women and Persons living with disability. This translates to 21.2% which is below the prescribed threshold of at least 30% of the total procurement budget. The plans were reviewed and a summary of the findings presented in the table below.

**Table 9: Summary of Findings from Procurement Plans Submitted to the Authority**

N o .	Findings from the Review	Num ber
1.	Number of PEs that submitted the Plans by 31 <sup>st</sup> August, 2021	33
2.	Number of PEs that submitted the Plans after 31 <sup>st</sup> August, 2021	84
3.	Number of PEs that Reserved at least 30% for the AGPO Reservation Scheme	35
4.	Number of PEs that Reserved less than the prescribed minimum, of at least 30%	24
5.	Number of PEs that did not fully disclose the Procurement and Values Reserved for AGPO Scheme	58

From the table above, majority (84) of the 117 PEs submitted to the Authority part of the annual procurement plans past the prescribed timelines, contrary to provisions of Section 158(2) of the Act. Further, 58 PEs failed to disclose the amounts reserved for the AGPO scheme, with another 24 PEs reserving less than the prescribed minimum of at least 30%; contrary to provisions of Sections 53(6) and 157 (5) & (10) of the Act. Some PEs only disclosed either the total procurement budgets or the amounts reserved, therefore making it impossible to determine their level of compliance with the Law. A list of procuring entities that submitted the plans and their level of reservation of procurement spend is provided as **Annex 1**.

**(b) Review of Reports on Procurement Transactions**

**I. Reports on All Contract Awards**

During the year under review, only **315** PEs submitted reports on contract awards worth Kshs. **137,297,174,922.28** as summarised in the table 3 below.

**Table 10: Summary of Contract Awards in Values**

Category of PEs	Value of Contracts (Kshs.)	Percent
State Corporations and SAGAs	108,732,880,677.65	79.2%
County Government (Executives)	18,641,791,059.16	13.6%
Constitutional Commissions & Independent Offices	3,373,194,660.64	2.5%
Public Universities and University Colleges	3,103,461,681.45	2.3%
Ministries and State Departments	1,819,884,784.10	1.3%
County Assemblies	1,388,739,958.06	1.0%
Pension Funds for Public Entities	237,222,101.22	0.2%
<b>Total</b>	<b>137,297,174,922.28</b>	<b>100.0%</b>

During the period, State Corporations and SAGAs accounted for 79.2% of the value of the contracts, followed by County Governments (Executives) at 13.6%. The State Corporations and SAGAs also submitted the highest number of contracts during the period under review. Detailed list of PEs that submitted reports is provided as annex 2.

Some of the issues noted from the review of the reports included: some of the PEs failed to use the prescribed reporting formats thus ended up not disclosing some of the required information, such as total contract values, which made aggregation difficult. A number of the PEs also submitted reports after lapse of the prescribed timelines for submission of reports.

## II. Reports on use of Direct Procurement Method

During the period under review, a total of **757** reports on use of direct procurement method for procurements above Kshs. 500,000, were submitted to the Authority by **85** PEs. The reports were submitted in different currencies as follows; Kshs. **15,996,372,062.05**, Euro **296,232,830.74** and USD. **4,426,262.08**. A summary of PEs and number of reports and value of the procurements are presented in table 4 below and details of the specific PEs are presented as **Annex 3**.

**Table 11: Number of Reports on Use of Direct Procurement Method by Category of PEs**

Category of PEs	Number of Reports/Contracts	Value of contracts
State Corporations and SAGAs	562	14,337,803,775.76
Ministries and State	6	663,591,249.52

Departments		
County Government (Executives)	151	552,377,481.54
Constitutional Commissions & Independent Offices	8	391,527,754.00
Public Universities	22	49,464,946.07
Pension Funds for Public Entities	6	1,606,855.00
County Assemblies	2	0
<b>Total</b>	<b>757</b>	<b>15,996,372,061.89</b>

From the table above, most of the direct procurements were reported by State Corporations and SAGAs, worth Ksh. 14,337,803,775.76. The main reasons provided by the PEs for use of direct procurement method; was need for standardization pursuant to Section 103(2) (d) of the Act, and that of Section 103 (2) (a) - goods / services were available only from a particular supplier and urgent need respectively.

### III. Reports on Termination of Procurement and Asset Disposal Proceedings

During the year under review, **167** procuring entities submitted to the Authority, a total of **883** reports on termination of procurement proceedings. A summary of PEs that submitted the termination reports is presented in the table below and details of the specific PEs is presented as **Annex 4**.

**Table 12: Summary of Reports on Termination of Procurement Proceedings**

Category of PEs	Number of Terminations	Percent
State Corporations and SAGAs	677	76.7%
Constitutional Commissions & Independent Offices	67	7.6%
Public Universities	38	4.3%
County Government (Executives)	34	3.9%
Ministries and State Departments	28	3.2%
County Assemblies	20	2.3%
Pension Funds for Public Entities	15	1.7%
Public Schools & Colleges	4	0.5%
<b>Total</b>	<b>883</b>	<b>100.0%</b>

In summary, State Corporations and SAGAs reported the highest number of terminations of procurement proceedings at 76.7%. The main reasons given by the PEs for terminations of procurement proceedings were; non responsiveness of all tenders evaluated as per Section 63 (1) (f), Inadequate budgetary provision as provided under Section 63(1) (b), and material governance issues under Section 63 (1) (e).

**(c) Reports on Contract Variations/Amendments**

Section 139(5) of the Act requires the Accounting Officers to submit reports on contract variations or amendments to the Authority on quarterly basis. During the year under review, the Authority received **36** reports on varied/amended contracts from six (6) procuring entities. Kenya Airports Authority submitted 25 reports which was the highest, followed by Kenya Revenue Authority with seven (7) reports. Majority of the reports that were submitted by Kenya Airports Authority were on extension of contract periods and had no financial implications.

All the reports were submitted within the prescribed period of 14 days after the end of the quarter and variations were within the prescribed threshold of not more than 25% of the original contract sum. Among the weaknesses identified in the reports were failure by some of the PEs to provide documentary evidence in support of variations and approvals by the Accounting Officers. A summary of PEs that submitted reports on contract variations /amendments is presented as **Annex 5**.

**3.2.1.2 Procurement Assessments, Reviews and Contract Audits**

Section 43 of the Act mandates the Authority to conduct inspections, assessments, audits, and reviews relating to contracts, and public procurement and asset disposal proceedings; to determine their level of compliance with the public procurement Legal and Regulatory Framework. During the year, the Authority conducted Assessments, contract audits, and procurement Reviews. The Authority evaluates the level of compliance with the Procurement Law by the PEs against a pre-set scoring criteria in the Compliance Monitoring Manual. The interpretation of compliance level and risk rating is as follows.

**Table 13: 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 compliance	30-70%	Moderate
3	81-99%	Above Average compliance	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 not achieving value for money expended through public procurement is high.

**(a) Procurement Assessments**

During the year, the Authority conducted procurement assessments in 15 PEs at National Government level and County Level. The compliance levels of the 15 PEs are indicated in the table below:

**Table 14: Procurement Assessment Compliance Rating and Risk Scores**

No.	Procuring Entity	Compliance Score (%)	Risks Score (%)
<b>National Government Entities</b>			
1.	Rift Valley Technical Training Institute	85.6	14.4
2.	Kenya Medical Training College-Mombasa	68.5	31.5
3.	Rift Valley Institute of Science and Technology	67.4	32.6
4.	Kisauni NGCDF	62.0	38.0
5.	Koshin Technical Training Institute	62.0	38.0
6.	Moi Girls' High School, Eldoret	61.0	39.0
7.	The Hill Girls' School Eldoret	59.0	41.0
8.	Kericho Teachers Training College	55.0	45.0
9.	Mvita NGCDF	51.0	49.0
10.	Msabweni NGCDF	46.0	54.0
11.	Nakuru Town West CDF	40.9	59.1
12.	Pyrethrum Processing Company of Kenya	26.8	73.2
<b>County Government Entities</b>			
13.	Mombasa Water and Sewerage Co. Ltd	66.0	34.0
14.	Kericho Water & Sewerage Services Company	58.4	41.6
15.	Nakuru Water & Sewerage Services Company	54.5	45.5

No.	Procuring Entity	Compliance Score (%)	Risks Score (%)
	<b>National Government Entities</b>		
	<b>Average Scores (%)</b>	<b>57.6%</b>	<b>42.4%</b>

Based on the assessment results, the average compliance score for the PEs assessed in the year under review was **57.6%** which is indication of average compliant with the Legal and Regulatory Framework, with a corresponding moderate risk level of **42.4%**. The common strengths recorded amongst the PEs that were assessed included establishment of procurement functions, undertaking procurement planning and initiation processes, reservation of procurement opportunities for the disadvantaged groups, use of the standard tender documents, preparation of professional opinion by heads of procurement functions, and appointment of various committees on procurement transactions. The fifteen (15) PEs that were assessed during the year had common weaknesses which included failure to conduct market surveys, failure maintain procurement files, lack of procurement and disposal manuals and publication of contract awards.

#### **(b) Compliance Monitoring through Contract Audits**

During the year under review, the Authority conducted contract audits in **102** procuring entities; comprising **nine (9)** PEs from the National Government; **47** County Executives and **46** County Assemblies. Marsabit Government was not audited due to insecurity in the county. The compliance and risk ratings for all the PEs that were audited are presented in the tables below.

**Table 15: Compliance Rating and Risk Scores for National Government Entities**

No.	Procuring Entity	Compliance Score (%)	Risks Score (%)
1.	Kenya Seed Company Ltd	86	14
2.	Lake Basin Development Authority	81	19
3.	Rivatex East Africa Limited	72	28
4.	Eldoret National Polytechnic	71	29
5.	Kenya Ferry Services	66	34
6.	Moi University: Eastern and Southern Africa Higher Education Centre for Excellence Project	65	35
7.	Jaramogi Odinga Oginga University of Science and Technology	60	40
8.	Kenya Marine and Fisheries Research Institute	60	40
9.	Central Rift Valley Water Works	54.8	45.2

	Development Agency		
	<b>Average Score (%)</b>	<b>68.4%</b>	<b>31.6%</b>

Based on the scores in the table above, the average compliance level for the National Government PEs that were audited in the year under review was **68.4%** which is average compliance and a moderate risk level of **31.6%**. This implied that all the eleven (11) PEs that demonstrated an average compliance with the Public Procurement Legal and Regulatory Framework.

**Table 16: Compliance Rating and Risk Scores for County Executives**

No.	Procuring Entity	Compliance Score (%)	Risks Score (%)
1.	Uasin Gishu County Government	76.0	24.0
2.	Turkana County Government	75.0	25.0
3.	Mandera County Government	74.0	26.0
4.	Murang'a County Government	73.8	26.2
5.	Busia County Government	73.0	27.0
6.	Vihiga County Government	70.0	30.0
7.	Laikipia County Government	70.0	30.0
8.	Makueni County Government	70.0	30.0
9.	Kilifi County Government	69.0	31.0
10.	Mombasa County Government	69.0	31.0
11.	Nyeri County Government	68.9	31.1
12.	Nyandarua County Government	68.8	31.3
13.	Kwale County Government	68.0	32.0
14.	County Government of Kericho	67.3	32.7
15.	Nyamira County Government	67.0	33.0
16.	Narok County Government		

No.	Procuring Entity	Compliance Score (%)	Risks Score (%)
		65.6	34.4
17.	West Pokot County Government	63.0	37.0
18.	Embu County Government	63.0	37.0
19.	Elgeyo Marakwet County Government	62.0	38.0
20.	Nandi County Government.	61.0	39.0
21.	Homabay County Government	61.0	39.0
22.	Isiolo County Government	60.0	40.0
23.	Trans Nzoia County Government.	60.0	40.0
24.	Siaya County Government	59.5	40.5
25.	Taita Taveta County Government	59.0	41.0
26.	Garissa County Government	57.8	42.2
27.	Kisii County Government	57.0	43.0
28.	Tana River County Government	57.0	43.0
29.	Kajiado County Government	56.0	44.0
30.	Nairobi County Government	55.3	44.7
31.	Kakamega County Government	55.0	46.0
32.	Bungoma County Government	54.0	46.0
33.	Migori County Government	53.0	47.0
34.	County Government of Bomet	52.6	47.4
35.	Samburu County Government	52.2	47.8
36.	Lamu County Government	51.0	48.0

No.	Procuring Entity	Compliance Score (%)	Risks Score (%)
37.	Kirinyaga County Government	51.0	49.0
38.	Kitui County Government	50.2	49.8
39.	Wajir County Government	50.0	50.0
40.	County Government of Baringo	49.5	50.5
41.	Kisumu Water and Sanitation Company	48.9	51.1
42.	Machakos County Government	48.8	48.8
43.	Kisumu County Government	45.0	55.0
44.	Kiambu County Government	45.0	55.0
45.	Nakuru County Government	44.5	55.5
46.	Meru County Government	39.5	60.5
47.	Tharaka Nithi County Government	32.5	67.5
	<b>Average Scores (%)</b>	<b>59.1%</b>	<b>40.9%</b>

From the table above, the average compliance level of the County Executives is **59.1%** which is considered average and a moderate risk of **40.9%**. The contract audit reports will be finalized and published in the Authority's website for review by the stakeholders.

**Table 17: Compliance and Risk Scores of County Assemblies**

No.	Procuring Entity	Compliance Score (%)	Risks Score (%)
1.	Elgeyo Marakwet County Assembly	79.00	21.00
2.	County Assembly of Kericho	78.40	21.60
3.	Nandi County Assembly	75.00	25.00
4.	Tana River County Assembly	74.00	26.00

No.	Procuring Entity	Compliance Score (%)	Risks Score (%)
5.	Nairobi County Assembly	74.00	26.00
6.	Trans Nzoia County Assembly	72.00	28.00
7.	Nakuru County Assembly	71.30	28.70
8.	Siaya County Assembly	71.00	29.00
9.	Taita Taveta County Assembly	70.00	30.00
10.	Garissa County Assembly	70.90	29.10
11.	Kilifi County Assembly	70.00	30.00
12.	West Pokot County Assembly	70.00	30.00
13.	Turkana County Assembly	69.00	31.00
14.	County Assembly of Bomet	68.70	31.30
15.	Nyeri County Assembly	66.90	33.10
16.	Uasin Gishu County Assembly	66.00	34.00
17.	Homabay County Assembly	65.00	35.00
18.	Kisii County Assembly	65.00	35.00
19.	Kisumu County Assembly	63.60	36.40
20.	Kwale County Assembly	63.00	37.00
21.	Mombasa County Assembly	61.00	39.00
22.	Lamu County Assembly	61.00	39.00
23.	Nyamira County Assembly	61.00	39.00
24.	Kirinyaga County Assembly	61.00	39.00

<b>No.</b>	<b>Procuring Entity</b>	<b>Compliance Score (%)</b>	<b>Risks Score (%)</b>
25.	Murang'a County Assembly	60.60	39.40
26.	Makueni County Assembly	60.00	40.00
27.	Embu County Assembly	57.70	42.30
28.	Machakos County Assembly	57.10	42.90
29.	Kajiado County Assembly	56.00	44.00
30.	Vihiga County Assembly	55.00	45.00
31.	Laikipia County Assembly	54.00	46.00
32.	Busia County Assembly	54.00	46.00
33.	County Assembly of Narok	53.70	46.30
34.	Kitui County Assembly	53.30	46.70
35.	Migori County Assembly	49.00	51.00
36.	Nyandarua County Assembly	48.90	51.10
37.	Bungoma County Assembly	48.00	52.00
38.	Kiambu County Assembly	47.00	53.00
39.	County Assembly of Baringo	46.50	53.50
40.	Meru County Assembly	46.00	54.00
41.	Kakamega County Assembly	45.00	55.00
42.	Wajir County Assembly	41.30	58.70
43.	Samburu County Assembly	38.10	61.90
44.	Isiolo County Assembly	35.90	64.10

No.	Procuring Entity	Compliance Score (%)	Risks Score (%)
45.	Tharaka Nithi County Assembly	20.50	79.50
	Mandera County Assembly*	-	-
	<b>Average Scores (%)</b>	<b>59.4</b>	<b>40.6</b>

From the table above, the compliance level of the County Assemblies audited is **59.1%**, which is considered average with a risk level of **40.9%**. Further, the drafting of the report for Mandera County Assembly had not been finalized as at the time of compiling this report. The reports will be shared with the respective PEs for comments before publication.

### (c) Procurement Reviews

A procurement review is a comprehensive and detailed audit of the procurement and asset disposal activities of a procuring entity for a specified period of time to ascertain their level of compliance with the Public Procurement Law. The key indicators used in procurement reviews were institutional arrangements, procurement and asset disposal procedures, and inventory management. During the year under review, the Authority conducted compliance monitoring reviews in **11** procuring entities. The compliance and risk scores for the **11** PEs are presented in the table below.

**Table 18: Compliance Reviews Rating and Risk Scores**

No.	Procuring Entity	Compliance Score (%)	Risks Score (%)
1.	University of Eldoret	82.0	18.0
2.	Lake Victoria South Water Works Development Agency	72.0	28.0
3.	Kenya National Highway Authority	69.5	30.5
4.	Rural and Renewable Energy Corporation	69.0	31.0
5.	Kenya Ports Authority	69.0	31.0
6.	Kenya Rural Roads Authority (Nakuru Region)	67.4	32.6
7.	Postal Corporation of Kenya	54.9	45.1
8.	Energy and Petroleum Regulatory Authority	52.4	47.6

No.	Procuring Entity	Compliance Score (%)	Risks Score (%)
9.	Kenyatta University	50.9	49.1
10.	Higher Education Loans Board	50.8	49.2
11.	Nairobi Metropolitan Service	-	-
<b>Average Scores (%)</b>		<b>63.2%</b>	<b>36.8%</b>

The average compliance score for the ten (10) PEs was **63.2%** which is considered as average compliance with the public procurement Legal and Regulatory framework, and a moderate risk score of score of **36.8%**. As at the close of the year, the report for the Nairobi Metropolitan Service had not been finalized, therefore will be included in the next year report. Among the common strengths identified in the procurement systems of the PEs that were monitored through the different methods during the year included:

- i. The PEs had established Procurement Functions to undertake procurement and asset disposal processes as envisaged under the public procurement Legal and Regulatory framework;
- ii. The PEs prepared annual procurement plans as the basis for all procurement activities implemented in the year;
- iii. The relevant committees on procurement transactions were appointed as and when required;
- iv. The heads of Procurement Functions prepared professional opinions and submitted for consideration by the Accounting Officer;
- v. The PEs used the standard tender documents issued by the Authority in their procurement operations; and
- vi. The PEs also sent letters of notification of awards to bidders on the outcome of the procurement processes.

On the other hand, some common weaknesses identified in the procurement systems of a majority of the PEs monitored, including:

- i. The PEs had not developed internal procurement and asset disposal manuals/policies to guide decision making on procurement operations as contemplated under Section 45(1) of the Act. In cases where the manuals/policies existed, they had not been aligned to the Regulations, 2020.
- ii. The PEs did not maintain individual procurement and contract files; in cases where the individual procurement and contract files were

available, they were incomplete as some of the records were not available for review.

- iii. The heads of Procurement Functions did not prepare monthly progress reports on procurement contracts as required under Section 152 of the Act and Regulation 140 of the Regulations.
- iv. Whereas most of the PEs used the standard tender documents while preparing the tender documents, a number of them had challenges in customising the standard tender documents.
- v. The PEs did not publicize all contract awards pursuant to Section 138 of the Act and Regulations 131 of the Regulations, PPRA Circular No.1/2021 of 22<sup>nd</sup> April 2021 and Executive Order No. 2 of 28<sup>th</sup> June, 2018.

**(d) Compliance Monitoring through Follow-Ups**

During the year, the Authority conducted four (4) follow-up assessments in four (4) National Government PEs. The purpose of the follow-ups was to gauge the extent to which each PE implemented the recommendations made by Authority to address the non-compliance issues that were identified in their procurement system in the past compliance monitoring. The table below presents the level of implementation of the recommendations of the Authority by the four (4) PEs.

**Table 19: Level of Implementation of Recommendations**

No.	Procuring Entity	Compliance Score (%)	Risks Score (%)
1.	Technical University of Mombasa	74.0	26.0
2.	Kenyatta National Hospital	71.0	29.0
3.	Kitale National Polytechnic	67.0	33.0
4.	Kenya Medical Supplies Authority	56.0	44.0
	<b>Average Scores (%)</b>	<b>67.0%</b>	<b>33.0%</b>

From the above information, the four (4) PEs had on average implemented **67.0%** of the recommendations made by the Authority in the previous compliance monitoring assessments, while **33.0%** of the recommendations had not been implemented.

### (e) Compliance Monitoring through Procurement Inspections

During the year, the Authority conducted procurement inspections at three (3) PEs. Procurement inspections is to determine whether a procuring entity being inspected has duly established the relevant institutional arrangements like procurement function to support its procurement functions. The compliance levels of the PEs inspected is presented in the table below.

**Table 20: Compliance Reviews Rating and Risk Scores**

No.	Procuring Entity	Compliance Score (%)	Risks Score (%)
1.	Mbaraki Girls' High School	54	46
2.	Moi Girls' High School	61	39
3.	Eldoret Water and Sanitation Company	61	39
<b>Average Scores (%)</b>		<b>58.7%</b>	<b>41.3%</b>

From the information presented in the table above, the average compliance level is 58.7% which is considered avarice compliance with the Procurement and Legal Framework with a corresponding moderate risk of 41.3%. A key weakness identified all the PEs was failure to maintain individual procurement files and publication contract awards.

#### 3.2.1.3 Overall Compliance Level

Based on the compliance monitoring interventions adopted by the Authority during the quarter, the table below presents a summary of the compliance scores, risk ratings and the overall compliance level.

**Table 21: Compliance Monitoring Interventions and Scores**

Compliance Monitoring Method	Compliance Score	Risk score
Procurement Assessment	57.6%	42.4%
Procurement Reviews	63.2%	36.8%
Procurement Contract Audits- National Government	68.4%	31.6%
Procurement Contract Audits- County Executives	59.1%	40.9%
Procurement Contract Audits- County Assemblies	59.4%	40.6%
Follow – Ups	67.0%	33.0%
Procurement Inspections	58.7%	41.3%

<b>Overall compliance level (average)</b>	<b>61.9%</b>	<b>38.1%</b>
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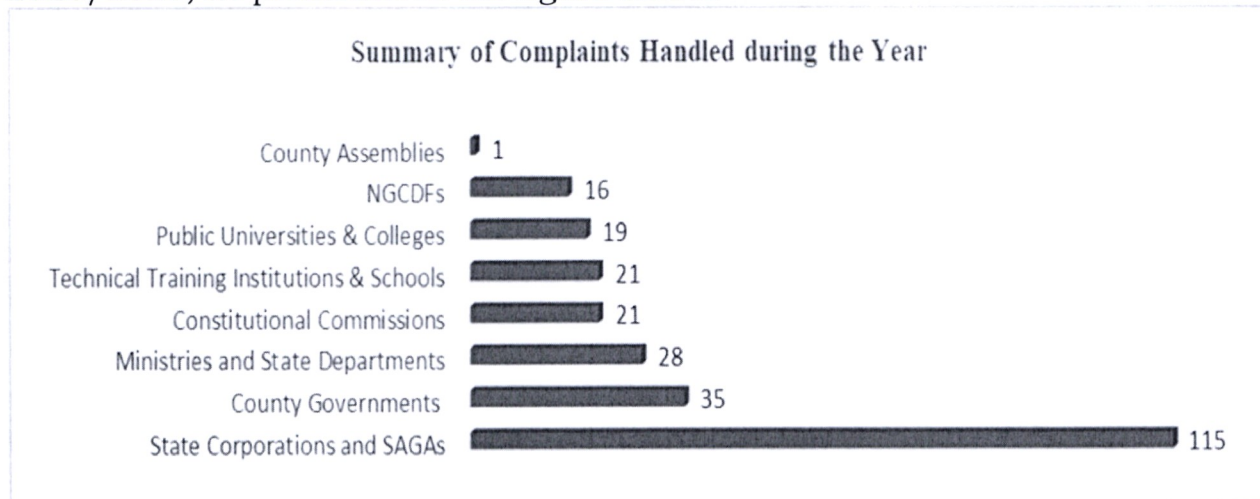
From the different compliance monitoring interventions implemented by the Authority, the average overall compliance level was **61.9%** which indicates average compliance with the Public Procurement Legal and Regulatory Framework. The Authority signed action plans with the respective PEs monitored during the period under review and expects them to implement recommendations. The Authority, will in the next period, review the extent of implementation of the recommendations.

### **3.3 Strategic Objective 2: To Enhance Enforcement of the Public Procurement and Asset Disposal Standards**

The Authority is mandated under sections 9 and 35 of the Act to act on, including investigation of complaints received on public procurement and asset disposal proceedings, enforce any standards developed under the Act.

#### **3.3.1 Complaints Management**

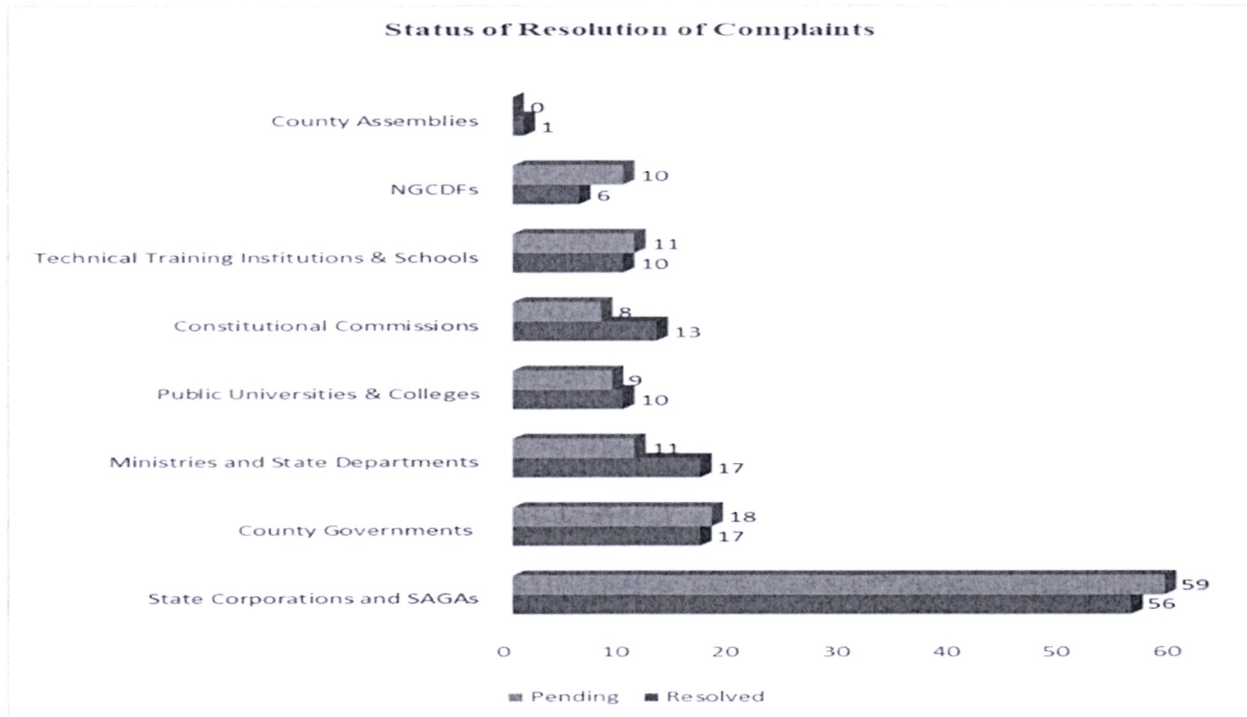
During the year, the Authority handled **256** complaints, comprising of **246** received within the year and **10** carried forward from the previous year, 2020/2021, as presented in the figure below.



**Figure 3: Summary of Complaints Handled during the Year**

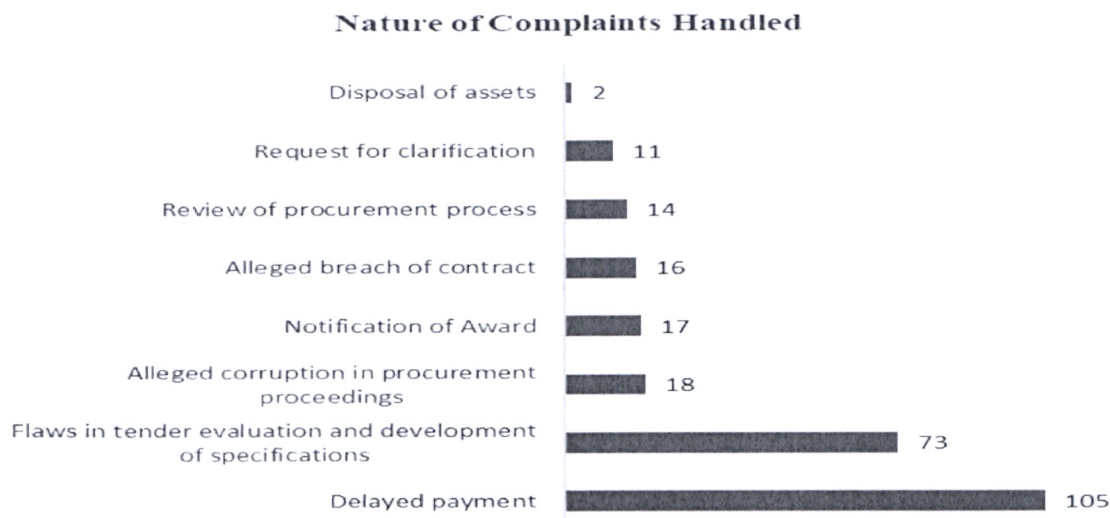
In addition, majority of the complaints were on procurement and asset disposal processes undertaken by State Corporations at **115**, followed by County Governments, **35**, and Ministries & State Departments at 28, amongst other categories of PEs.

On resolution of the complaints received during the year, **128** out of the **256** complaints were resolved and feedback communicated to the parties, while the remaining **128** were at different stages of being resolved as at the end of the financial year, as presented in the figure below.



**Figure 4: Status of Resolution of Complaints during the Year**

On nature of complaints received during the year, **105** were on delayed payment, **73** were on flaws in tender evaluation and development of specifications, **18** were on allegation of corruption in procurement proceedings, **17** were on notification of award, **16** on alleged breach of contract, **14** on review of procurement process, **11** on request for clarification and **2** on disposal among others.



**Figure 5: Nature of Complaints Received**

### 3.3.2 Investigations Undertaken

During the period under review, the Authority commenced and completed nine (9) investigations as shown in the table below. The investigation reports were shared with the PEs for approval.

**Table 22: Investigations Undertaken**

No .	Procuring Entity	Complainant/Agency	Nature of Complaint	Status
1.	Shanzu Teachers Training College	The National Treasury	Request by the National Treasury based on anonymous letter received by Treasury on 12 <sup>th</sup> July, 2021	Completed shared with PE
2.	Vision 2030 secretariat	CEO-Vision 2030 secretariat	Irregularities in the procurement process	Completed report shared with the Procuring Entity
3.	Athi Water services	Benard Kabugi	Irregularities in the procurement process	Completed and shared with PE
4.	Tana River County Governmen	Joseph Otieno for ARR Insurance Company	Request for investigation for fraudulent award of tender No.	Completed report shared

No	Procuring Entity	Complainant/Agency	Nature of Complaint	Status
	t		TRCG/OT/PSM/49/2021-2022 Tana River Staff medical Insurance.	with PE
5.	Masinde Muliro University	Anonymous	Request for investigation Tender NO. MMUST/001/EST/2021-2022; Proposed Engineering & TVET Complex & associated works	Completed report shared with PE
6.	Tana River County Government	1. Staff of county Government 2. Association of Kenya Insurance 3. Forwarded to PPRA by CAK	Request for investigation TENDER NO. TRG/OT/ADM/49/ 2021-2022	Completed and report shared with the PE
7.	Kenya Forest Service	Forwarded by EACC Report NO. 96923	Request for investigation for E- Registration for forest industry investor for financial year 2021-2022; Sale of plantation material	Completed report shared with PE.
8.	Kenya Pipeline Company	GERVIA ADVOCATES	Request for investigations for TENDER NO. KPC/PU/OT/033/CORP/N BI: Inspection of 8-inch & 6-inch Nairobi –Eldoret (line 2) & 6-inch Sinendent-Kisumu multi-product line	Completed and shared with the PE
9.	Kenya Civil Aviation Authority	Request for investigations into issuance of commissioning certificate by KCAA to Indira Ltd dated 12 <sup>th</sup> AUGUST, 2021 in respect to Tender No. KCAA/057/2019-2020: Supply, Installation &	iBross Project Ltd	Completed and shared with PE

No	Procuring Entity	Complainant/Agency	Nature of Complaint	Status
		Commissioning of Air Traffic Management (ATM) System at JKIA		

### 3.3.3 Debarment

Section 41 of the Act mandates the Regulatory Board to debar suppliers/contractors from participating in public procurement and asset disposal proceedings on various grounds. The Debarment Committee (DC) holds meetings to hear and determine requests for debarment cases lodged by stakeholders on public procurement and asset disposal matters.

During the year under review, the Debarment Committee, handled **19** requests for debarment, out which five (**5**) firms were debarred for a period of three years, as presented in the table below. However, two (2) of the five debarred firms appealed the decisions of the Committee at the High Court. In addition, **11** cases were dismissed for lack of prima facie cases. The remaining cases were ongoing as at the end of the fiscal year. The details and status of the debarment requests are summarized in the table below.

**Table 23: Details of Debarment Cases and Status**

No.	Applicant	Firm Sought to Be Debarred	Recommendation	Status
1.	Mr. Benedict Kabugi Ndungu	Sinotec Company Limited (both China and Kenya branch)	The DC established that there was no prima facie case during its sitting of 12 <sup>th</sup> July, 2021.	File closed
2.	Mr. Benedict Kabugi Ndungu	Justnice Ltd	The DC established that there was no prima facie case during its sitting of 12 <sup>th</sup> July, 2021.	File closed.
3.	Kisii Teaching and Referral Hospital	Secureman Services Limited	Debarred on 16 <sup>th</sup> September, 2021.	Debarment decision published.
4.	Kisii Teaching and Referral Hospital	Babs Security Services Limited	Debarred on 16 <sup>th</sup> September, 2021.	Appealed to High Court against the debarment decision.

No.	Applicant	Firm Sought to Be Debarred	Recommendation	Status
5.	National Irrigation Authority	Bilanamin Construction & Supply Ltd	Debarred on 16 <sup>th</sup> September, 2021.	Debarment decision published.
6.	Elphas Kipsang Chumo	Quality Inspection Services Japan (QISJ)	The Committee established that there was no prima facie case during its meeting of 27 <sup>th</sup> August, 2021	File closed.
7.	Moi Teaching and Referral Hospital	Resh & Company Limited	Debarred on 16 <sup>th</sup> March, 2022	Appealed to High Court against the Debarment Decision.
8.	Moi Teaching and Referral Hospital	Oxyplus International Company Ltd.	Debarred on 16 <sup>th</sup> March, 2022	Debarment Decision published
9.	Benedict Kabugi Ndungu	Rockey Africa Ltd	Dismissed for lack of Prima Facie case on 25 <sup>th</sup> January, 2022	File closed
10.	Benedict Kabugi Ndungu	Third Engineering Bureau of China City Group Co. Ltd	Dismissed for lack of Prima Facie case on 14/01/2022.	File closed
11.	Benedict Kabugi Ndungu	Weihai Construction Group Co. Ltd	Dismissed for lack of Prima Facie case on 25 <sup>th</sup> January, 2022	File closed
12.	Benedict Kabugi Ndungu	China State Construction Engineering Corporation Ltd	Notice of Withdrawal considered and accepted on 28 <sup>th</sup> March, 2022	File Closed
13.	Eng. Titus Njenga	China Railway No. 10 Engineering Group Co. Ltd	Dismissed for lack of Prima Facie case on 10 <sup>th</sup> February, 2022	File Closed
14.	Benedict Kabugi Ndugu	Africa Development Professional Group Ltd	Dismissed for lack of Prima Facie case on 10 <sup>th</sup> February, 2022	File Closed
15.	Kenya Deposit Insurance Corporation	Merge Systems Limited	Request for Debarment dismissed for lack of merit and final	File Closed

<b>No.</b>	<b>Applicant</b>	<b>Firm Sought to Be Debarred</b>	<b>Recommendation</b>	<b>Status</b>
			decision delivered on 5 <sup>th</sup> May, 2022.	
16.	Kenya Deposit Insurance Corporation	Teknohub Limited	Request for Debarment dismissed for lack of merit and final decision delivered on 11 <sup>th</sup> April, 2022.	File Closed
17.	Geothermal Development Company	Kabways Merchants Limited	Prima facie case established awaiting DC decision	ongoing
18.	Moi Teaching and Referral Hospital	Jimtec Services Limited	Analysis stage	ongoing
19.	Moi Teaching and Referral Hospital	Shree Sikandrabad Co. Limited	Analysis stage	ongoing

### **3.4 Strategic Objective 3: To Conduct Quality Research on Public Procurement and Asset Disposal Issues for Enhanced Service Delivery**

#### **3.4.1 Issuance of Market Price Reference Guide**

Section 54 (3) of the Act, requires the Authority to issue a quarterly market price index as reference guide to assist accounting officers make informed price decisions. To realize this mandate, the Authority in collaboration with the Kenya National Bureau of Statistics (KNBS) through a memorandum of agreement, has been undertaking surveys on prevailing market prices for standard goods and services to inform preparation of market price index for use by the procuring entities. The market price surveys are conducted in Nairobi, Mombasa, Kisumu, Eldoret and Bungoma towns.

During the year, the Authority finalized and published the results of a market price index for the survey conducted in the fourth quarter of the 2020/2021 fiscal year. The published market price reference guide reports are available in the website [www.ppra.go.ke](http://www.ppra.go.ke) for reference by all stakeholders. The Authority due to financial constraints, did not undertake market surveys during the year to inform preparation of market price indices as envisaged in the Act and Regulations. As a

result of this gap, there exists the risk of accounting officers not receiving proper guidance while making procurement decisions prices offered by bidders, which could erode the gains made in enhancing value for money in public procurement.

### **Review of List of Items used to Prepare the Market Price Index**

The Authority received support from the Public Financial Management Reforms Secretariat, under the Reforms Strategy (PFMRS) 2018-2023 to implement a number of reforms. One of the reforms is the review of the list of items used in the development of market price reference guide. This is aimed at strengthening the quality of advice issued to accounting officers and other stakeholders, while making public procurement decisions, towards realization of value for money.

During the year under review, the Authority, through an Inter-Agency Technical Committee, convened a working session to review the existing lists with a view of making them comprehensive by dropping obsolete items, adding new items and incorporating sector specific specifications and standards. The Technical Committee completed the working by delivering a draft list of items, which is to be subjected to stakeholders for comments and validation.

### **3.4.2 Monitoring Access to Government Procurement Opportunities (AGPO) (a) Half-Year (January-June, 2021) Report on Contract Awards under AGPO**

The Act under Part XII provides for promotion of different forms of preference and reservation schemes in public procurement. Specifically, Section 157 focuses on disadvantaged groups (women, youth and Persons with Disabilities); of which the Accounting Officers are required reserve at least 30% of their procurement spend for procurement of goods, works and services from firms owned by the disadvantaged groups.

Procuring entities, pursuant to Section 157(12) & (13) of the Act are required to report to the Authority every six months on the number and value of contracts awarded to the disadvantaged groups. The Authority developed and disseminated templates for reporting by public entities vied PRA Circular No. 01/2016, and as revised through PRA Circular No. 01/2021 of April, 2021. The Authority is required submit the consolidated report to Parliament after the end of every half-year.

During the year, the Authority analysed reports received from the procuring entities for the January-June, 2021 period, being the second half-year of the 2020/2022 financial year. During the reporting period, only **184** procuring entities submitted reports on contracts awarded to enterprises owned by youth, women and PWDs. This comprised of, **160** entities from National Government and **24** from the County Governments. The National Government procuring entities consisted of **20** Ministries and State Departments; **92** State Corporations,

**39** Universities, Colleges, Polytechnics and Technical Training Institutions and **9** Constitutional Commissions and Independent Offices. The **24** County Governments procuring entities comprised of **15** County Executives and **9** County Assemblies.

This half (January – June 2021) recorded a **4.7%** decline in the number of procuring entities that submitted reports to the Authority on contracts awarded to the target groups; from **193** in the previous half-year (July-December, 2020). Majority of the procuring entities have persistently failed to submit reports to the Authority as required by the Act despite continuous reminders through circulars. The **184** procuring entities cumulatively planned to spend Kes. **122,504,457,647.82** on procurement of goods, works and services for the 2021/2022 FY, of which Kes. **24,805,596,973.86** was reserved for procurement of goods, works and services from firms owned by youth, women and PWDs. This represents an average reservation of **20.25%** of the cumulative planned quarter procurement spend. This implied that a majority of the procuring entities at both levels of Government reserved less than the required minimum of 30%.

In terms of number and value of contracts awarded to the disadvantaged groups, the procuring entities that reported awarded **19,617** contracts worth Kes. **15,419,842,307.67**. This is disaggregated into **17,992** contracts of Kes. **12,350,781,213.99** by National Government entities and **1,625** contracts of Kes. **3,069,061,093.68** by County Governments entities.

When disaggregated by disadvantaged groups, the Women category received the highest share of 10,471 (**53.38%**) contracts followed by youth category at 7,650 (**39.00%**) contracts while PWDs received the least at 1,496 (**7.63%**) contracts. In terms of value of the contracts, the women category received the highest share of **50.95%** followed by youth at **41.86%** and the PWDs received the least share of **7.19.38%**.

In summary, some of the procuring entities reserved less than the required minimum of 30%. Almost all procuring entities that reported awarded the least number of contracts to the PWD category, with some entities not awarding contracts to this group. Majority of the procuring entities have also failed to submit reports to the Authority, as prescribed, despite continuous reminders.

#### **(b) Half-Year (July-December, 2021) Report on Contract Awards under AGPO**

The Authority also analyzed and consolidated the reports received from public entities on the contracts awarded to the target groups between July and December 2021, being the first half year report of the 2021/2022 FY, and submitted to Parliament and the National Treasury and Planning for

consideration. During the reporting period, only **176** procuring entities submitted reports on contracts awarded to enterprises owned by youth, women and PWDs, as presented in the table below.

**Table 24: Number of PEs that Submitted the Half-Year Report for July-December, 2021 Period**

Category of Procuring Entities	Numbers (Estimate)	Number Reporting
State Corporations and SAGAs	270	92
Ministries and State Departments	46	17
Constitutional Commissions/Offices and Independent Offices	19	10
Public Universities, Colleges, Polytechnics and TVETs	149	35
County Executives and Agencies	47	12
County Corporations	60	3
County Assemblies	47	7
<b>Total</b>	<b>638</b>	<b>176</b>

Compared with the previous reporting period of January – June, 2021, this reporting half recorded a **4.35%** decrease in the number of procuring entities that submitted reports to the Authority on contracts awarded to the target groups; from **184** in the previous half-year. Majority of the procuring entities have persistently failed to submit reports to the Authority as required by the Act.

The procuring entities that reported, cumulatively planned to spend Kshs. **152,888,184,156.15** on procurement of goods, works and services during the financial year; of which Kshs. **30,668,449,779.37** was reserved for procurement of goods, works and services from firms owned by youth, women and PWDs (the target groups). This represented an average reservation of **20.06%** of the cumulative planned annual procurement spend; which was lower than the required minimum of 30%.

In terms of number and value of contracts awarded to the target groups, the procuring entities that reported awarded a total of **16,431** contracts worth Kshs. **19,194,777,720.43**. This was disaggregated into **15,383** contracts of **Kshs. 16,411,089,753.87** by National Government entities and **1,048** contracts of Kshs. **2,783,687,966.56** by County Government entities, as presented in the table below.

**Table 25: Number of Contracts Awarded to the Youth, Women and PWDs**

Category of Procuring Entities	Number of Contracts by Target Groups			
	Women	Youth	PWDs	Total
State Corporations and SAGAs	5,792	2,820	756	<b>9,368</b>
Universities, Colleges, Polytechnics and Technical Institutions	2,376	1,158	249	<b>3,783</b>
Ministries and State Departments	1,059	700	63	<b>1,822</b>
County Executives	430	446	46	<b>922</b>
Constitutional Commissions and Independent Offices	292	84	34	<b>410</b>
County Assemblies	77	36	13	<b>126</b>
<b>Total</b>	<b>10,026</b>	<b>5,244</b>	<b>1,161</b>	<b>16,431</b>
<b>Percent</b>	<b>61.02%</b>	<b>31.91%</b>	<b>7.07%</b>	<b>100.00%</b>

From the table above, majority of the contracts were awarded by State Corporations and SAGAs, followed by Universities, Colleges, Polytechnics and Technical Institutions. Constitutional Commissions and Independent Offices and County Assemblies awarded the least number of contracts to the target groups.

In terms of value of the contracts awarded to the target groups, State Corporations reported the highest amount followed by County Executives, then by Ministries and State Departments. Constitutional Commissions and Independent Offices and County Assemblies reported the least amounts, synonymous with their low levels of reporting. The summary is presented in the table below.

**Table 26: Summary of Value of Contracts Awarded to the Youth, Women and PWDs**

Category of Procuring Entities	Value of Contracts by Target Groups (Kshs.)			
	Women	Youth	PWDs	Total
State Corporations and SAGAs	8,421,077,13 3.04	3,283,765,7 18.62	1,218,438,4 15.28	<b>12,923,281,2 66.94</b>
County Executives	970,098,104. 65	1,635,997,5 75.36	116,214,452 .05	<b>2,722,310,13 2.06</b>
Ministries and State Departments	1,226,379,53 7.10	1,077,803,7 46.48	78,955,941. 00	<b>2,383,139,22 4.58</b>
Universities, Colleges, Polytechnics and Technical	471,523,111. 80	370,297,108 .20	46,300,205. 20	<b>888,120,425. 20</b>

Institutions				
Constitutional Commissions and Independent Offices	128,800,518.04	63,243,608.00	24,504,711.11	<b>216,548,837.15</b>
County Assemblies	38,436,198.00	19,599,427.00	3,342,209.50	<b>61,377,834.50</b>
<b>Total</b>	<b>11,256,314,602.63</b>	<b>6,450,707,183.66</b>	<b>1,487,755,934.14</b>	<b>19,194,777,720.43</b>
<b>Percent</b>	<b>58.64%</b>	<b>33.61%</b>	<b>7.75%</b>	<b>100.00%</b>

From the above table, a disaggregation of the value of contracts by category of target groups shows that, the women category was awarded the highest number and value of contracts represented by **61.02% (58.64%)**, whereas PWDs received the least at **7.07% (7.75%)**.

**(c) Report to National Development Implementation Technical Committee (NDITC) on AGPO**

During the year under review, the Authority analysed issues affecting uptake of the AGPO programme and submitted a report to the National Treasury for consolidation and tabling before the National Development Implementation Technical Committee (NDITC), which required information on the status, bottlenecks, challenges and proposed resolutions to gaps in the implementation of Access Government Procurement Opportunities (AGPO). The Authority was part of a multi-Agency Team making submissions to the NDITC, whose report was expected to culminate into a Cabinet Memorandum, for consideration by the National Development Implementation and Communications Committee (NDICC) of the Cabinet.

The report by Authority presented information on the value of contracts awarded to the special interest group, including status of implementation, bottlenecks, gaps and recommendations to enhance access to the programme. On the value of contracts, 49.78% was awarded to the women category, followed by the youth at 41.75% and the least amount was received by the PWDs at 8.47%, over the two fiscal year period, as presented in the table below.

**Table 27: Summary of the Value of Contracts Awarded to the Disadvantaged Groups**

Category/ Financial Year	Value of Contracts Awarded by Procuring Entities				TOTAL	Perce
	2019/2020		2020/2021			
	Jul - Dec	Jan- Jun	Jul - Dec	Jan- Jun	KES	
	KES	KES	KES	KES		
<b>Women</b>	4,922,954,366.30	5,983,148,925	7,139,407,103.82	7,856,988,681.60	<b>25,902,499,076.72</b>	49
<b>Youth</b>	3,418,542,718.77	6,489,735,729	5,362,741,017.67	6,454,313,101.18	<b>21,725,332,566.62</b>	41.7
<b>PWDs</b>	833,655,229.33	1,169,439,363	1,294,241,164.45	1,108,540,524.89	<b>4,405,876,281.67</b>	
<b>Total</b>	<b>9,175,152,314.40</b>	<b>13,642,324,017</b>	<b>13,796,389,285.94</b>	<b>15,419,842,307.67</b>	<b>52,033,707,925.01</b>	<b>100.0</b>

On some of the challenges faced by the special groups while participating in the AGPO programme included:

- a) Delayed payment by Procuring Entities for goods, works or services delivered /rendered. The delays have the risk of inflating the cost of tendering, as well as stagnating the businesses owned by the target group.
- b) A number of procuring entities reserve less than the required minimum of 30% of their annual procurement budget for the Special Interest Groups which is against the provisions of Section 157(5) of the Act.
- c) PWDs are awarded the least contracts in terms of number and value by all the procuring entities that reported. Some procuring entities don't award contracts to this target group at all.
- d) Despite the entities reserving procurements for the target groups, there is still low absorption of the amounts reserved for the target groups.
- e) Lack of access to credit facilities from financial institutions to enable the disadvantaged groups to service the contracts awarded to them (Commercial Banks and Financial Institutions still require some form of collateral).
- f) Low levels of awareness on the scheme by disadvantaged groups in the rural areas, thus limiting their participation.
- g) Lack of skills and knowledge amongst the disadvantaged groups on public procurement processes and procedures and on preparation and pricing of bids. Some of the disadvantaged groups submit abnormally low bids with the aim of winning tenders. However, upon wining such tenders, the bidder fails to perform or deliver on the contracts awarded owing to abnormally low prices quoted or lacking the capacity.

- h) Cases of misuse of the AGPO certificates, where the disadvantaged groups act as 'middlemen' to access public contracts and either subcontract or surrender the contract to a third party to deliver. Thus, diminishing the intended objectives of the scheme.
- i) Procuring entities preferring few established disadvantaged groups for repeat business and weak rotation of suppliers as required.

On the measures to address the challenges, the proposals included;

- j) LPOs/LSOs financing through Affirmative Funds established by Government, such as, the Youth Enterprise and Development Fund, Women Enterprise Fund and Uwezo Fund. Mechanisms to ensure ease of access to the funds by the special interest group should be developed;
- k) Establishment of AGPO desks at Huduma centres to carry out AGPO registration at County levels;
- l) Re-engineering of the AGPO portal to facilitate faster: Online application for AGPO certificates; Online certificate verification to ascertain their authenticity; Access to information on available tender opportunities for the Special Interest Groups; and Report generation on performance for purposes of enhancing monitoring and evaluation;
- m) Operationalization of the Preference and Reservations Secretariat responsible for: Registration, prequalification and certification of the persons, categories of persons or groups as provided for in Act; Training and capacity building of the target groups; Providing technical and advisory assistance to procuring entities in the implementation of the preferences and reservations under the Act; and Monitoring and evaluating the implementation of the preferences and reservations under the Act.
- n) Issuance of periodic circulars and letters to accounting officers on prioritization of payments to these category groups; and
- o) Providing for unbundling procurements of goods, works and services in practicable quantities for the purpose of ensuring maximum participation of citizen contractors, disadvantaged groups, small, micro and medium enterprises in public procurement.

#### **(d) Regional Stakeholder Consultation Forums on Implementation of AGPO Programme**

During the period under review, the Authority participated in stakeholder consultation forums organized by the National Treasury to engage disadvantaged groups (youth, women and PWDs) participation in the AGPO programme across the country on the challenges/bottlenecks hindering their participation in public procurement between 9<sup>th</sup> and 19<sup>th</sup> January, 2022. The meetings were held through face-to-face dialogue and were conducted by technical officers from the National Treasury and the Authority.

Ten (10) regional consultation meetings covering 37 Counties namely: Mombasa, Kilifi, Kwale, Taita Taveta, Makueni, Machakos, Kitui, Kajiado, Muranga, Kiambu, Kirinyaga, Nyeri, Laikipia, Nakuru, Nyandarua, Meru, Isiolo, Tharaka Nithi, Embu, Garissa, Tana River, Uasin Gishu, Elgeyo Marakwet, Nandi, Baringo, Bomet, Kericho, Narok, Kisii, Nyamira, Kisumu, Siaya, Homabay, Vihiga, Bungoma, Nandi and Vihiga; were conducted with Youth, Women and Persons with Disabilities (PWDs). The respective County Executive Committee Member (CECM) for Finance mobilized the AGPO suppliers to attend the meetings.

During the meetings, a total of 175 of the targeted 252 (69.44%) participated in the meetings. The Team considered end-to-end procurement process in light of the AGPO target groups where the participants discussed the challenges/bottlenecks faced in each of the areas and proposed solutions. The detailed findings were incorporated in the report to by the National Treasury to the NDITC.

#### **3.4.3 Assessment of the Public Procurement and Asset Disposal System**

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

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

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

To ensure a seamless coordination and implementation of the assignment and the assessment, the Authority has constituted a joint Technical Committee to manage the assessment processes. The Technical Committee will be composed of officers drawn from the Authority, the National Treasury (PPD), Kenya Institute of Supplies Management (KISM), Kenya National Highways Authority (KeNHA) and the Horn of Africa Gateway Development (HoAGD) Project Management Unit. The Technical Committee will be reporting to the Steering Committee, Chaired by the Principal Secretary, National Treasury.

As at the close of the fiscal year, the Authority through KeNHA, was finalizing contracting of the Lead International Consultant to provide leadership in the conduct of the assessment. The lead consultant will also support in the engagement of the other six consultants to support delivery of the assignment.

#### **3.4.4 Research on Uptake of 30% Reservation by the Youth, Women and PWDs**

The Authority engaged Kenya Institute for Public Policy Research and Analysis (KIPPRA) to conduct a study to identify and assess factors influencing the uptake of the thirty percent (30%) procurement spend set aside for Youth, Women and Persons with Disabilities in Kenya.

The study included the development of strategies needed to strengthen the reforms aimed at enhancing the uptake of the reserved procurement opportunities for the target groups. The scope of the study included expenditure data collection, identifying factors affecting the target groups, challenges in scheme implementation, remedial measures, impact of the scheme in the economy, emerging issues and policy recommendations.

During the year, the study was finalized after KIPPRA submitted the Final Study Report, which was reviewed and adopted by the Authority for dissemination. Some of the issues that emerged during the study included:

- a) **Corruption and Lack of transparency in public procurement processes;** where the respondents indicated that the AGPO scheme has increased corrupt and unethical practices in public procurement, through request for bribes, favouritism and nepotism (relatives and friends of the public

officials), and lack of transparency where the procurement process outcomes were not communicated to the bidders.

- b) **Use of technology in public procurement;** where adoption of IFMIS has eased the procurement process and use of the AGPO system for application and renewal of AGPO certificates has eliminated the challenges faced through the manual process.
- c) **Misuse of AGPO certificates;** where AGPO certificates were being used by non-targeted groups to win government tenders. This led to exploitation of the scheme by non-targeted persons through use of proxies with AGPO certificates to get tenders from public entities. This has resulted to unfair competition with genuine bidders.
- d) **Delayed payments;** where payment for performed contracts took longer time than expected time. This discouraged some bidders from taking up the reserved procurements.

Based on the study findings, the following recommendations are made:

- a) To enhance the uptake of the procurement opportunities the National Treasury and the Authority should address the issues relating to corrupt and unethical practices including bribery cases, nepotism and lack of transparency in the procurement processes.
- b) There is need to simplify the procurement processes, reduce many legal requirements and eliminate bureaucracy which hinders the target groups from easily accessing the reserved tenders which would consequently improve the uptake of the procurement opportunities.
- c) The government to strengthen the framework of ensuring the affirmative action funds are accessible to the target groups given that most of the groups failed to uptake the procurement opportunities due to inability to finance the cost involved in the whole process.
- d) Continuous sensitization/awareness creation and trainings focused on areas such as procurement rules, regulations and the general procurement process would be crucial in ensuring the target groups uptake the procurement opportunities given that lack of knowledge and skills was a major challenge. This can be achieved through workshops, exhibition forums, centralized systems to access reserved tenders and related information, to equip the target groups with the required information.
- e) The AGPO certificate renewal process should be simplified, and the target groups sensitized on the procedure and requirements.

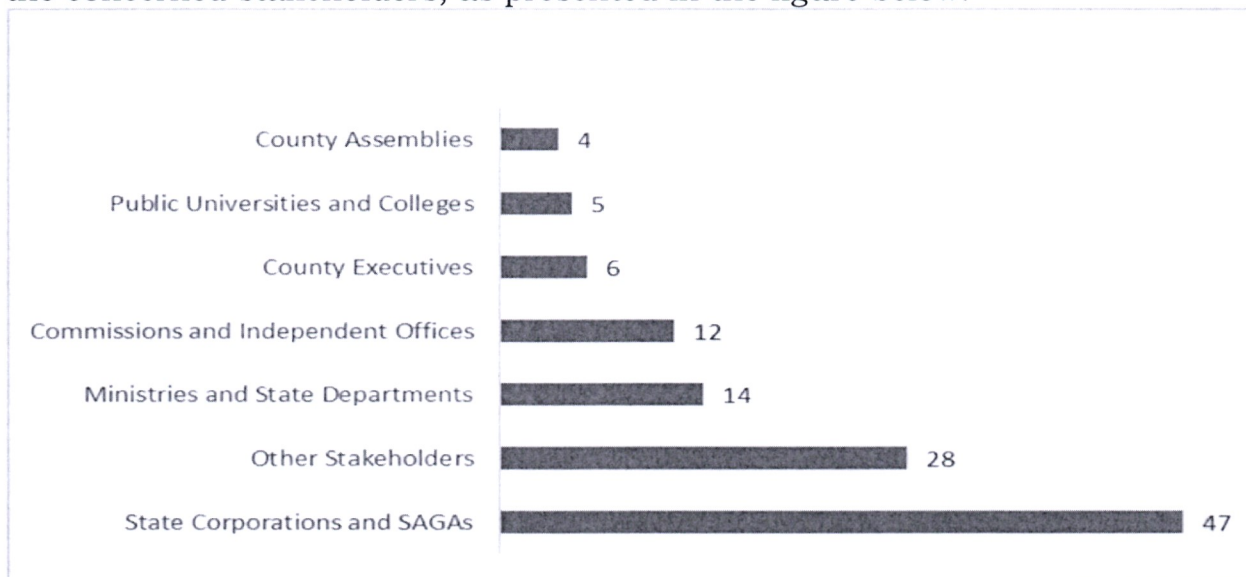
- f) There should be strict enforcement of public procurement regulations to avoid misuse of the AGPO certificates by the non-targeted groups to benefit from the scheme through proxies.
- g) There is need to strengthen monitoring and evaluation of implementation of the scheme, to enforce the policies, requirements, and procedures, to enhance uptake of the scheme.

### 3.5 Strategic Objective 4: To Strengthen the Public Procurement and Asset Disposal Legal and Regulatory Framework

The Authority is mandated under section 9 of the Act to provide advisory services and technical support upon request; monitor, evaluate and report on the performance of the public procurement and asset disposal system; as well as conduct research on the system.

#### 3.5.1 Provision of Advisory Services

The Authority receives requests for advice in either written form, telephone calls or walk-ins (visits to the Authority's offices). During the period under review, the Authority received **116** requests for advice and issued written response letters to the concerned stakeholders, as presented in the figure below.

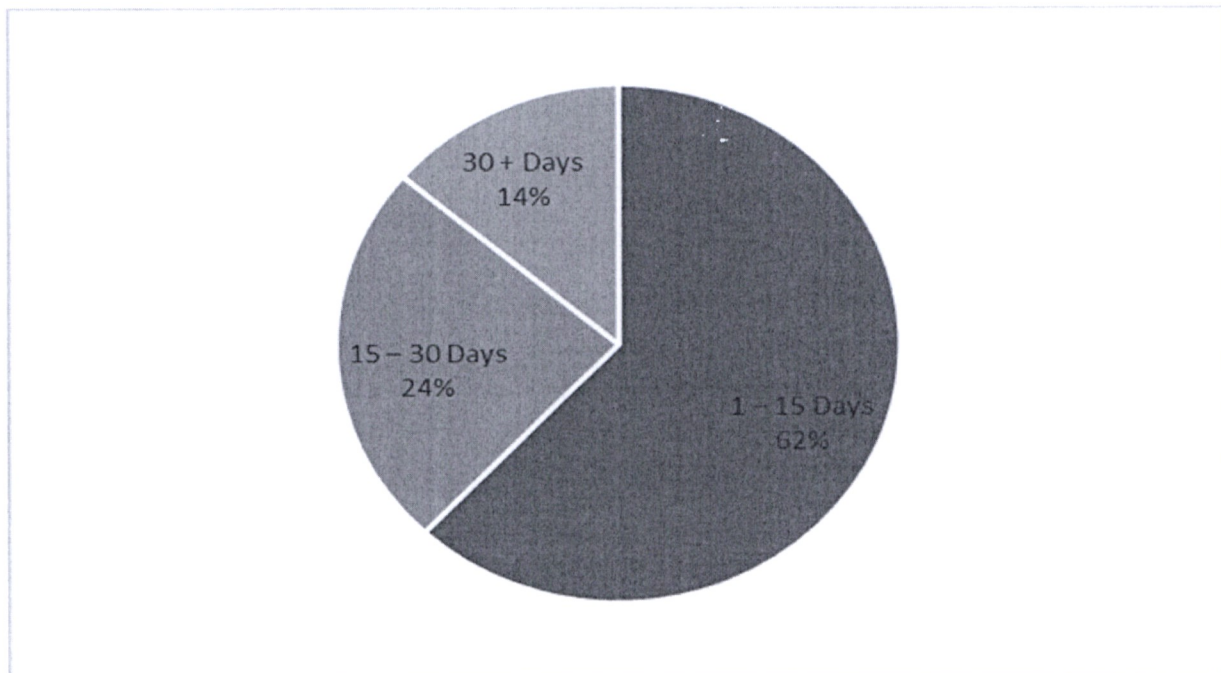


**Figure 6: Distribution of Request for Advice by Source**

From the figure above, most of the requests were from State Corporations and SAGAs (47), followed by other stakeholders who are not procuring entities (28); with the least number of requests being from County Assemblies (4).

**(a) Duration of Processing of Requests for Advice**

The Authority is required to process requests for advice within 30 days upon receipt as per the service charter commitments. During the period, the Authority issued **76%** of the requests (**100**) within **30** days, whereas the remaining requests **16 (24%)** were issued after **30** days due to consultations with the relevant stakeholders to facilitate issuance of informed advice, as presented in the figure below.



**Figure 7: Duration of Processing of Requests for Advice**

**(b) Major areas of Requests for Advice**

The most common areas where different stakeholders sought advice included:

- a) Use of and customization of the new standard tender documents and formats.
- b) Contract management (reporting, variation/ Amendment, extension, expiry); including contract variations and amendments, emanating from delays in conclusion of new procurement proceedings.
- c) Choice of procurement methods for different types of procurements.
- d) Tender /Bid preparations
- e) Development and specification of evaluation Criteria.
- f) Development of specifications and procurement planning.
- g) Use of the Public procurement Information Portal

### 3.5.2 Requests for Approval of Alternative Selection Method for Consultancy Services

Pursuant to Section 124 (15) of the Act, the Authority is mandated to approve requests from procuring entities in cases where an Alternative Selection Method for procurement of consultancy services is selected. During the year, the Authority received ten (10) requests from the following institutions, with their status presented in the table below.

**Table 28: Status of Requests for Approval of Alternative Selection Methods for Consultancy Services**

No	Source of Request	Nature of Request	Alternative Selection Method	Approved/Not Approved, and remarks
1.	Kenya Power and Lighting Company Plc	Request for approval to engage external lawyers to advise on power purchase agreements review and renegotiation strategy.	Single source selection method	<b>Not approved</b> , as the request did not fulfil the conditions under Section 124(12) of the Act.
2.	Kenya Airport Authority	Request for approval to procure professional consultancy services of Eng. Runji Ngware and Mr. James Gacoka	Single source selection method	<b>Not approved</b> , as the request did not fulfil the conditions under Section 124(12) of the Act, and Regulation 129(1) of the Regulations.
3.	State Department for Development of ASALs	Request for approval to procure a facilitating partner for Turkana West Subcounty	Consultants Qualifications Selection method	<b>Not approved</b> , as the request did not fulfil the conditions under Section 124(6) (c) of the Act, and Regulation 126 of the Regulations.
4.	Kenya Petroleum Refineries Limited	State Corporations and SAGAs	Single Source Selection method	<b>Not approved</b> , as the information provided was not adequate. The

No	Source of Request	Nature of Request	Alternative Selection Method	Approved/Not Approved, and remarks
				PE was advised to resubmit the request.
5.	Kenya Pipeline Corporation	State Corporations and SAGAs	Single Source Selection method	<b>Not approved</b> , since it did not fulfil the conditions for use of Single source selection method as outlined under Section 124 (12) of the Act.
6.	Office of the Attorney – General and Department of Justice	Ministries and State Departments	Single Source Selection method	<b>Not approved</b> , as the information provided was not adequate. The PE was advised to resubmit the request.
7.	Communications Authority of Kenya	Single Source Selection method	Request to use single source selection for proposal for provision of consultancy service for baseline survey for broadcasting and postal courier service; for purposes of ensuring standardization and compatibility as single source selection method presents economic advantage over competition in the subject	<b>The request was approved</b> , pursuant to Section 124 (12, b) of the Act, and that the subject procurement should be processed in due compliance with the public procurement legal framework.

<b>No</b>	<b>Source of Request</b>	<b>Nature of Request</b>	<b>Alternative Selection Method</b>	<b>Approved/Not Approved, and remarks</b>
8.	Communications Authority of Kenya	Single Source Selection method	procurement. Request for proposal of provision of Legal and Governance Audit Consultancy; for purposes of ensuring standardization and compatibility as single source selection method presents economic advantage over competition in the subject procurement.	<b>The request was approved,</b> pursuant to Section 124 (12, b) of the Act.
9.	Communications Authority of Kenya	Single Source Selection method	Request for proposal for provision of consultancy service for re-certification of quality management system –based ISO 9001:2015; for purposes of ensuring standardization and compatibility as single	<b>The request was approved,</b> pursuant to Section 124 (12, b) of the Act, and that the subject procurement should be processed in due compliance with the public procurement legal framework.

No	Source of Request	Nature of Request	Alternative Selection Method	Approved/Not Approved, and remarks
			source selection method presents economic advantage over competition in the subject procurement.	
10.	Kenya Airports Authority	Alternative Selection methods	Requested for approval to use alternative consultancy selection method for provision of Legal services in respect of the contract for design/ Build tender for construction of the Greenfield Passenger terminal complex and associated works at JKIA	<b>Not approved</b> , on the grounds that legal services are non-consultancy services.

### **3.5.3 Request for Transfer of Procurement Responsibility**

Pursuant to 52(1) of the Act, the Authority shall have power to transfer the procuring responsibility of a procuring entity to another procuring entity or procuring agent in the event of delay or in such other circumstances as prescribed in the Regulations. Further, Section 52 (2) of the Act provides that a procuring entity can make arrangements to enable another procuring entity to carry out the procurement or part of the procurement, on its behalf subject to the approval of the governing body of the organ or entity, where applicable or upon recommendation of the Authority. During the year, the Authority received four (4) requests for transfer of procurement responsibility as presented in the table below.

**Table 29: Status of Requests for Transfer of Procurement Responsibility**

<b>No.</b>	<b>PE/Organization Seeking to transfer responsibility</b>	<b>Entity/Organization responsibility being transferred to</b>	<b>Reasons for transfer</b>	<b>Status</b>
1.	Nairobi Coffee Exchange	Agriculture and Food Authority	Nairobi Coffee Exchange does not have Management Committee	The request was approved
2.	Ministry of Health, Office of the Principal Secretary	AMREF Africa	The Ministry is currently experiencing staff shortage in the procurement department	Request was approved
3.	Kenya Railways Corporation	Kenya Urban Roads Authority (KURA).	The Kenya Railways lacked the capacity of technical expertise to execute the construction projects	Request was approved, and the PE notified that KURA should ensure compliance with the provisions of Regulation 39(4) of the Regulations, 2020 by entering into an agreement.
4.	Communication Authority of Kenya	National Intelligence Service (NIS)	NIS has expertise and capacity to manage the acquisition of such security systems on behalf of government entities	Request was approved, and the Authority notified the Communication Authority of Kenya that it should comply with the provisions on transfer of procurement

				responsibility under Regulation 39(4) of the Regulations, 2020 by entering into an agreement with the NIS.
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### **3.5.4 Strengthening the Public Procurement and Asset Disposal Regulatory Framework**

#### **a) Feedback on the New Standard Tender Documents and Formats**

Section 9(1)(f), 58 and 70 of the Act vest the responsibility of development and issuance of standard bid/tender documents and formats with the Authority. The Authority with technical support from GIZ reviewed, updated and developed new Standard tender documents (STDs) and Formats in consideration of changes in the Act, the Regulations and international best practices.

Pursuant to Section 58(10) and 70(1) of the Act, it is mandatory for all procuring entities to use the standard bid/tender documents and formats in their procurement and asset disposal activities. In that regard, the Authority brought to the attention of all procuring entities the availability of the new standard bid/tender documents and formats via PPRA Circular No. 02/2021 of 22<sup>nd</sup> April, 2021, and revised in April, 2022. The same can be accessed from the Authority's website [www.ppra.go.ke](http://ppra.go.ke) or through the link <http://ppra.go.ke/standard-tender-documents>.

During the year under review, the Authority received feedback and provided clarifications on the issued documents and formats, of which responses were provided as appropriate, as detailed below.

**Table 30: Status of Clarifications Sought on the Standard Tender Documents and Formats**

<b>No</b>	<b>Source of Feedback</b>	<b>Nature of Feedback</b>	<b>Clarification provided</b>
1.	Kenya Forest Service	Enquired on the application of Section 164(5) of the Public Procurement and Asset Disposal Act, 2015 on	The Authority advised the procuring entity that the word "confidential" in the STDs was

No	Source of Feedback	Nature of Feedback	Clarification provided
		the disclosure of reserve prices in the bidding documents. Further they noted that in the Standard Tender document (Section II (Conditions of Tender) Clause 1.6) issued by the Authority required that procuring entity to retain confidential reserve prices for all items. Therefore, the entity sought clarification on the two clauses of the two documents since they seem to contradict.	inadvertent and will be rectified.
2.	Laikipia University	reported a major challenge with the new standard tender documents on pagination. The university noted that after editing the right pages and removing the unrequired sections, the document cannot be paginated accordingly.	The Authority gave assurance of reviewing the tender documents to address the concerns raised.
3.	Water Sector Trust Fund	Sought clarification on whether Audit and Accounting services are non-Consulting services or Consulting services as indicated in the standard tender documents.	The Authority clarified that the Audit and Accounting services are Non consultancy where it is routine.
4.	State Department for Broadcasting and Telecommunication	Request for soft copies of the new standard bidding documents given that the tender documents uploaded at the Authority's website were not editable	The issues noted in standard tender documents and formats were addressed and the editable documents were uploaded in the website.
5.	Nuclear Power and Energy Agency	Requested to be allowed to use the old tender documents and formats as	The request was not allowed as the challenge had since been resolved.

<b>No</b>	<b>Source of Feedback</b>	<b>Nature of Feedback</b>	<b>Clarification provided</b>
		the tender data sheet in the new standard tender documents were not editable.	
6.	State Department for Correctional Services	Requested the Authority to upload Standard Tender Document No. 6 on Framework Agreements which had been withdrawn from the website.	The document has not been uploaded as it is still under development.
7.	The National Treasury	Requested for approval to amend a tender data sheet to provide for the two envelop system in the submission of bids and also to allow the application of award criteria provided under Section 86(1) (b) of the Act.	The PE was advised that Document 10 for Procurement of Information Technology, under Preface –Note 10 provides in part that “this document will be customized to suit the needs of the procuring entity”.
8.	County Government of Machakos	Clarification on the technical requirements criteria on a Yes/No basis whereas the Integrated Information Management System (IFMIS) requires a numerical score on the technical criteria.	The Authority made clarified that the provision was in line with Section 86(1) of the Act,2015, and advised the PE seek guidance from the National Treasury on IFMIS related matters.
9.	State Department of Early Learning & Basic Education	Clarification on the missing Terms in the standard tender document No.4 for procurement of goods	The Authority clarified that it was reviewing the mentioned document to make the necessary amendments.

## **b) Regulatory Circulars and Directives**

During the period under review, the Authority issued the following directives/regulatory circulars for compliance and or information by stakeholders.

### **i) Circular on Disclosure of Beneficial Ownership Information**

Sections 58 and 70 of the Act mandates the Authority to prepare issue and publish Standard Public Procurement and Asset Disposal documents and formats to be used by public entities and other stakeholders. Disclosure of Beneficial Ownership Information was one of the requirements included in the current standard public procurement and asset disposal document and formats following the requirements of the Executive Order No. 2 of 2018.

During the year, the Authority updated and included the revised Beneficial Ownership Information Disclosure Form and Tender Form in the standard tender documents in order to enhance transparency, openness and accountability in public procurement and asset disposal system through seamless disclosure of beneficial owners' information for companies / tenderers that have been awarded contracts as part of contract details to be published. This was communicated vide PPRA Circular No.02/2022 of 8<sup>th</sup> April, 2022.

### **ii) Circular on Registration and Licensing of Procuring or Asset Disposal Agents**

Section 51(3) of the Act as read together with Regulation 38 (1) of the Public Procurement and Asset Disposal Regulations, 2020 (the Regulations) mandates the Authority to register and license procuring and asset disposal agents (the Agents). Procuring and asset disposal agents play a vital role in enhancing and supplementing capacity of procuring entities to comply with the Act, the Regulations and the directives of the National Treasury and the Authority.

The agents are vital in ensuring that public procurement and asset disposal in Kenya fully complies with the fundamental principles of fairness, transparency, equity, competition and cost effectiveness and other guiding principles which include rule of law, accountability, good governance, sustainability, prudence, latest technology and international rules. To operationalize the registration and licensing of agents, the Authority developed and issued Guidelines on Registration and Licensing of Procuring and or Asset Disposal Agents.

The Guidelines provided simplified procedure, the requirements and conditions to be met by the procuring and asset disposal agents when applying for registration and licensing and when applying for renewal of annual practicing licence. A person applying for registration and licensing should specify the category of their

interest per application and shall pay the prescribed fee of Kshs.50,000.00 for each category. The practice categories include: (i) Procurement of: goods, non-consultancy services, consultancy services and works; (ii) Stores, Inventory and Asset Management; (iii) Logistics, Warehousing and Distribution; (iv) Contract Management; (v) Assets Disposal; (vi) Procurement Audit and Compliance Review; and (vii) Procurement Transaction Advisory.

The operationalization of this mandate was communicated to stakeholders vide PPRA Circular No.03/2022 of 28th June, 2022. The Guidelines and relevant forms can be accessed from the Authority's website, [www.ppra.go.ke](http://www.ppra.go.ke). The Authority invites applications from interested persons to be registered and licensed as Agents from 1st July, 2022.

### **iii) Circular on Training of Procuring Entities on the Public Procurement Information Portal**

The public Procurement Information Portal was developed in July 2018 to enable procuring entities comply with the requirements of the Executive Order No. 2 of June 2018 on Procurement of works, goods and services by procuring entities. Two years later its initial launch, the Authority enhanced the features of the portal by incorporating additional modules to help in collecting data relating to preference and reservation schemes, use of direct procurement method and termination of procurement proceedings and general reports as procurement and asset disposal transactions.

The upgraded version of the Portal was rolled out in June 2021, through PPRA Circular No. 3 of May 2021. The Authority has since been supporting procuring entities through its support desk while working on capacity building program to train all procuring entities users (both registered and non-registered) so as to realize the full uptake and usage of the Portal.

The Authority issued a circular to all procuring entities notifying them of the planned trainings on the Portal between January and March, 2022. This was communicated to the PEs through PPRA Circular No. 4 /2021 of 1<sup>st</sup> December 2021. The circular is accessible through [www.ppra.go.ke/circulars](http://www.ppra.go.ke/circulars).

### **3.6 Strategic Objective 5: To Equip Persons involved in Public Procurement with Requisite Knowledge and Skills on Public Procurement and Asset Disposal**

The Authority is mandated under section 9 of the Act to provide of technical support and training to procuring entities upon request. During the year, the Authority received **54** requests for training and technical support, of which **39**

were offered and **15** were postponed to the next financial year, as detailed in the table below.

**Table 31: Technical Support and Trainings Offered**

No	PE/Organization Name	Category of Procuring Entity	Subject	Nature of Request	Status of Request	Training dates
1.	Teachers Service Commission	Constitutional Commissions, Institutions and Independent Offices	Teachers Service Commission Procurement Manual	Technical Support	Review of Procurement Manual reviewed and comments shared with the PE	15 <sup>th</sup> February 2022
2.	Nairobi Metropolitan Services	State Corporations and SAGAs	Request for review of Draft Tender Document for the Specially Permitted Procurement Method under the Affordable Housing Project at Nairobi Metropolitan Service	Technical Support	Draft Tender Document Reviewed and comments shared with the procuring entity	21 <sup>st</sup> March 2022
3.	Nyeri Water and Sanitation Company Limited	County Corporations	Training on procurement Regulations	Training	Training conducted	2 <sup>nd</sup> to 4 <sup>th</sup> March, 2022
4.	ICT Authority	State Corporations and SAGAs	Capacity building for board members and management	Training	Training conducted	16 <sup>th</sup> March, 2022
5.	County Government of Kisumu	County government	Facilitation of Kisumu County Staff on AGPO Supplier sensitization	Training	Offered	18 <sup>th</sup> -22 <sup>th</sup> October, 2021
6.	County Government of Kisumu	County government	Facilitation of AGPO Supplier sensitization	Training	Offered	8 <sup>th</sup> -12 <sup>th</sup> November, 2021
7.	State Department for Youth Affairs	Ministries and State Departments	Request for nomination of one officer to facilitate training of A.I.E Holders and Budget Implementation Committee Members	Training	Training Conducted	1 <sup>st</sup> -2 <sup>nd</sup> October 2021

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No	PE/Organization Name	Category of Procuring Entity	Subject	Nature of Request	Status of Request	Training dates
8.	Kenya Literature Bureau	State Corporations and SAGAs	Request for In-House Training	Training	The Authority was not able to honour the request due to other assignments. The entity was advised to reschedule	N/A
9.	Office of the Auditor General	Constitutional Commissions, Institutions and Independent Offices	Resource Persons for sensitization on Asset Disposal and Related Process	Training	Training conducted	17 <sup>th</sup> - 19 <sup>th</sup> November 2021
10.	Kenya Marine & Fisheries Research Institute	State Corporations and SAGAs	Capacity Building Training for the Disadvantaged Groups and other interested suppliers	Training	Training conducted	Dates: 18 <sup>th</sup> November 2021
11.	Kenya Ports Authority	State Corporations and SAGAs	Training of KPA staff on the new Standard Tender Documents	Training	Training was postponed. The Authority is awaiting new dates from the entity.	N/A
12.	Kiambu Institute of Science & Technology	Public Colleges, Polytechnics & Training Institutes	Request for Training	Training	Training Conducted	18 <sup>th</sup> September 2021
13.	Council of Governors	County Governments (Executives, Assemblies)	Request to appoint a Technical Representative to Aid on the implementation of AGPO activity under COG/UN Women project	Technical Support	Training conducted	14 <sup>th</sup> to 26 <sup>th</sup> February 2022
14.	Nuclear Power & Energy Agency	State Corporations and SAGAs	Request for Appointment of a member to the Nuclear Procurement Technical Working Group	Training	The Authority as a Regulator could not participate in the technical working group	N/A
15.	Kenya Space Agency	State Corporations and SAGAs	Development of Procurement Policy Document	Training	Training conducted	29 <sup>th</sup> Sept - 3 <sup>rd</sup> October 2021

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<b>No</b>	<b>PE/Organization Name</b>	<b>Category of Procuring Entity</b>	<b>Subject</b>	<b>Nature of Request</b>	<b>Status of Request</b>	<b>Training dates</b>
16.	Kenya Utalii College	State Corporations and SAGAs	Sensitization on Procurement and Asset Disposal Policies	Training	Postponed and new dates to be communicated by the entity.	NA
17.	Kenya Tourism Board	State Corporations and SAGAs	Request for Training Facilitation on the Public Procurement Regulations and the New STDs	Training	Training conducted	1 <sup>st</sup> -2 <sup>nd</sup> December 2021
18.	Unclaimed Financial Assets Authority	State Corporations and SAGAs	Training Facilitation	Suppliers' sensitization	Training conducted	30 <sup>th</sup> December 2021
19.	Teachers Service Commission	Constitutional Commissions, Institutions and Independent Offices	Teachers Service Commission Procurement Manual	Technical Support	Document reviewed and comments submitted to the entity	12 <sup>th</sup> January 2022
20.	Nairobi Metropolitan Services	State Corporations and SAGAs	Forwarding of Draft Tender Document for the Specially Permitted Procurement Method under the Affordable Housing Project at Nairobi Metropolitan Service	Technical Support	Draft Tender Document Reviewed and comments shared with the procuring entity	18/01/2022
21.	Nyeri Water and Sanitation Company Limited	County Corporations	Training on procurement Regulations	Training	Training conducted	2 <sup>nd</sup> to 4 <sup>th</sup> March 2022
22.	ICT Authority	State Corporations and SAGAs	Capacity building for board members and management	Training	Training conducted	16 <sup>th</sup> March 2022
23.	National Construction Authority	State Corporations and SAGAs	Request for an officer to support in the customization of the New Standard Tender documents	Technical support	The Activity was postponed by the entity, awaiting new dates.	N/A
24.	Kakamega County Water and Sanitation Company	County Corporations	Training on how to upload information on the public procurement information portal	Training	Training conducted	25/04/2022

<b>No</b>	<b>PE/Organization Name</b>	<b>Category of Procuring Entity</b>	<b>Subject</b>	<b>Nature of Request</b>	<b>Status of Request</b>	<b>Training dates</b>
25.	Kenya National Highways Authority	State Corporations and SAGAs	The request for a facilitator on upgraded Public Procurement Information Portal (PPIP)	Training	Training conducted	4 <sup>th</sup> -8 <sup>th</sup> April 2022
26.	Women Enterprise Fund	State Corporations and SAGAs	Request for sensitization on public procurement operations	Training	Training conducted	18 <sup>th</sup> -20 <sup>th</sup> May 2022
27.	Garissa University	Universities /Colleges	Request for training of Heads of Sections on public procurement	Training	Awaiting confirmation of dates from the entity	N/A
28.	Kenya Deposit Insurance corporation	State Corporations and SAGAs	Training of Board of Directors KDIC on the role of the Board in public procurement	Training	Training conducted	11 <sup>th</sup> May 2022
29.	Communication Authority of Kenya	State Corporations and SAGAs	Request for facilitation of Training on sensitization of CA staff on the approved procurement manual	Training	Postponed and Awaiting response from the entity	N/A
30.	Kenya Meat Commission	State Corporations and SAGAs	Training for staff sensitization of procurement Regulatory	Training	Awaiting response from the entity	N/A
31.	Ministry of Agriculture, Livestock, Fisheries and cooperatives	State Departments	Training of the Inter-departmental Risk Management committee	Training	Referred to national treasury	N/A
32.	Privatization Commission	State Corporations and SAGAs	Induction Training for staff and management members	Training	Training conducted	13/4/2022
33.	Privatization commission	State Corporations and SAGAs	Board Induction	Training	Training conducted	12 <sup>th</sup> May 2022

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No	PE/Organization Name	Category of Procuring Entity	Subject	Nature of Request	Status of Request	Training dates
34.	Women Enterprise Fund	State Corporations and SAGAs	Request for sensitization on public procurement operations	Training	Training conducted	23 <sup>rd</sup> -24 <sup>th</sup> 2022
35.	Tea Board of Kenya	State Corporations and SAGAs	Request to undertake training on Public Procurement and Asset Disposal Act	Training	Training conducted	11 <sup>th</sup> -13 <sup>th</sup> May 2022
36.	Kenya Electricity Generating Company Plc	State Corporations and SAGAs	Training of staff on Public Procurement and Asset Disposal Act and Regulations	Training	Training conducted	15 <sup>th</sup> -16 <sup>th</sup> June 2022 8 <sup>th</sup> 9 <sup>th</sup> June 2022 29 <sup>th</sup> -30 <sup>th</sup> June 2022 25 <sup>th</sup> -26 <sup>th</sup> June 2022
37.	Kenya Ports Authority	State Corporations and SAGAs	Training of KPA staff on the new standard tender documents and tender evaluation templates		Postponed, awaiting response from the entity.	N/A
38.	The Commission on Administrative Justice	Independent Bodies	Request for a resource person to facilitate development of internal procurement and Disposal Manual	Technical Support	Technical Support provided	30 <sup>th</sup> May – 3 <sup>rd</sup> June, 2022,
39.	Kenya National Bureau of Statistics	State Corporations and SAGAs	Training of Newly Appointed staff on procurement and regulations	Training	Training conducted	20 <sup>th</sup> – 25 <sup>th</sup> June 2022
40.	Nairobi Technical Training Institute	Universities /Colleges	Request for a facilitator on the standard tender documents	Training	Postponed, Awaiting response from the entity.	N/A
41.	The Judiciary	The Judiciary and the Courts	Regional supply chain conference and sensitization of DSCMS staff on the Judiciary Procurement manual	Training	Training conducted	26 <sup>th</sup> May 2022
42.	JKUAT Industrial Park Limited	State Corporations and SAGAs	Request for resource persons for preparation of bidding documents and related tasks	Technical support	Given the regulatory function of the Authority; the entity was advised to use	N/A

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<b>No</b>	<b>PE/Organization Name</b>	<b>Category of Procuring Entity</b>	<b>Subject</b>	<b>Nature of Request</b>	<b>Status of Request</b>	<b>Training dates</b>
					a short list of individual consultants	
43.	National Biosafety Authority	State Corporations and SAGAs	Request for a facilitation to assist in reviewing of the procurement manual for National Biosafety Authority	Technical support	Technical support provided	7 <sup>th</sup> June 2022
44.	EPRA	State Corporations and SAGAs	Sensitization workshop on Access to Government procurement opportunities	Training	Training conducted	3 <sup>rd</sup> June 2022
45.	Mama Ngina University College	Universities /Colleges	University college procurement staff Training Request	Training	Postponed, awaiting new dates from the entity.	NA
46.	Nyayo Tea Zones Development corporation	State Corporations and SAGAs	sensitization program on disadvantaged Groups 20211-2022	Training	Training conducted	18 <sup>th</sup> June 2022
47.	Kenya Electricity Transmission Co. LTD	State Corporations and SAGAs	Request for procurement Training for various KETRACO staff	Training	Training conducted	N/A
48.	Ministry of Devolution	State Department	Training on public procurement /Aligning procurement processes to public procurement regulations 2020	Training	Training conducted	17 <sup>th</sup> 20 <sup>th</sup> June 2022
49.	International PFM Academy	State Corporations and SAGAs	Request for Training on pre qualifications	Training	Training conducted	10 <sup>th</sup> June 2022
50.	Kenya Girls Guides Association		Request for training	Training	Training conducted	19 <sup>th</sup> July 2022

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<b>No</b>	<b>PE/Organization Name</b>	<b>Category of Procuring Entity</b>	<b>Subject</b>	<b>Nature of Request</b>	<b>Status of Request</b>	<b>Training dates</b>
51.	Kenya National Bureau of Statistics	State Corporations and SAGAs	Training of Senior Management on Public Procurement and Asset Disposal Act, 2015	Training	Training conducted	19th-23 <sup>rd</sup> July 2022
52.	Chuka University	Universities /Colleges	Sensitization workshop the Regulations, 2020	Training	Postponed, awaiting new dates from the entity.	NA
53.	Kinyanjui Technical Training Institute	Universities /Colleges	Training on preparation of institute procurement Plan for FY 2022/2033	Training	Trained	21 <sup>st</sup> June 2022
54.	Kenya Law Reforms Commission	State Corporations and SAGAs	Sensitization webinar for Staff and AGPO Suppliers	Training	Training conducted	29 <sup>th</sup> June, 2022

### **3.7 Public Procurement Administrative Review Mechanism**

#### **3.7.1 Overview of the Review Board**

The Act has provided for a mechanism through which bidders who are not satisfied with the decisions made by procuring entities on subject procurements may lodge an appeal or a request for review of such processes. The Procurement Administrative Review Board (Review Board) is established under Section 27 of the Act, to review, hear and determine tendering and asset disposal appeals/disputes. The Authority is mandated to provide secretariat and administrative services to the Review Board.

The Review Board is established to promote and uphold fairness, equitability, transparency, competitiveness and cost-effectiveness in the public procurement and asset disposal system through judicious, expeditious and impartial adjudication of matters arising from disputed procurement and asset disposal proceedings in order to increase accountability and public confidence.

The Review Board's objective is to determine tendering and asset disposal disputes arising from candidates and/or tenderers 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 Public Procurement Legal and Regulatory framework.

#### **3.7.2 Requests for Review Lodged**

During the year, the Review Board presided over **134** appeals/cases, fewer than **166** cases in the 2020/2021 fiscal year. The Review Board delivered all the decisions within the prescribed period of 21 days. In addition, the decisions rendered were signed, shared with the parties, and uploaded on the Authority's website: [www.ppra.go.ke](http://www.ppra.go.ke) for reference by stakeholders.

#### **3.7.3 Decisions Referred for Judicial Review**

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

#### **3.7.4 Development of Law Reports (Case Digest)**

The Review Board, under the sponsorship of the International Development Law Organisation (IDLO), engaged the services of a consultant to develop the Law Report (Case Digest) for the Review Board's cases rendered in the period 2014 to 2020. The Consultant submitted a draft of the Law Report to the Review Board

and the Sponsor, which report was adopted and the Consultant allowed to proceed and finalize the Case Digest.

### **3.7.5 Development of electronic Administrative Review Management System**

The implementation of an electronic Administrative Review management system was progressed in the course of the fiscal year. All cases handled by the Review Board were captured in the online system, to ensure proper maintenance of the records.

### **3.7.6 Development of the Rules and Procedures for the Review Board**

The World Bank, under the Horn of Africa Gateway Development Project (HoAGDP) is assisting the PPRA (more specifically the Review Board) to develop Rules and Procedures of Handling Procurement Complaints by engaging a consultant to carry out the task. The Consultant was selected vide a competitive process by the Kenya National Highway Authority (KeNHA) the implementing agency for the project, and signed a contract. At the end of the financial year, the consultant was yet to finalise the development of the Rules and Procedures.

## MANAGEMENT OF INTERNAL ORGANIZATION

### 4.1 Corporate Services

#### a) Publicity and Awareness Creation

During the year, the Authority relocated its head office from National Bank Building to KISM towers along Ngong road. To publicise the relocation, two (2) quarter page adverts were run through MyGov publication. The Authority's website as well as its social media pages were also used to inform stakeholders of the relocation.

The Authority continued to provide an avenue for benchmarking to other public procurement authorities in the region and beyond. During the year, the Authority received delegations from Embassy of Switzerland, Angola Public Procurement Service and Somalia Public Procurement Regulatory Authority. The visits were aimed at learning and experience sharing on public procurement implementation and best practices.

#### b) Corporate Communications

The Authority's website continued to be a major hub of information to the public. The following tables indicate the most visited pages and most downloaded documents during the year.

**Table 32: Most Downloaded Documents from the Authority's Website**

Document Name	Downloads
Public Procurement and Asset Disposal Act 2015	126,087
Public Procurement and Asset Disposal Act Revised Edition 2016	105,354
The Public Procurement and Asset Disposal Regulations, 2020	65,724
Mandatory Reporting Requirements for Procuring Entities	49,240
Addendum For Tender No PPRA/05/2020-2021 – Provision of Cleaning, Sanitary and Fumigation Services for Public Procurement Regulatory Authority	46,027
AGPO List as at 17th September 2019	30,660
Finance Act No. 15 Of 2017	15,521
Addendum: Provision of Air travel Ticketing Services – Tender No PPRA/01/2019-2020	13,464
Market Price Index March 2021	12,927
PPRA Code of Ethics	12,520
<b>Total</b>	<b>477,524</b>

**Table 33: Summary of 10 Most Visited Sites in the Authority's Website**

Page Name	Page Link	No. Of Views	No. of Unique Views
Homepage	<a href="http://ppra.go.ke/">http://ppra.go.ke/</a>	213,226	161,939
The Public Procurement and Asset Disposal Act, 2015	<a href="http://ppra.go.ke/ppda/">http://ppra.go.ke/ppda/</a>	160,798	134,089
Standard Tender Documents	<a href="http://ppra.go.ke/Standard-Tender-Documents/">http://ppra.go.ke/Standard-Tender-Documents/</a>	81,409	66,258
AGPO	<a href="http://ppra.go.ke/Agpo/">http://ppra.go.ke/Agpo/</a>	42,946	28,249
Tenders Category	<a href="http://ppra.go.ke/Category/Tenders/">http://ppra.go.ke/Category/Tenders/</a>	35,633	25,896
Market Price Index	<a href="http://ppra.go.ke/Market-Price-Index/">http://ppra.go.ke/Market-Price-Index/</a>	31,354	24,621
Regulations Download 2020	<a href="http://ppra.go.ke/Download/The-Public-Procurement-And-Asset-Disposal-Regulations-2020/">http://ppra.go.ke/Download/The-Public-Procurement-And-Asset-Disposal-Regulations-2020/</a>	30,596	26,699
About Us	<a href="http://ppra.go.ke/About-Us/">http://ppra.go.ke/About-Us/</a>	26,969	20,943
Regulations Post	<a href="http://ppra.go.ke/Regulations/">http://ppra.go.ke/Regulations/</a>	25,159	21,098
Circulars	<a href="http://ppra.go.ke/Circulars/">http://ppra.go.ke/Circulars/</a>	24,554	19,420
<b>Total</b>		<b>672,644</b>	<b>529,212</b>

**c) Customer service**

The Authority undertook process mapping and documentation for activities in the Customer Service Carter for three (3) departments as part of business process re-engineering. As a result, four (4) service reports were submitted to Huduma Kenya Secretariat; consequently, the Authority attained an overall score of 100%. Due to budgetary constraints, the Authority did not undertake a customer satisfaction survey during the financial year.

#### **d) Corporate Social Responsibility**

In line with the Presidential directive on “inclusion of tree planting in Corporate Social Responsibilities activities”, the Authority partnered with Kenya Forest Service and adopted one (1) hectare of degraded forest area in Kimondi Forest, Nandi County. The partnership involved establishment, protection and maintenance of the adopted forest for three (3) years. During the year, the Authority undertook a tree planting activity at Kimondi forest on 29<sup>th</sup> June, 2022.

#### **e) Complaints and Access to Information management**

The Authority continued to positively address customers’ feedback and requests to access information. Five (5) complaints against the Authority were received and resolved during the year. Two (2) of the complaints were lodged with Commission on Administrative Justice (CAJ) and involved delayed payment by Taita Taveta Water and Sewerage Company and Sports Stadia to their suppliers. The reports on resolution of complaints were submitted to Commission on Administrative Justice (CAJ) whereby the Authority attained a composite score of 100%.

### **4.2 Legal Affairs**

During the year under review, the Authority handled fourteen (14) court cases. Seven (7) of them were filed in the Judicial Review Court (some arising out of the appeals from the decision of the Debarment Committee), Six (6) in the Constitutional and Human Rights Court and one (1) is a mediation matter. As at the end of the fiscal year, judgment had already been entered in four matters in favour of the Authority, while two matters were withdrawn by the applicants. The remaining eight (8) were still active in court.

### **4.3 Internal Controls and Risk Management**

#### **a) Internal Audit and Quality Assurance**

The Internal Audit function exists to provide reasonable assurance and consultancy services in order to add value as well as improve the Authority’s operations and internal control systems. The function 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.

To ensure the independence and objectivity of the Internal Audit function, the department reports functionally to the Public Procurement Regulatory Board’s Audit, Risk and Governance Committee and administratively to the Director General. During the year under consideration, the Internal Audit function undertook a number of reviews on the Authority’s systems and made various recommendations for improvement.

**(ii) Board Audit, Risk and Governance Committee**

The Audit, Risk and Governance Committee assists the Regulatory Board in fulfilling its statutory and fiduciary oversight responsibilities relating to governance, accountability, risk management and transparency to the Authority and its stakeholders. During the year, the Audit Committee held six (6) meetings as follows;

- i) Ordinary Audit Committee meeting – held on 9<sup>th</sup> July, 2021;
- ii) Ordinary Audit Committee meeting – held on 9<sup>th</sup> September, 2021;
- iii) Ordinary Audit Committee meeting – held on 6<sup>th</sup> January, 2022;
- iv) External Audit entry meeting – held on 13<sup>th</sup> January, 2022;
- v) External Audit exit meeting – held on 4<sup>th</sup> March, 2022; and
- vi) Ordinary Audit Committee meeting – held on 8<sup>th</sup> April, 2022.

**b) Risk Management**

Risk management is an integral part of the Authority's strategic management. Risk is the potentiality that expected and unexpected events may have an adverse impact on the achievement of the Authority's objectives. Risk management aims at identifying, measuring and mitigating various risks that are intrinsic as well as extrinsic. The Regulatory Board and management realized the centrality of risk management in the Authority and have continuously advocated for an overarching risk management culture in strategy formulation and implementation.

The Authority has identified a number of key risks that are likely to impede the implementation of its objectives. Strategies to mitigate the identified risks have been mapped out at functional levels and an implementation action plan developed and documented in risk registers and work plans.

Risk management is an integral part of the Authority's strategic management. The Public Procurement Regulatory Board and management have realized the centrality of risk management in the Authority and have continuously advocated for an overarching risk management culture in strategy formulation and implementation. Risk is the potentiality that expected and unexpected events may have an adverse impact on the achievement of the Authority's objectives. Risk management aims at identifying, measuring and mitigating various risks that are intrinsic as well as extrinsic.

The Authority is ISO 9001:2015 Certified. This ISO Certification applies risk based thinking. During the year, key risks facing the Authority were assessed, evaluated and closely monitored by the Board and Management. The Authority continues to focus on the identification and assessment of potential emerging risks that could hinder the achievement of its objectives.

The key risks and mitigation measures being implemented or explored include;

No.	Risk	Risk rating	Mitigation Strategies
1.	<p><b>Financial resource sustainability</b></p> <p>The Authority continues to face challenges of limited funding. This has greatly affected the delivery of its mandate as envisaged in the Public Procurement and Asset Disposal Act.</p>	High	<p>The mitigation measures being explored/implemented include;</p> <ul style="list-style-type: none"> <li>a) Prudent financial management;</li> <li>b) Collaboration with development partners to fund some of its activities;</li> <li>c) Implementation of internal revenue generation strategies such as capacity building programs;</li> <li>d) Lobbying for additional government funding.</li> </ul>
2.	<p><b>Compliance monitoring audit risk</b></p> <p>This is the likelihood that the Authority will not manage to provide assurance on most of the procurement and disposal processes carried out public procuring entities.</p>	High	<p>The mitigation measures for compliance monitoring audit risk being explored/implemented include;</p> <ul style="list-style-type: none"> <li>a) Acquisition of supervisory rights to Procure to Pay (P2P) module of the IFMIS system;</li> <li>b) Development and operationalization of the Public Procurement Information Portal (PPIP);</li> <li>c) Strengthening the capacity of technical functions organizational restructuring;</li> <li>d) Collaborations with other law enforcement agencies;</li> <li>e) Benchmarking with other procurement regulators within the region and internationally;</li> <li>f) Development and operationalization of ICT based monitoring and evaluation systems.</li> </ul>

3.	<p><b>Cybersecurity risk</b></p> <p>The risk of the attacks on the Authority's ICT business systems through hacking and other methods to get entry into the systems is likely in the modern digitalized world. This can lead to business interruptions and loss of data.</p>	Medium	<p>The mitigation strategies being implemented/explored include;</p> <p>a) Putting in place robust ICT security policies and processes to help prevent data breaches and security incidents. These include installation of firewalls, use of passwords, access controls, anti-virus, secure server room and regular monitoring and testing of the systems;</p> <p>b) Regular staff awareness on the identification of possible cyber-attacks and how to respond to them; and</p> <p>c) Regular changing of passwords to the Authority's systems.</p>
4.	<p><b>Governance risks</b></p> <p>These are risks that could arise as a result of deviation from the ideals of good corporate governance that may expose the Authority to reputation damage and decline in the performance of the Authority.</p>	Low	<p>The mitigation strategies being implemented/explored include;</p> <p>a) Regular audits on the Authority's governance systems;</p> <p>b) The continuous compliance by the Board of Directors and Management of the Authority with the Provisions of <i>Mwongozo, The Code of Governance for State Corporations</i>.</p>
5.	<p><b>Adverse impact of the Authority's operations due to COVID 19 pandemic</b></p> <p>The Corona Virus (COVID-19) pandemic outbreak in Kenya in the month of March 2020 has had an impact on the activities of the Authority. The Authorities monitoring activities are field based and the movement of</p>	Low	<p>The Authority has put in place measures to mitigate the effects of the virus both to its staff as well as the stakeholders as guided by the directives issued by the Government of Kenya from time to time. Some of the measures include;</p> <p>a) Providing constant updates and communication to</p>

	officers to undertake compliance monitoring in the Procuring entities was greatly affected.		internal and external stakeholders through various platforms; b) Working from home; c) Wearing of masks; and d) Proper hygiene and frequent sanitizing.
6.	<p><b>Occupational safety, health and environmental risks</b></p> <p>These are risks arising from negative exposures in relation to safety, health and other environmental factors at the work place.</p>	Low	<p>The mitigation strategies being explored/mitigated include;</p> <p>a) General cleaning and hygiene; b) Fumigation of office spaces; c) Strengthening the Authority's security systems; d) Staff training on safety and security matters; and e) Having in place medical insurance and other insurance covers.</p>
7.	<p><b>Legal and Regulatory risks</b></p> <p>The Authority being a government entity operates within a regulated business environment and therefore subject to a myriad of laws and regulations. The changes to policies, laws and regulations could expose the Authority to compliance risk.</p>	Low	<p>The mitigation strategies being implemented/explored include;</p> <p>a) Strengthening the Authority's legal function through increased budgetary allocation and staffing; b) Promotion of amicable settlement of matters; c) Having in place a robust Case Management System for the Public Procurement Administrative Review Board; d) Having a robust Case Management system.</p>
8.	<p><b>Fraud and Corruption risk</b></p> <p>The government through the performance contracting guidelines has identified this as a risk across the public sector. As such, the public entities are expected to put in place measures to mitigate fraud and</p>	Low	<p>The mitigation measures being explored/implemented include;</p> <p>a) Conducting corruption risk assessment and developing a plan to mitigate the risks; b) Implementing measures outlined in the Risk Mitigation plan; c) Monitoring, evaluating and</p>

	corruption risk.		<p>reviewing effectiveness of measures put in place;</p> <p>d) Submitting quarterly performance reports to the Ethics and Anti-Corruption Commission.</p>
9.	<p><b>High employee turnover</b></p> <p>Over the years, the Authority has lost a number of its staff to other regulatory agencies. The Authority is live to the fact that a well-motivated workforce should be adequately remunerated.</p>	Low	<p>The mitigation strategies put in place include;</p> <p>a) Development, approval and implementation of Human Resource instruments.</p> <p>b) Improved working environment.</p>
10.	<p><b>Reputational risks</b></p> <p>The Authority is exposed to potential negative publicity; whether true or false. This may have a negative impact on its services or lead to costly litigations.</p>	Low	<p>The mitigation strategies include;</p> <p>a) having a clear understanding of the Authority's mandate amongst the internal &amp; external stakeholders;</p> <p>b) review of the service charter and sharing it with all the stakeholders;</p> <p>c) implementation of customer feedback; and</p> <p>d) Enhanced communication.</p>

#### 4.4 ICT Support Services

The Authority continued to embrace and enhance the innovative use of ICT products and services to support its core mandate as well as its administrative processes. During the year, the Authority increased automation of its business operations through enhancement of the Public Procurement Information Portal (PPIP) to enable procuring entities submit mandatory reports required by the Act and Regulations. The Authority also leveraged on emerging technologies in its operations to ensure business continuity during the corona virus pandemic in compliance with Government directives. The key projects undertaken include:

**a) Public Procurement Information Portal (PIIP)**

The Executive Order No. 2 of 2018 (EO) requires all Public Procuring Entities to maintain and continuously update and publicize details of procurement information and contracts awards. Public Procurement Information Portal (PIIP) was developed to enable public procuring entities comply with the Executive Order through publication of the required information on public procurement. The portal is also a tool that enables public procuring entities to comply with the mandatory reporting and disclosure requirements in line with the Public Procurement and Asset Disposal Act, 2015.

During the year under review, the Authority successfully conducted a nationwide capacity building and training program on the PIIP in order to enhance the uptake and usage of the portal. The program targeted all PEs at the at National Government and County Governments levels. It covered 9 regions across the country i.e., Central and Upper Eastern, Eastern, North Eastern, Western, Nyanza, Coast, North Rift, South Rift and Nairobi Metro regions. The capacity building program was jointly funded by PFMR and GIZ.

The participants comprised of officers drawn from Procurement Functions of PEs as well as Accounting Officers who were slotted for a one-day sensitization on the Portal and public procurement disclosure requirements, where a total of **1,408** procurement officers were trained. With the conclusion of the capacity building, it is expected that the uptake and usage of the portal will increase. The number of participants trained is presented in the table below.

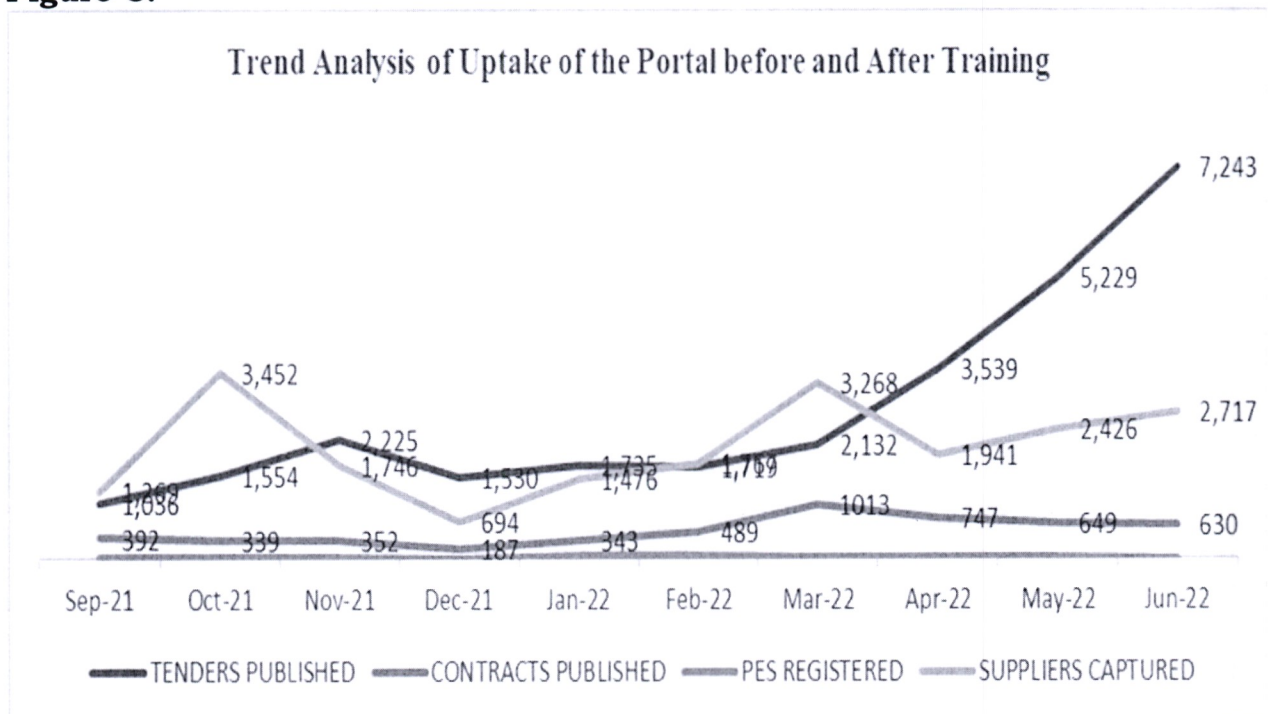
**Table 34: Number of Participants Trained on Public Procurement Information Portal**

Dates	No. of Participants	Gender	
		Male	Female
10 <sup>th</sup> – 11 <sup>th</sup> January, 2022	100	70	30
12 <sup>th</sup> – 13 <sup>th</sup> January, 2022	62	43	19
14 <sup>th</sup> January, 2022	65	44	21
17 <sup>th</sup> – 18 <sup>th</sup> January, 2022	159	90	69
19 <sup>th</sup> – 20 <sup>th</sup> January, 2022	82	46	36
21 <sup>st</sup> January, 2022	104	64	40
31 <sup>st</sup> Jan – 1 <sup>st</sup> Feb, 2022	127	83	44
2 <sup>nd</sup> – 3 <sup>rd</sup> Feb, 2022	69	47	22
4 <sup>th</sup> Feb, 2022	157	120	47
28 <sup>th</sup> Feb – 1 <sup>st</sup> March, 2022	100	55	45
2 <sup>nd</sup> – 3 <sup>rd</sup> March, 2022	186	93	83
4 <sup>th</sup> March, 2022	65	47	18
7 <sup>th</sup> – 8 <sup>th</sup> March, 2022	33	24	9

Dates	No. of Participants	Gender	
		Male	Female
9 <sup>th</sup> – 10 <sup>th</sup> March, 2022	61	31	30
11 <sup>th</sup> March, 2022	38	27	11
<b>Total</b>	<b>1,408</b>	<b>884</b>	<b>524</b>

Following the conclusion of the nationwide capacity building program, the uptake and usage of the Portal has increased as illustrated by the figure below. The period before training is the **September to December, 2021** and the post-training period being the **January to June, 2022**.

**Figure 8:**



**Figure 9: Uptake of the Portal by Procuring Entities**

**b) Automation of the Administrative Review Board - [arcms.ppra.go.ke](http://arcms.ppra.go.ke)**

The Authority has developed an electronic Administrative Review Case Management system (eARCMS). Once rolled out to the public, the system will automate the operations on the Administrative Review Board in order to enable the Secretariat and the Board improve their operational performance as well as enable appellants to file and track their cases online.

**c) Automation of the Complaints Management - [cms.ppra.go.ke](http://cms.ppra.go.ke)**

The Authority developed an online Case Management System (CMS). This system automates the Authority's Complaints Handling process of the Complaints and

Investigations Department. Once rolled out to the public, the system will allow members of the public to lodge their complaints against Procuring Entities through the online platform and be able to track the status of processing of their complaints without having to come to the Authority's premises.

**d) Acquisition of an e-Board Management System**

During the year under review, the Authority acquired and operationalized an e-Board management system to enhance and streamline the operations of the Regulatory board. This system has improved board communications by enabling board meetings and other operations to be conducted through an online platform and also provided a secure channel for dissemination and management of board correspondences.

**e) Upgrade of PPRA Server infrastructure & Implementation of a Disaster Recovery (DR) Site**

As part of improving the capacity and resilience of its ICT infrastructure, the Authority acquired additional servers and implemented a disaster recovery (DR) site as part of its business continuity measures. This has in turn enhanced the availability of the Authority's online systems thus enabling its stakeholders, clients and staff to transact and access services seamlessly through the available online platforms.

**4.5 Procurement Operations**

**a) Procurement Planning**

During the 2021/2022 financial year, the Authority planned to spend Kes. **20,121,593.00** for procurement of goods, works and services. The Authority therefore reserved Kes. **6,036,478.00**, of its procurement budgets for the disadvantaged groups (women, youth and Persons with Disabilities (PWDs)); representing **30%** of the total planned procurement budget. Of the **30%** reserved procurement budget, Kes. **120,729.56** (being **2%** of this budget) was reserved for PWDs.

**b) Compliance with Mandatory Reporting Requirements and Presidential Directives**

During the year, the Authority filed mandatory reports that were due in the quarterly as required under the Act. The Authority did not undertake any procurements to facilitate advertising in the Public Procurement Information Portal (PIIP).

### c) Access to Government Procurement Opportunities (AGPO)

During the year, the Authority awarded 29 contracts worth Kes. **6,539,685.00** to the firms owned by youth, women and PWDs. This presents a slight increase of Kes **503,207.00** against the reserved budget of Kes **6,036,478.00** to the target groups translating utilization level of **108.3%**. The disaggregation of the number and value of contracts is presented in the table below.

**Table 35: Distribution of Number and Value of Contracts by Target Groups**

Category	No. of Contracts	Value of Contracts (Kes)
PWD	11	1,057,117.00
Women	9	3,957,127.00
Youth	9	1,525,441.00
<b>Total</b>	<b>29</b>	<b>6,539,685.00</b>

## 4.6 Human Resource Management and Administration

Human resource plays a major role in the success of the Authority given that the Authority is a service organization. The Authority continues to invest in employee related matters on areas of recruitment, training and development, employee compensation, welfare schemes administration, transport and security/safety compliance.

### a) Staffing Matters

Following successful conclusion of the recruitment process, the Public Procurement Regulatory Board (Regulatory Board) effected changes in Management and a new Director General, Patrick K. Wanjuki, assumed office effective 1<sup>st</sup> April 2022. Mr. Wanjuki is a supply chain management practitioner and a lawyer by profession, procurement specialist with over 20 years' experience gained from public and private sectors. The other appointments were for Mr. Hennock Kirungu and Mr. Lawrence Kanyinyi, as General Manager, Technical Services and Manager ICT respectively.

The Authority staff complement at the beginning of the year was 71 employees. During the year one staff retired and two staff resigned from employment to pursue other goals. The in-post establishment at the end of the year was 70 employees.

The Authority continued to implement Public Service Commission's internship programs and support to student on attachments from various educational institutions. During the year the Authority hosted nineteen (19) graduate interns; comprising twelve (12) continuing from the previous year and exited in the third quarter, while seven (7) joined within the fourth quarter, of the year in review.

In addition, four staff were promoted through internal recruitment. The Authority brought on board two legal researcher consultants to assist in supporting the Public Procurement Administrative Review Board in its work.

**b) Organisational Restructuring and Human Resource Instruments**

During the year the Authority completed the organisational structuring process following development and approval of new Human Resource Management Instruments by the Regulatory Board, National Treasury and Planning and State Corporations Advisory Committee (SCAC).

**c) Staff Training**

The staff of the Authority benefited from training opportunities offered to agencies implementing projects under the Horn of Africa Gateway Development Project (HoAGDP), which is a five (5) program financed by the Government of Kenya and the World Bank; under the coordination of Kenya National Highways Authority (KENHA). During the year, eight (8) employees of the Authority were trained were trained during the quarter.

The Taskforce charged with the development of the Training Needs Analysis (TNA) report finalized and submitted the report for implementation. Due to budgetary constraints, there was no training budget for the year under review.

**d) Covid-19 Pandemic**

The Authority continued to monitor the COVID -19 situation in the Authority by following the work place guidelines on Covid-19 as stipulated in the circular from the executive office of the President Head of the Public Service. Ref OP/CAB.26/1/3A dated 20<sup>th</sup> July, 2020.

**e) Performance Management Status**

The Authority signed a Performance Contract (PC) with the Cabinet Secretary, National Treasury and Planning for year under review, and was implemented as required.

## ENVIRONMENTAL & SUSTAINABILITY REPORTING

### a) Corporate Social Responsibility/Community Engagements

#### Tree planting project

In line with the Presidential directive of 4<sup>th</sup> June 2018 on “inclusion of tree planting in Corporate Social Responsibilities activities” and towards the national requirement on attainment of 10% tree cover by 2022, the Authority has for the past three years partnered with Kenya Forest Service to plant, maintain and protect its adopted natural forest in Kimondi area, Nandi County.

During the financial year, the Authority undertook a tree planting activity in Kimondi Forest station, Nandi region on 29<sup>th</sup> June 2022.



**b) Sustainability Reporting**

The Authority relies heavily on Government funding which accounts for upto 95% of its revenues. This poses a threat to operations because whenever there are budget cuts, the Authority almost grinds to a halt due to lack of funding to implement key activities especially on delivery of core mandate. To alleviate this challenge, the Authority has developed a resource mobilization strategy as one of the ways of enhancing and broadening internal revenue sources. It is expected that through implementation of this strategy, PPRA will in the medium term the Authority will be able to increase A-In-A raised from 5% of the budget to around 10% of the budget.

On staffing, the Authority recently recruited a new CEO whose first assignment was to restructure the Authority to ensure sustainability and effective and efficient delivery on the mandate. The Authority which has been plagued by serious staff shortage challenges is currently addressing this challenge. As the first step, the Authority has secured approval of a new organization structure and HR instruments and is currently in discussion with The National Treasury for funding of the new approved staff establishment. Filling of the proposed establishment is expected to lead to sustainability of the Authority interns of effective and efficient delivery on its mandate.

## **REPORT OF THE DIRECTORS**

The Directors submit their report together with the audited financial statements for the year ended June 30, 2022 which show the state of the Authority's affairs.

### **Principal activities**

The principal activities of the Authority are outlined on page 3 of this report.

### **Results**

The results of the Authority for the year ended June 30, 2022 and accompanying notes are set out on pages 60 to 89.

### **Directors**

The members of the Public Procurement Regulatory Board who served during the year are shown on pages 9 to 13 while members of the Public Procurement Administrative Review Board who served during the year are shown on pages 14 to 20.

### **Surplus remission**


In accordance with Section 219 (2) of the Public Financial Management Act regulations, regulatory entities shall remit into Consolidated Fund, ninety per centum of its surplus funds reported in the audited financial statements after the end of each financial year. The Authority did not make any surplus during the year under review and hence no remittance to the Consolidated Fund.

### **Auditors**

The Auditor General is responsible for the statutory audit of the *Authority* in accordance with Article 229 of the Constitution of Kenya and the Public Audit Act 2015.

By Order of the Board

Corporation Secretary  
Nairobi

Date:  .....

## STATEMENT OF DIRECTORS' RESPONSIBILITY

Section 81 of the Public Finance Management Act, 2012 and Section 25 of the Public Procurement and Asset Disposal Act, 2015 require the Directors to prepare financial statements in respect of PPRA, which give a true and fair view of the state of affairs of the Authority at the end of the financial year/period and the operating results for that year/period. The Directors are also required to ensure that PPRA keeps proper accounting records which disclose with reasonable accuracy the financial position of the Authority. The Directors are also responsible for safeguarding the assets of the Authority.

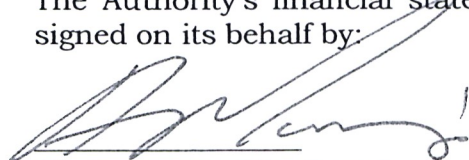
The Directors are responsible for the preparation and presentation of the Authority's financial statements, which give a true and fair view of its state of affairs for and as at the end of the financial year (period) ended on June 30, 2022. This responsibility includes: (i) maintaining adequate financial management arrangements and ensuring that these continue to be effective throughout the reporting period; (ii) maintaining proper accounting records, which disclose with reasonable accuracy at any time the financial position of the Authority; (iii) designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of the financial statements, and ensuring that they are free from material misstatements, whether due to error or fraud; (iv) safeguarding the assets of the Authority; (v) selecting and applying appropriate accounting policies; and (vi) making accounting estimates that are reasonable in the circumstances.

The Directors accept responsibility for the Authority's financial statements, which have been prepared using appropriate accounting policies supported by reasonable and prudent judgements and estimates, in conformity with International Public Sector Accounting Standards (IPSAS), and in the manner required by the PFM Act, 2012 and Public Procurement and Asset Disposal Act 2015. The Directors are of the opinion that the Authority's financial statements give a true and fair view of the state of its transactions during the financial year ended June 30, 2022, and of the financial position as at that date. The Directors further confirm the completeness of the accounting records maintained for the Authority, which have been relied upon in the preparation of the financial statements as well as the adequacy of the systems of internal financial control.

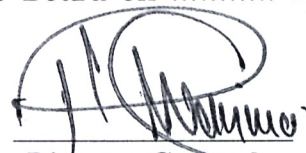
Nothing has come to the attention of the Directors to indicate that the Authority will not remain a going concern for at least the next twelve months from the date of this statement.

### Approval of the financial statements

The Authority's financial statements were approved by the Board on ..... 2022 and signed on its behalf by:



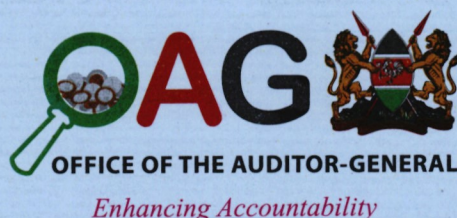
**Chairperson of the Board**



**Director General**

# REPUBLIC OF KENYA

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NAIROBI

## **REPORT OF THE AUDITOR-GENERAL ON PUBLIC PROCUREMENT REGULATORY AUTHORITY FOR THE YEAR ENDED 30 JUNE, 2022**

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### **PREAMBLE**

I draw your attention to the contents of my report which is in three parts:

- A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure Government achieves value for money and that such funds are applied for the intended purpose.
- C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment and the internal controls, developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations, and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

### **REPORT ON THE FINANCIAL STATEMENTS**

#### **Qualified Opinion**

I have audited the accompanying financial statements of Public Procurement Regulatory Authority set out on pages 120 to 150, which comprise of the statement of financial position as at 30 June, 2022 and the statement of financial performance, statement of changes in net assets, statement of cash flows, the statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229

of the Constitution 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 effect 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 the Public Procurement Regulatory Authority as at 30 June, 2022, and of its financial performance and its cash flows for the year then ended, in accordance with the International Public Sector Accounting Standards (Accrual Basis) and comply with the Public Procurement and Asset Disposal Act, 2015 and the Public Finance Management Act, 2012.

## **Basis for Qualified Opinion**

### **1.0 Inaccuracies in the Financial Statements**

Review of the financial statements revealed inaccuracies as outlined below:

- 1.1 The statement of cash flows reflects an opening cash and cash equivalents balance of Kshs.56,283,092 as at 1 July, 2021. However, review of the prior year financial statements indicated a closing cash and cash equivalents balance of Kshs.56,363,092 as at 30 June, 2021. The variance of Kshs.80,000 has not been reconciled.
- 1.2 The statement of cash flows reflects change in reserves balance of Kshs.17,232,449 under operating activities contrary to the requirements of International Public Sector Accounting Standards, IPSAS 3 on Accounting Policies, Changes in Accounting Estimates and Errors which require the change to be effected in the respective components in the comparative period and not an adjustment in the cash flow and statement of changes in net assets.
- 1.3 The statement of financial performance reflects depreciation and amortization charge of Kshs.9,319,335 which, as disclosed in Note 16 to the financial statements includes amortization of intangible assets balance of Kshs.4,352,095. However, recalculation of the amortization charge for the year reflected a balance of Kshs.4,659,420. The variance of Kshs.307,325 has not been reconciled.

In the circumstances, the accuracy and completeness of balances reflected in the financial statements could not be confirmed.

### **2.0 Unaccounted for ICT Assets**

The statement of financial position reflects property, plant and equipment balance of Kshs.12,841,498 which, as disclosed in Note 20 to the financial statements includes a balance of Kshs.1,743,826 in respect of equipment and computers. The balance of Kshs.1,743,826 further includes a balance of Kshs.1,665,000 in relation to fourteen (14) laptops and three (3) I Pads issued to Board Members whose terms ended in 2020 and staff members who have since exited from the service. However, the assets were not surrendered back to the Authority. Although Management has indicated that it has contacted the former staff and Board Members and initiated the process of recovery, only one (1) laptop has been surrendered.

In the circumstances, the existence of equipment and computer assets reflected in the financial statements could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the Public Procurement Regulatory Authority Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

### **Key Audit Matters**

Key audit matters are those matters that, in my professional judgement, are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

### **Other Matter**

#### **Unresolved Prior Year Matters**

In the audit report of the previous year, several issues were raised under the Report on Financial Statements, Report on Lawfulness and Effectiveness in Use of Public Resources and Report on Effectiveness of Internal Controls, Risk Management and Governance. However, the Management has not resolved the issues or given any explanation for failure to adhere to the provisions of the Public Sector Accounting Standards Board templates and The National Treasury's Circular Ref: AG.4/16/3 Vol.2 (66) dated 6 July, 2022.

## **REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES**

### **Conclusion**

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matter described in the Basis for Conclusion on Lawfulness and 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**

#### **Underutilization of Case Management System**

The statement of financial position reflects intangible assets balance of Kshs.3,784,580 as disclosed in Note 21 to the financial statements. Review of procurement files revealed that the Authority entered into a contract for the development, implementation and commissioning of administrative review case management system, on 20 June, 2019 at a contract sum of Kshs.5,290,000. The contract provided for training of twenty-four (24) officers and the system was to have modules that support the Public Procurement Administrative Review functions. The system was inspected and accepted on 24 January, 2020. Although Management has indicated that it required the server infrastructure to be enhanced in order to cope with the increased data processing and storage requirements that would be imposed by the system, the process of engagement of supplier delayed and the system remained unutilized at the time of the audit.

In the circumstances, the Authority did not obtain value for money on procurement of the system.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and 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 EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

### **Conclusion**

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, except for the matter described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

### **Basis for Conclusion**

#### **Under Staffing of the Authority**

Review of the Authority's authorized staff establishment revealed that seventy (70) staff members were in post against an approved staffing level of one hundred and ninety-seven (197). Further, only thirty-nine (39) technical staff are available for technical support, procurement audits and monitoring in all public entities in the country against approved technical staff establishment of seventy (70).

In the circumstances, the effectiveness of the human resource to enable the Authority achieves its mandate of monitoring, assessing and review of the public procurement and asset disposal system in all public entities could not be confirmed.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. 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 overall 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 the Board of Directors**

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 controls, risk management and overall governance.

In preparing the financial statements, Management is responsible for assessing the Authority's ability to continue to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to terminate the Authority or to cease operations.

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, 2015.

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.

The Board of Directors is responsible for overseeing the Authority's financial reporting process, reviewing the effectiveness of how Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to overall governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

### **Auditor-General's Responsibilities for the Audit**

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and overall governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.


Because of its inherent limitations, internal controls may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement 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 controls.
- 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 applicable 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 Authority's ability to continue 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 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 controls 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.

  
CPA Nancy Gathungu, CBS  
AUDITOR-GENERAL


**Nairobi**


**30 March, 2023**

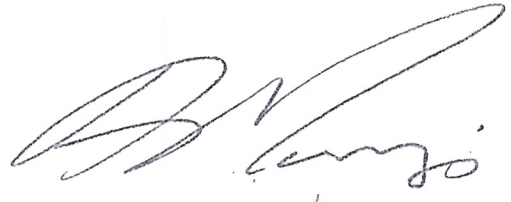
**STATEMENT OF FINANCIAL PERFORMANCE  
FOR THE YEAR ENDED 30<sup>TH</sup> JUNE 2022**

		<b>2022</b>	<b>2021</b>
	<b>Note</b>	<b>Ksh</b>	<b>Ksh</b>
<b>Revenue from non-exchange transactions</b>			
Unconditional Government Grants	6	356,000,000	306,987
<b>Revenue from exchange transactions</b>			
Rendering of services	7	15,876,087	23,979
Finance Income	8	0	
Other Income	9	870,574	4,689
<b>Total Revenue from exchange transactions</b>		<b>16,746,661</b>	<b>28,669</b>
<b>Total Revenue</b>		<b>372,746,661</b>	<b>335,656</b>
<b>EXPENSES</b>			
Employee Costs	10	199,627,777	199,468
Board Expenses	11	44,015,433	46,218
Use of Goods & Services	12	92,119,614	88,816
Repairs and Maintenance	13	1,524,970	2,970
Contracted Services	14	4,089,802	14,325
Finance Costs	15	0	
Depreciation and Amortization	16	9,319,335	12,180
<b>Total Expenses</b>		<b>350,696,931</b>	<b>363,980</b>
<b>Surplus / (Deficit) for the year before extra ordinary item</b>		<b>22,049,730</b>	<b>(28,324,)</b>
Extraordinary item	27	0	(654,
<b>Surplus / (Deficit) for the year after extraordinary item</b>		<b>22,049,730</b>	<b>(28,978,2</b>

The notes set out on pages 66 to 89 form an integral part of the financial statements.

  
**Patrick K. Wanjuki**  
Director General

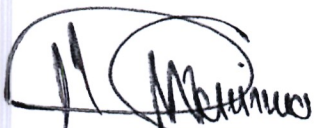
  
**Chris Sakwa**  
Head of Finance  
ICPAK M/No: 9008


  
**Mr Andrew M. Musangi**  
Chairman, PPRB

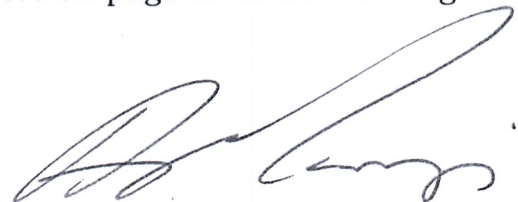
**STATEMENT OF FINANCIAL POSITION**  
**AS AT 30<sup>TH</sup> JUNE 2022**

		<b>2022</b>	<b>2021</b>
	<b>Note</b>	<b>Ksh</b>	<b>Ksh</b>
<b>ASSETS</b>			
<b>Current Assets</b>			
Cash and cash equivalents	17	74,241,579	56,283,092
Receivables from exchange transactions	18	14,727,613	22,387,685
Receivables from non-exchange transactions	19	1,672,951	61,962,181
<b>Total Current Assets</b>		<b><u>90,642,143</u></b>	<b><u>140,632,958</u></b>
<b>Non-current Assets</b>			
Property, Plant and Equipment	20	12,841,498	7,856,737
Intangible Assets	21	3,784,580	8,136,676
Work In Progress	22	53,312,181	0
<b>Total Non-Current Assets</b>		<b><u>69,938,259</u></b>	<b><u>15,993,413</u></b>
<b>Total Assets</b>		<b><u>160,580,402</u></b>	<b><u>156,626,371</u></b>
<b>LIABILITIES</b>			
<b>Current Liabilities</b>			
Trade & Other Payables from exchange transactions	23	52,747,641	18,257,989
Provisions	24	858,400	20,676,200
Deferred income	25	0	50,000,000
<b>Total current liabilities</b>		<b><u>53,606,041</u></b>	<b><u>88,934,189</u></b>
<b>Net Assets</b>			
Accumulated Fund	26	<u>106,974,361</u>	67,692,182
<b>Total Net Assets and Liabilities</b>		<b><u>160,580,402</u></b>	<b><u>156,626,371</u></b>

The financial statements and accompanying notes on page 59 to 88 were signed on behalf of the Authority by:

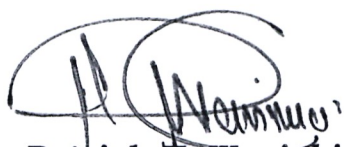
  
**Patrick K. Wanjuki**  
Director General

  
**Chris Sakwa**  
Head of Finance  
ICPAK M/No: 9008


  
**Mr Andrew M. Musangi**  
Chairman, PPRB

**STATEMENT OF CHANGES IN NET ASSETS  
FOR THE YEAR ENDED 30<sup>TH</sup> JUNE 2022**

	<b>Accumulated Fund</b>	<b>Fair Value Adjustment Reserve</b>	<b>Total</b>
	<b>Ksh</b>	<b>Ksh</b>	
<b>Balance at 01.07.2020</b>	<b>196,671,459</b>	0	196,671,459
Transfers to Other Govt Institutions	0	0	0
Capital/Development Grants/Fund received during the year	0	0	0
Loans Scheme accumulated fund	(100,001,000)		(100,001,000)
Surplus / Deficit for the year	(28,978,277)	0	28,978,277)
<b>Balance at 30.06.2021</b>	<b>67,692,182</b>	<b>0</b>	<b>67,692,182</b>
Surplus / Deficit for the year	22,049,730	0	22,049,730
Prior year adjustment	17,232,449	0	17,232,449
<b>Balance at 30.06.2022</b>	<b><u>106,974,361</u></b>	<b>0</b>	<b><u>106,974,361</u></b>



**Patrick K. Wanjuki**  
Director General



**Chris Sakwa**  
Head of Finance  
ICPAK M/No: 9008



**Mr Andrew M. Musangi**  
Chairman, PPRB

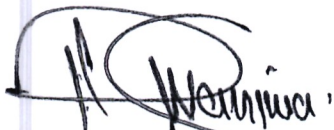
**Note:**


The statement of changes in net assets has been restated so as to reflect only transactions relating to PPRB. The FY 2020/2021 figures included transactions for the PPRB Staff Loans Scheme which has now been reported in separate financial statements for the Scheme.

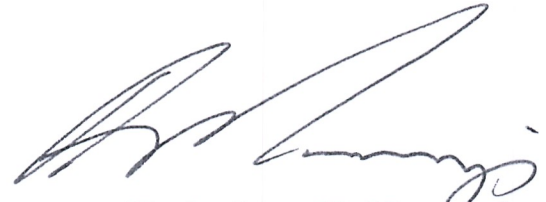
**STATEMENT OF CASH FLOWS  
FOR THE YEAR ENDED 30<sup>TH</sup> JUNE 2022**

		<b>2022</b>	<b>2021</b>
	<b>Note</b>	<b>Ksh</b>	<b>Ksh</b>
Surplus from operating activities		22,049,730	(28,324,000)
<b>Add back:</b> Depreciation		9,319,335	12,180,460
<b>Adjusted Surplus/(Deficit)</b>		<b>31,369,065</b>	<b>(16,143,530)</b>
<b>Cash flows from Operating Activities</b>			
Increase/(Decrease) in trade & other payables		34,489,652	(2,414,120)
Increase/(Decrease) in deferred income		(50,000,000)	50,000,000
Increase/(Decrease) in Provisions		(19,817,800)	
Decrease/(Increase) in receivables from exchange transactions		7,660,072	(12,792,570)
Increase/(decrease) in reserves		17,232,449	
Decrease/(Increase) in receivables from non-exchange transactions		60,289,230	(54,355,480)
<b>Net Cash flows from Operating Activities</b>		<b>81,222,668</b>	<b>(51,849,250)</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Acquisition of tangible assets		(9,952,000)	(3,656,650)
Acquisition of intangible assets		0	
Decrease/(Increase) in work-in-progress		(53,312,181)	945,000
<b>Net cash flow from Investing Activities</b>		<b>(63,264,181)</b>	<b>(2,711,650)</b>
<b>Net changes in Cash and Cash Equivalents</b>		<b>17,958,487</b>	<b>(54,560,900)</b>
Cash & Cash Equivalents as at 1st July		56,283,092	110,923,990
<b>Cash &amp; Cash Equivalents as at 30th June</b>		<b>74,241,579</b>	<b>56,363,090</b>

**Note:** The net change (reduction) in deferred income is reflected under Government grants.

  
**Patrick K. Wanjuki**  
Director General

  
**Chris Sakwa**  
Head of Finance  
ICPAK M/No: 9008

  
**Mr Andrew M. Musangi**  
Chairman, PPRB

**STATEMENT OF COMPARISON OF BUDGET AND ACTUAL AMOUNTS  
FOR THE YEAR ENDED 30<sup>TH</sup> JUNE 2022**

Revenue	Note	Original Budget	Adjustments	Final Budget	Actual on comparable basis	Performance difference	% Utilization
		Ksh	Ksh	Ksh	Ksh	Ksh	
		a	b	c = (a+b)	d	e=(c-d)	f=(d/c) x 100
Recurrent Government Grants	6	306,000,000	0	306,000,000	306,000,000	0	100.0%
Development Government Grants		0	50,000,000	50,000,000	50,000,000		
Rendering of services	7	20,000,000	(4,000,000)	16,000,000	15,876,087	-123,913	99.2%
Finance Income	8	0	0	0	0	0	0.0%
Other income	9	0	900,000	900,000	870,574	-29,426	96.7%
Revenue Reserve		0	21,095,000	21,095,000	21,095,000	0	100.0%
FY 2020/2021 commitments b/f		0	16,244,119	16,244,119	16,244,119		
<b>Total Revenue</b>		<b>326,000,000</b>	<b>84,239,119</b>	<b>410,239,119</b>	<b>410,085,780</b>	<b>(153,339)</b>	<b>99.9%</b>
<b>Expenses</b>							
Employee Costs	10	200,329,600	0	200,329,600	199,627,777	701,823	99.6%
Board Expenses	11	24,215,400	19,976,000	44,191,400	44,015,433	175,967	99.8%
Use of Goods and Services	12	93,900,000	(1,316,000)	92,584,000	92,119,614	464,386	99.5%
Repairs and Maintenance	13	1,305,000	225,000	1,530,000	1,524,970	5,030	99.7%
Contracted Services	14	5,000,000	(890,000)	4,110,000	4,089,802	20,198	99.5%
Finance Costs	15	0	0	0	0	0	0.0%
Depreciation and Amortization	16	0	0	0	9,319,335	(9,319,335)	0.0%
<b>Total Expenditure</b>		<b>324,750,000</b>	<b>17,995,000</b>	<b>342,745,000</b>	<b>350,696,931</b>	<b>(7,951,931)</b>	
<b>Surplus/(deficit) for the period</b>		<b>1,250,000</b>	<b>66,244,119</b>	<b>67,494,119</b>	<b>59,388,849</b>	<b>7,798,592</b>	
<b>Capital Expenditure</b>							
Purchase of Tangible Assets	20	1,250,000	12,744,119	13,994,119	9,952,000	4,042,119	71.1%
Purchase of Intangible Assets	21	0	0	0	0	0	0.0%
Work-In-Progress			50,000,000	50,000,000	53,312,181	(3,312,181)	106.6%
<b>Total Capital expenditure</b>		<b>1,250,000</b>	<b>62,744,119</b>	<b>63,994,119</b>	<b>63,264,181</b>	<b>729,938</b>	<b>98.9%</b>

<b>Grand Total Expenditure (recurrent +capital)</b>		<b>326,000,000</b>	<b>80,739,119</b>	<b>406,739,119</b>	<b>413,961,112</b>		
<b>Grand total surplus/(deficit)</b>		<b>0</b>	<b>3,500,000</b>	<b>3,500,000</b>	<b>(3,875,332)</b>		

**Notes:**

- a) Purchase of Tangible assets:** The actual includes a payment of Kshs. 9,160,000 made to Toyota Kenya in June 2021. The vehicle was delivered in August 2021. The Kshs. 9,160,000 had been budgeted in FY 2020/2021.
- b) Work-In-Progress:** The budget figure included Kshs 50 million for partitioning of PPRA offices and Ksh 12,744,119 for purchase of a server. The partitioning works had not been fully paid as PPRA was expecting some other certificates for payment hence the variance.

## NOTES TO THE FINANCIAL STATEMENTS

### 1. GENERAL INFORMATION

The Public Procurement Regulatory Authority (the Authority) is established under Section 8 (1) of the Public Procurement and Disposal Act, 2015. PPRA is domiciled in Kenya and has regional offices in Mombasa, Kisumu and Eldoret. The Authority is mandated 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.

### 2. STATEMENT OF COMPLIANCE AND BASIS OF PREPARATION

The financial statements have been prepared on a historical cost basis except for the measurement at re-valued amounts of certain items of property, plant and equipment, marketable securities and financial instruments at fair value, impaired assets at their estimated recoverable amounts and actuarially determined liabilities at their present value. The preparation of financial statements in conformity with International Public Sector Accounting Standards (IPSAS) allows the use of estimates and assumptions. It also requires management to exercise judgement in the process of applying the Authority's accounting policies.

The financial statements have been prepared and presented in Kenya Shillings, which is the functional and reporting currency of the Entity. The financial statements have been prepared in accordance with the PFM Act, the State Corporations Act (include any other applicable legislation), and International Public Sector Accounting Standards (IPSAS). The accounting policies adopted have been consistently applied to all the years presented.

### 3. ADOPTION OF NEW AND REVISED STANDARDS

#### i. New and amended standards and interpretations in issue but not yet effective in the year ended 30 June 2022.

Standard	Effective date and impact:
<b>IPSAS 41:</b> Financial Instruments	<b>Applicable: 1<sup>st</sup> January 2023:</b> The objective of IPSAS 41 is to establish principles for the financial reporting of financial assets and liabilities that will present relevant and useful information to users of financial

<b>Standard</b>	<b>Effective date and impact:</b>
	<p>statements for their assessment of the amounts, timing and uncertainty of an entity's future cash flows.</p> <p>IPSAS 41 provides users of financial statements with more useful information than IPSAS 29, by:</p> <ul style="list-style-type: none"> <li>• Applying a single classification and measurement model for financial assets that considers the characteristics of the asset's cash flows and the objective for which the asset is held;</li> <li>• Applying a single forward-looking expected credit loss model that is applicable to all financial instruments subject to impairment testing; and</li> <li>• Applying an improved hedge accounting model that broadens the hedging arrangements in scope of the guidance. The model develops a strong link between an entity's risk management strategies and the accounting treatment for instruments held as part of the risk management strategy.</li> </ul>
<p><b>IPSAS 42:</b> Social Benefits</p>	<p><b>Applicable: 1st January 2023</b></p> <p>The objective of this Standard is to improve the relevance, faithful representativeness and comparability of the information that a reporting Entity provides in its financial statements about social benefits. The information provided should help users of the financial statements and general-purpose financial reports assess:</p> <ul style="list-style-type: none"> <li>(a) The nature of such social benefits provided by the Entity.</li> <li>(b) The key features of the operation of those social benefit schemes; and</li> <li>(c) The impact of such social benefits provided on the Entity's financial performance, financial position and cash flows.</li> </ul>

Standard	Effective date and impact:
Amendments to Other IPSAS resulting from IPSAS 41, Financial Instruments	<p><b>Applicable: 1st January 2023:</b></p> <ul style="list-style-type: none"> <li>a) Amendments to IPSAS 5, to update the guidance related to the components of borrowing costs which were inadvertently omitted when IPSAS 41 was issued.</li> <li>b) Amendments to IPSAS 30, regarding illustrative examples on hedging and credit risk which were inadvertently omitted when IPSAS 41 was issued.</li> <li>c) Amendments to IPSAS 30, to update the guidance for accounting for financial guarantee contracts which were inadvertently omitted when IPSAS 41 was issued.</li> </ul> <p>Amendments to IPSAS 33, to update the guidance on classifying financial instruments on initial adoption of accrual basis IPSAS which were inadvertently omitted when IPSAS 41 was issued.</p>
Other improvements to IPSAS	<p><b>Applicable: 1<sup>st</sup> January 2023</b></p> <ul style="list-style-type: none"> <li>• <b>IPSAS 22 Disclosure of Financial Information about the General Government Sector.</b> Amendments to refer to the latest System of National Accounts (SNA 2008).</li> <li>• <b>IPSAS 39: Employee Benefits</b> Now deletes the term composite social security benefits as it is no longer defined in IPSAS.</li> <li>• <b>IPSAS 29: Financial instruments: Recognition and Measurement</b> Standard no longer included in the 2021 IPSAS handbook as it is now superseded by IPSAS 41 which is applicable from 1st January 2023.</li> </ul>
IPSAS 43	<p><b>Applicable 1st January 2025</b></p> <p>The standard sets out the principles for the recognition, measurement, presentation, and disclosure of leases. The objective is to ensure that lessees and lessors provide relevant information in a manner that faithfully represents those transactions. This information gives a basis for users of financial statements to assess the effect that leases have</p>

<b>Standard</b>	<b>Effective date and impact:</b>
	<p>on the financial position, financial performance and cashflows of an Entity.</p> <p>The new standard requires entities to recognise, measure and present information on right of use assets and lease liabilities.</p>
<p>IPSAS 44: Non- Current Assets Held for Sale and Discontinued Operations</p>	<p><b>Applicable 1st January 2025</b></p> <p>The Standard requires, Assets that meet the criteria to be classified as held for sale to be measured at the lower of carrying amount and fair value less costs to sell and the depreciation of such assets to cease and: Assets that meet the criteria to be classified as held for sale to be presented separately in the statement of financial position and the results of discontinued operations to be presented separately in the statement of financial performance.</p>

**ii. Early adoption of standards**

The entity did not early – adopt any new or amended standards in year 2021/2022.

**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.

## **NOTES TO THE FINANCIAL STATEMENTS CONTINUED**

### **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.

### **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 2021/2022 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.

## **NOTES TO THE FINANCIAL STATEMENTS CONTINUED**

### **Budget information continued**

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

## **NOTES TO THE FINANCIAL STATEMENTS CONTINUED**

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 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

## NOTES TO THE FINANCIAL STATEMENTS CONTINUED

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.

##### ***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

## **NOTES TO THE FINANCIAL STATEMENTS CONTINUED**

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 an entity of financial assets is impaired. A financial asset or an 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:

- The debtors or an 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)

### ***h (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.

## **NOTES TO THE FINANCIAL STATEMENTS CONTINUED**

### **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.

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.

## **NOTES TO THE FINANCIAL STATEMENTS CONTINUED**

### ***Contingent liabilities***

The Entity does not recognize a contingent liability, but discloses details of any contingencies in the 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. In the year under review, the Authority revalued its fleet of vehicles and set up a revaluation reserve.

### **l) Changes in accounting policies and estimates**

The Entity recognizes the effects of changes in accounting policy retrospectively. The effects of changes in accounting policies 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 CONTINUED

### 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 Authority 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 Authority, or vice versa. Members of key management are regarded as related parties and comprise Managers and Directors including the Director General.

The following transactions were carried out with related parties:

- i. Public Procurement Regulatory Board:** This is the Board that oversees the operations and governance of the Authority. The Board is responsible for providing strategic direction, approval of policies and overall governance of the Authority.
- ii. Public Procurement Administrative Review Board:** The Authority has a duty to provide Secretariat and administrative services as well budgetary support to the Review.
- iii. Management team:** The management team oversees the day to day operations of the Authority and also has the responsibility of formulating policies that govern operations of the Authority.
- iv. Kenya Institute of Supplies Management (KISM):** The National Treasury has been allocating KISM part of the funds appropriated to PPRA by Parliament.

## **NOTES TO THE FINANCIAL STATEMENTS CONTINUED**

**v. Government of Kenya and The National Treasury:** The Authority is a Government institution wholly owned by the Government of Kenya. The National Treasury is the parent ministry. The Authority relies on GoK for funding with GoK funds making up 97% of its annual revenues. During the year under review, the Authority received GoK budget funding of Ksh 306,000,000.

### **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 CONTINUED

### 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

## **NOTES TO THE FINANCIAL STATEMENTS CONTINUED**

### **Provisions**

Provisions were raised and management determined an estimate based 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.

## NOTES TO THE FINANCIAL STATEMENTS CONTINUED

In FY 2020/2021 the Public Procurement Regulatory Authority (PPRA) presented one set of financial statements that comprised of figures for both the Authority and the Loans Scheme. In the current financial year separate financial statements have been prepared for the Authority and the Loans Scheme. The comparative figures for FY 2020/2021 presented in this financial statements, are based on the audited financial statements after disaggregating information relating to the Authority and the Loans Scheme.

### 6. Unconditional Government Grants

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

	<b>2022</b>	<b>2021</b>
	<b>Kshs.</b>	<b>Kshs.</b>
Operational Grant	356,000,000	306,987,152

### 7. Rendering Services

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

	<b>2022</b>	<b>2021</b>
	<b>Kshs.</b>	<b>Kshs.</b>
Income from appeals	<u>15,876,087</u>	<u>23,979,983</u>

### 8. Finance Income

This relates to interest income earned during the period under review. The comparative figure has been restated from Kshs 19,175 to Kshs zero because the Kshs. 19,175 was interest for the PPRA Staff Loans Scheme which has been reported in the financial statements for PPRA Staff Loans Scheme.

	<b>2022</b>	<b>2021</b>
	<b>Kshs.</b>	<b>Kshs.</b>
Other income	<u>0</u>	<u>0</u>

## NOTES TO THE FINANCIAL STATEMENTS CONTINUED

### 9. Other Income

This includes income from the sources like training, agency licensing fee and insurance compensation.

	<b>2022</b>	<b>2021</b>
	<b>Ksh</b>	<b>Ksh</b>
Other income	870,574	4,689,025

### 10. Employee Costs

This comprises of the staff personnel emoluments and employer pension contribution. A breakdown of the employee costs is as shown below:

	<b>2022</b>	<b>2021</b>
	<b>Ksh</b>	<b>Ksh</b>
Salaries and wages	123,076,200	122,657,467
Housing benefits & allowances	51,562,530	51,886,323
Pension & Gratuity contributions	24,989,047	24,925,047
<b>Total</b>	<b>199,627,777</b>	<b>199,468,837</b>

### 11. Board Expenses

This comprises of costs related to the Public Procurement Regulatory Board and the Public Procurement Administrative Review Board.

	<b>2022</b>	<b>2021</b>
	<b>Ksh</b>	<b>Ksh</b>
Administrative Review Board other expenses	2,371,743	3,716,053
Administrative Review Board Emoluments	28,884,000	30,164,000
Regulatory Board other expenses	3,799,690	3,978,180
Regulatory Board Emoluments	8,960,000	8,360,000
<b>Total</b>	<b>44,015,433</b>	<b>46,218,233</b>

## NOTES TO THE FINANCIAL STATEMENTS CONTINUED

### 12. Use of Goods and Services

The comparative year expenditure for bank charges has been restated from Kshs. 264,505 to Kshs. 262,600. The difference of Kshs 1,905 being bank charges for the PPRA Staff Loans Scheme, which has now been reported under the separate financial statements for PPRA Staff Loans Scheme.

The Authority adopted a new chart of accounts from 1<sup>st</sup> July 2021. Consequently, there was a change in the classification of general expenses. As a result, the comparable figures for FY 2020/2021 had to be converted to the new expenditure categories in the table below:

	<b>2022</b>	<b>2021</b>
<b>Description</b>	<b>Ksh</b>	<b>Ksh</b>
Administration expenses	29,310,203	33,060,322
Advisory services & stakeholder mgt	661,071	0
Assets management	97,810	0
Bank charges & commissions	282,644	262,600
Compliance monitoring	7,562,021	10,606,076
Corporate communication	1,265,555	3,767,118
Corporate planning	1,949,329	1,418,333
Human Capital Management & Development	8,140,642	7,897,253
ICT services	10,293,291	2,157,425
Insurance costs	22,535,030	20,940,656
Internal audit expenses	499,497	1,011,691
Investigations and enforcement	982,369	2,273,506
Legal services	556,750	612,110
Monitoring, Evaluation & Research	4,531,543	3,238,698
Records & knowledge management	10,100	0
Supply chain management	3,441,759	1,610,737
<b>Total</b>	<b><u>92,119,614</u></b>	<b><u>88,856,525</u></b>

## NOTES TO THE FINANCIAL STATEMENTS CONTINUED

### 13. Repairs and Maintenance

The Authority spent Ksh 1,524,986 on maintenance of vehicles, equipment, computers and general maintenance. A breakdown of the expenditure is shown below:

	<b>2022</b>	<b>2021</b>
	<b>Ksh</b>	<b>Ksh</b>
Vehicles	959,313	748,790
Equipment	481,760	2,076,522
Property	83,897	145,573
<b>Total</b>	<b>1,524,970</b>	<b>2,970,885</b>

### 14. Contracted Services

These are services outsourced by the Authority.

	<b>2022</b>	<b>2021</b>
	<b>Ksh</b>	<b>Ksh</b>
Audit fees	858,400	858,400
Cleaning Services Fees	2,223,402	2,284,308
Guarding Services	1,008,000	836,768
Consultancy Fees	0	10,345,740
<b>Total</b>	<b>4,089,802</b>	<b>14,325,216</b>

### 15. Finance Costs

These consist of costs associated with access to credit or other funding opportunities. PPRA did not have finance costs in the year under review.

### 16. Depreciation and Amortization

The depreciation charge for the year comprises of:

	<b>2022</b>	<b>2021</b>
	<b>Ksh</b>	<b>Ksh</b>
Property and equipment	4,967,240	4,790,459
Intangible assets	4,352,095	7,390,009
<b>Total</b>	<b>9,319,335</b>	<b>12,180,468</b>

## NOTES TO THE FINANCIAL STATEMENTS CONTINUED

### 17. Cash and cash equivalents

Cash and cash equivalents comprises of cash and bank balances. The comparative year figure has been restated from Kshs. 154,683,728 to Kshs 56,283,092. The difference of Kshs 98,400,636 being the PPRA Staff Loans Scheme account balance as at 30.06.2021.

	<b>2022</b>	<b>2021</b>
	<b>Ksh</b>	<b>Ksh</b>
NBK Account	74,241,579	56,283,092
Cash on hand and in transit	0	0
<b>Total</b>	<b><u>74,241,579</u></b>	<b><u>56,283,092</u></b>

### 18. Receivables from exchange transactions

The receivables figure comprises of receivables arising from exchange transactions with third parties.

The comparative year expenditure for receivables from exchange transactions has been restated from Kshs. 24,278,860 to Kshs 22,387,685 while other receivables has been restated from Kshs 11,128,768 to Kshs. 9,237,593. The difference of Kshs 1,891,175 being receivables from exchange transactions due to the PPRA Staff Loans Scheme, which has now been reported under the separate financial statements for PPRA Staff Loans Scheme.

	<b>2022</b>	<b>2021</b>
	<b>Ksh</b>	<b>Ksh</b>
Prepayments	14,507,007	13,135,092
Other receivables	205,606	9,237,593
Refundable Deposits	15,000	15,000
<b>Total</b>	<b><u>14,727,613</u></b>	<b><u>22,387,685</u></b>

### 19. Receivables from non-exchange transactions

	<b>2022</b>	<b>2021</b>
	<b>Ksh</b>	<b>Ksh</b>
The National Treasury	0	57,371,788
Imprest advance	839,772	4,087,693
Salary advance	833,179	502,700
<b>Total</b>	<b><u>1,672,951</u></b>	<b><u>61,962,181</u></b>

## NOTES TO THE FINANCIAL STATEMENTS CONTINUED

### 20. Property, Plant & Equipment

Adjustment has been made to the accumulated depreciation figures under computers & equipment and furniture & fittings upon realization that the accumulated depreciation figures as at 30.06.2021 were not accurate.

	Motor Vehicles	Equipment & Computers	Furniture & Fittings	Office Partitions	Total
Cost	Ksh	Ksh	Ksh	Ksh	Ksh
<b>At 1st July 2020</b>	<b>68,041,313</b>	<b>66,080,203</b>	<b>17,383,000</b>	<b>45,158,490</b>	<b>196,663,007</b>
Additions	0	1,561,495	2,095,155	0	<b>3,656,650</b>
<b>At 30th June 2021</b>	<b>68,041,313</b>	<b>67,641,698</b>	<b>19,478,155</b>	<b>45,158,490</b>	<b>200,319,657</b>
Additions	9,160,000	792,000	0	0	<b>9,952,000</b>
Adjustment	0	(865,380)	865,380	0	<b>0</b>
<b>At 30th June 2022</b>	<b>77,201,313</b>	<b>67,568,318</b>	<b>20,343,535</b>	<b>45,158,490</b>	<b>210,271,656</b>
<b>Depreciation &amp; Impairment</b>					
<b>At 1st July 2020</b>	<b>68,041,313</b>	<b>61,259,007</b>	<b>13,351,584</b>	<b>44,366,282</b>	<b>187,018,186</b>
Depreciation	0	3,636,774	1,084,717	68,968	<b>4,790,459</b>
Transfers/adjustments	0	0	0	654,273	<b>654,273</b>
<b>At 30th June 2021</b>	<b>68,041,313</b>	<b>64,895,781</b>	<b>14,436,301</b>	<b>45,089,523</b>	<b>192,462,918</b>
Depreciation	1,959,222	1,794,091	1,144,960	68,967	<b>4,967,240</b>
Prior year adjustments (Accum depreciation)	0	(865,380)	865,380	0	<b>0</b>
<b>At 30th June 2022</b>	<b>70,000,535</b>	<b>65,824,492</b>	<b>16,446,641</b>	<b>45,158,490</b>	<b>197,430,158</b>
<b>Net book values</b>					
<b>At 30th June 2022</b>	<b>7,200,778</b>	<b>1,743,826</b>	<b>3,896,894</b>	<b>0</b>	<b>12,841,498</b>
<b>At 30th June 2021</b>	<b>0</b>	<b>2,745,917</b>	<b>5,041,853</b>	<b>68,967</b>	<b>7,856,737</b>

## NOTES TO THE FINANCIAL STATEMENTS CONTINUED

### 21. Intangible assets

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

An adjustment has been made to the accumulated depreciation upon realization that the figure as at 30.06.2021 was not accurate.

	<b>2022</b>	<b>2021</b>
<b>Cost</b>	<b>Ksh</b>	<b>Ksh</b>
<b>At beginning of the year</b>	<b>58,469,442</b>	<b>58,469,442</b>
Additions	0	0
<b>At end of the year</b>	<b>58,469,442</b>	<b>58,469,442</b>
<b>Amortization and Impairment</b>		
<b>At beginning of the year</b>	<b>50,332,767</b>	<b>42,942,757</b>
Amortization	4,352,095	7,390,010
<b>At end of the year</b>	<b>54,299,181</b>	<b>50,332,767</b>
<b>Net book value</b>	<b>3,784,580</b>	<b>8,136,675</b>

### 22. Work-In-Progress

	<b>2022</b>	<b>2021</b>
	<b>Ksh</b>	<b>Ksh</b>
Work-In-Progress	53,312,181	0

### 23. Trade & Other Payables from exchange transactions

The comparative year expenditure for trade and other receivables has been restated from Kshs. 18,571,530 to Kshs 18,297,989 while other payables has been restated from Kshs 10,695,720 to Kshs. 10,422,179. The difference of Kshs 273,541 being other payables attributed to the PPRA Staff Loans Scheme, which has now been reported under the separate financial statements for PPRA Staff Loans Scheme.

	<b>2022</b>	<b>2021</b>
	<b>Ksh</b>	<b>Ksh</b>
Trade Payables	32,201,307	7,875,810
Other Payables	20,546,334	10,422,179
<b>Total</b>	<b><u>52,747,641</u></b>	<b><u>18,297,989</u></b>

## NOTES TO THE FINANCIAL STATEMENTS CONTINUED

### 24. Provisions

The FY 2021/2022 provision of Ksh 858,400 is to cater for FY 2021/2022 audit fee.

	<b>2022</b>	<b>2021</b>
	<b>Ksh</b>	<b>Ksh</b>
Provisions	858,400	20,676,200

### 25. Deferred Income

This is income received for a specific purpose i.e partitioning of PPRA head office.

	<b>2022</b>	<b>2021</b>
	<b>Ksh</b>	<b>Ksh</b>
National Government	0	50,000,000
<b>Total Deferred income</b>	<b>0</b>	<b>50,000,000</b>

The deferred income movement is as follows:

	<b>2021</b>	<b>2020</b>
	<b>Ksh</b>	<b>Ksh</b>
Balance brought forward	50,000,000	0
Additions	0	50,000,000
Earned during the year	(50,000,000)	0
<b>Balance carried forward</b>	<b>0</b>	<b>50,000,000</b>

## NOTES TO THE FINANCIAL STATEMENTS CONTINUED

### 26. Accumulated Fund

The comparative year accumulate fund figure has been restated from Kshs. 167,670,452 to Kshs. 67,652,182. The difference of Kshs. 100,018,270 being accumulated fund for the PPRA Staff Loans Scheme which has now been reported under the separate financial statements for PPRA Staff Loans Scheme.

	<b>2022</b>	<b>2021</b>
	<b>Ksh</b>	<b>Ksh</b>
Balance as at 1st July	67,652,182	196,671,459
Surplus / Deficit for the year	22,049,730	(29,018,277)
Prior Year Adjustment	17,232,449	0
Loans Scheme accumulated fund	0	(100,001,000)
<b>Balance as at 30th June</b>	<b>106,974,361</b>	<b>67,652,182</b>

### 27. Contingent Assets

The Authority had no contingent assets as at 30<sup>th</sup> June 2022.

### 28. Contingent Liabilities

**a) Litigation Matters:** As at 30<sup>th</sup> June 2022, there were some cases before 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.

#### **b) M/S SPA Infosuv East Africa Ltd**

The Authority entered into contract No. PPRA/09/2015-2016 on 12<sup>th</sup> January 2017 with M/S SPA Infosuv East Africa Ltd to conduct country procurement assessment for a contract price of Ksh. 16,285,000. An amount of Ksh. 3,257,000 was paid to the consultant on 30<sup>th</sup> April, 2019 in respect of submission of inception report. Audit review of the correspondences between the Authority and the consultant reveals that there is a pending disputed invoice 031019 amounting to Ksh. 13,028,000. The matter has been referred to an arbitrator for mediation.

## NOTES TO THE FINANCIAL STATEMENTS CONTINUED

### 29. Related Party Transactions

The following transactions were carried out with related parties:

- i. Public Procurement Regulatory Board:** This is the Board that oversees the operations and governance of the Authority. The Board is responsible for providing strategic direction, approval of policies and overall governance of the Authority.
- ii. Public Procurement Administrative Review Board:** The Authority has a duty to provide Secretariat and administrative services as well budgetary support to the Review.
- iii. Management team:** The management team oversees the day to day operations of the Authority and also has the responsibility of formulating policies that govern operations of the Authority.
- iv. Kenya Institute of Supplies Management (KISM):** The National Treasury has been allocating KISM part of the funds appropriated to PPRA by Parliament.
- v. Government of Kenya and The National Treasury:** The Authority is a Government institution wholly owned by the Government of Kenya. The National Treasury is the parent ministry. During the year under review, the Authority received GoK budget funding of Ksh 306,000,000.

### 30. 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.

### 31. 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.

### 32. Currency

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

## APPENDIX I: PROGRESS ON FOLLOW UP OF AUDITOR RECOMMENDATIONS

The matters raised by the Office of Auditor General in the audit report for FY 2020/2021 have been substantially addressed.

Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Status: (Resolved / Not Resolved)	Timeframe: (Put a date when you expect the issue to be resolved)
1.1	Unsupported Board Expenses – Board expenses in note 11 was Ksh 46,218,233 while schedules had figure of Ksh 45,066,422	A reconciliation of the Board expenses was prepared and shared with the auditors via email on 20 <sup>th</sup> May 2022.		
1.2	Unauthorized expenditure on Board allowances – Board expenditure was Ksh 46,218,233 against approved budget of Ksh 36,904,800	Audit recommendations on spending beyond budget was considered by management. Management is engaging Treasury to provide sufficient budget for the Authority. In addition, measures have been put in place to ensure that spending is within allocated budget.		
2.0	Rent & utilities expenses -The expenditure reported excluded service charge of Ksh 8,157,952	The service charge was accrued and the financial statements adjusted appropriately to reflect the correct expenditure.		
3.0	Provisions – Provision figure of	A reconciliation of the provisions has been done		

Reference No. on the external audit Report	Issue / Observations from Auditor	Management comments	Status: <i>(Resolved / Not Resolved)</i>	Timeframe: <i>(Put a date when you expect the issue to be resolved)</i>
	Ksh 20,676,200 reported but schedules figure of Ksh 15,179,605	and the correct balance is now carried in the books of accounts.		
	Poor financial management – Statement of financial performance reflects deficit of Ksh 29,001,007 an indication that the Authority was experiencing operational challenges.	<p>The Authority has been receiving inadequate funding over time.</p> <p>The Authority is having engagements with Treasury to consider increasing the budget allocation and at the same time work within the current budget to avoid overspending.</p> <p>In addition, the Authority is endeavouring to work within the allocated budget and avoid reporting deficits going forward.</p>		
	Budgetary control and performance – The reported a budget of Ksh 443,269,951 and actual revenues of Ksh 367,678,719 resulting in underfunding of	<p>The Authority has been receiving inadequate funding over time.</p> <p>The Authority is having engagements with Treasury to consider increasing the budget allocation and at the same time work within the</p>		

<b>Reference No. on the external audit Report</b>	<b>Issue / Observations from Auditor</b>	<b>Management comments</b>	<b>Status:</b> <i>(Resolved / Not Resolved)</i>	<b>Timeframe:</b> <i>(Put a date when you expect the issue to be resolved)</i>
	Ksh 75,591,232	current budget to avoid overspending.  In addition, the Authority is endeavouring to work within the allocated budget and avoid reporting deficits going forward.		
	Failure to comply with PFM Act 2012 – The Authority issued multiple imprests to Board members and staff totaling Ksh 2,993,407	Management has considered the audit recommendation and has put in place measure to ensure compliance.		
	Failure to remit taxes – Taxes amounting to Ksh 1,339,724 had not been remitted to KRA	The tax was remitted and the Authority did not incur interest or penalties.		
	Failure to update fixed assets register – The Authority’s asset register had not been updated	The register has been updated with information on asset acquisition date, location and condition of the assets.		

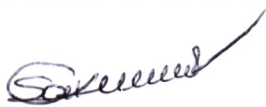
**APPENDIX II: PROJECTS IMPLEMENTED BY THE ENTITY**

There was no capital project under implementation during FY 2021/2022.

**APPENDIX III: INTER-ENTITY TRANSFERS**

<b>ENTITY NAME: PUBLIC PROCUREMENT REGULATORY AUTHORITY</b>				
<b>Breakdown of Transfers from The National Treasury</b>				
<b>FY 2021/2022</b>				
<b>a</b>	<b>Recurrent Grants</b>			
	<b>Details</b>	<b>Bank Statement Date</b>	<b>Amount Ksh</b>	<b>FY to which amount relates</b>
	Quarter 1 Exchequer	28/09/2021	76,500,000	FY 2021/2022
	Quarter 2 Exchequer	17/11/2021	76,500,000	FY 2021/2022
	Quarter 3 Exchequer	18/02/2022	76,500,000	FY 2021/2022
	Quarter 4 Exchequer	21/06/2022	76,500,000	FY 2021/2022
	<b>Total</b>		<b>306,000,000</b>	
<b>b</b>	<b>Development Grants</b>			
No development exchequer was received in FY 2021/2022				

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



**Mr Chris Sakwa**  
**Manager, Finance**

