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Architects
Engineers
Interior Designers
Quantity Surveyors
Town Planners Chapter
Landscape Architects
Construction Project Managers
Environmental Design Consultants

AAK/RA/SDNT/ DPPP/026/48 27th July 2026

The Principal Secretary
State Department for National Treasury
The National Treasury and Economic Planning
Treasury Building
P.O. Box 30007-00100
Nairobi, Kenya

Dear Sir/Madam,

THE ARCHITECTURAL ASSOCIATION OF KENYA'S COMMENTS ON THE PUBLIC PRIVATE PARTNERSHIPS (AMENDMENT) BILL, 2026, THE PUBLIC PRIVATE PARTNERSHIPS (GENERAL) REGULATIONS, 2026, AND THE PUBLIC PRIVATE PARTNERSHIPS (PROJECT MANAGEMENT) REGULATIONS, 2026

Please receive warm greetings from the Architectural Association of Kenya (AAK).

Established in 1967, AAK is the premier association for Built Environment professionals in Kenya, bringing together Architects, Quantity Surveyors, Town Planners, Landscape Architects, Construction Project Managers, Environmental Design Consultants, Interior Designers and Engineers. As an umbrella professional association, AAK champions excellence in the planning, design, delivery and management of Kenya's built and natural environment and actively contributes to policy development in matters affecting sustainable development and the public interest.

The Association welcomes the opportunity to submit comments on the proposed Public Private Partnerships (Amendment) Bill, 2026, the Public Private Partnerships (General) Regulations, 2026, and the Public Private Partnerships (Project Management) Regulations, 2026, together with their accompanying Regulatory Impact Statements.

AAK supports the overarching objective of the proposed reforms, namely the strengthening of Kenya's Public-Private Partnership framework through enhanced project preparation, improved procurement processes, stronger contract management mechanisms, increased investor confidence and greater alignment of the regulatory framework with the Public Private Partnerships Act, 2021. The emphasis placed on project planning, fiscal sustainability, monitoring, and accountability is commendable and has the potential to improve the delivery of critical public infrastructure and services.

Notwithstanding these positive developments, AAK wishes to highlight several areas that require further consideration to safeguard public interest and enhance the quality and sustainability of infrastructure development. In particular, the Association notes the need to:

- Strengthen transparency and accountability mechanisms in projects involving public funds, public land, government guarantees and other forms of public support;

- Enhance the participation of technical built-environment professionals within PPP governance, oversight and dispute-resolution structures;
- Ensure alignment of PPP projects with approved national, regional and county physical and spatial development plans;
- Introduce stronger safeguards relating to direct procurement and privately initiated proposals;
- Promote meaningful public participation and public-interest standing in matters affecting public resources and communities;
- Strengthen climate resilience, sustainability, design quality and lifecycle performance considerations in project appraisal and implementation; and
- Enhance independent technical oversight throughout the project development and contract management cycle.

AAK believes that these recommendations will contribute to a more transparent, accountable, sustainable, and technically robust PPP framework capable of delivering high-quality infrastructure and development outcomes for present and future generations.

We hereby submit our detailed clause-specific comments and recommendations in the attached matrix for your consideration. The association remains available to provide any further technical clarification that may assist in the review and finalization of the proposed legislative and regulatory framework.

Signed,

GEORGE A. NDEGE, ARCHITECT,
PRESIDENT| ARCHITECTURAL ASSOCIATION OF KENYA

COMMENTS ON THE PPP ACT AND ITS REGULATIONS 2026

PUBLIC-PRIVATE PARTNERSHIP (AMENDMENT) BILL, 2026				
S/ No.	**Section Proposed for Amendment**	**Current Provision**	**Proposed Amendment**	**Justification / Rationale**
1	Section 4(3)	Deletes provisions relating to application of Public Procurement and Asset Disposal Act (PPADA) where counterpart funding includes public funds.	Retain additional procurement safeguards and transparency requirements where counterpart funding, public land, government guarantees, viability gap funding or public funds are involved.	PPP projects involving public resources require enhanced accountability and value-for-money safeguards. The deletion creates ambiguity regarding the accountability framework applicable to projects receiving public support.
2	Section 6(1)	Adds the Principal Secretary responsible for PPPs to the PPP Committee.	Include mandatory co-option of built-environment professionals and sector technical experts for infrastructure projects.	PPP Committee membership remains largely administrative and financial. Infrastructure decisions require expertise in planning, architecture, engineering, environmental management, quantity surveying, and landscape architecture.
3	Section 21(2)	Removes the 30-year limit on PPP contracts.	Allow contracts beyond 30 years only where justified by infrastructure lifecycle, financing requirements and independent review.	Very long concessions may improve project bankability but may reduce future policy flexibility and create inter-generational obligations.
4	Section 29	Introduces the concept of recoverable project development costs.	Define eligible costs, establish ceilings, disclosure requirements and approval procedures.	The legislation does not clearly define what constitutes recoverable project development

				costs and whether limits apply.
5	Section 32	Feasibility studies conducted *in consultation with* rather than *under the direction of* the Directorate.	Require enhanced Directorate concurrence for projects exceeding prescribed thresholds or strategic national infrastructure.	Balances efficiency with quality assurance and independent oversight.
6	Section 38(b)	Removes requirement that direct procurement only apply where services are available from a limited number of providers.	Retain condition or require mandatory market testing and publication of justification reports.	Direct procurement presents elevated risks regarding competition and value for money.
7	Section 43(12)	Allows rejected PIPs to be resubmitted without specifying validity periods or timelines.	Insert Sections 43(12A), (12B) and (12C) requiring resubmission within 24 months, invalidating stale feasibility studies and deeming projects abandoned after 5 years.	Ensures feasibility assumptions remain relevant and aligned to changing economic, environmental and development priorities.
8	Section 65	County Assembly approval replaced with County Executive Committee approval.	Introduce mandatory disclosure and stakeholder consultation requirements before approval.	Improves transparency and compensates for reduced legislative oversight.
9	Section 75(1)	Petition Committee primarily serves procurement participants.	Extend jurisdiction to public-interest petitioners where projects affect public resources, public land, natural resources, environmental assets or communities.	PPP projects create long-term public obligations and should remain open to public-interest scrutiny.
10	New Section 75(1A)	No express public-interest standing.	Permit professional bodies, CSOs, resident associations and affected communities to file petitions.	Promotes accountability and constitutional principles of public participation.
11	New Section 75(1B)	No grounds for public-interest petitions identified.	Specify grounds including planning inconsistency, lack of public participation, environmental non-compliance, affordability concerns, procedural	Clarifies jurisdiction and prevents frivolous petitions.

			irregularities and conflicts of interest.	
12	Section 75 – Petition Fee	Filing fee contemplated but not specified.	Require nominal or exempt fees for public-interest petitions.	Safeguards access to justice and protection of public resources.
13	New Section 75(1C)	No filing timeline for public-interest petitions.	Require filing within 30 days of approval or becoming aware of approval.	Balances project certainty and public oversight.
14	New Section 75(1D)	No determination timeline.	Require determination within 60 days.	Prevents unnecessary project delays.
15	Sections 75-80	Standing Petition Committee.	Permit appointment of sector-specific technical panels or expert arbitrators.	Infrastructure disputes often require technical expertise beyond legal and procurement matters.
PPP (GENERAL) REGULATIONS 2026				
S/No.	**Section Proposed for Amendment**	**Current Provision**	**Proposed Amendment**	**Justification / Rationale**
1	Regulation 7	Project identification and prioritization.	Require demonstration of consistency with approved physical and spatial plans.	PPP projects should align with national, regional, and county spatial planning frameworks.
2	Regulation 8	Composition of Project Implementation Teams.	Include mandatory representation from planning, architecture, engineering, and environmental professions.	Infrastructure projects require multidisciplinary expertise.
3	Regulation 9	Feasibility study requirements.	Include heritage, urban design, accessibility and resilience assessments where applicable.	PPP infrastructure must deliver broader public value.
4	Regulation 10	Feasibility assessment criteria.	Include lifecycle performance, climate resilience, and placemaking indicators.	Supports sustainability and quality infrastructure outcomes.
5	Regulation 11	21-day feasibility review period.	Allow variable review timelines depending on project scale and complexity.	Complex infrastructure projects may require more detailed scrutiny.
6	Regulations 16-18	Direct procurement framework.	Require for publication of market testing reports and	Promotes transparency and public confidence.

			value-for-money assessments.	
7	Regulation 23	Restricted bidding.	Require publication of shortlisted bidders and justification for restricted procurement.	Improves transparency
8	Regulations 55-60	County PPP approvals.	Introduce statutory timelines for county-level approvals and reviews.	Improves certainty and predictability for project delivery.
9	Regulations 62-64	Government Support Measures.	Publish summary contingent liability exposure and fiscal commitments.	Taxpayers ultimately bear fiscal risks.
10	Regulation 65	Negotiations.	Require public disclosure where negotiations materially alter project scope, public land use, environmental obligations or design standards.	Protects public interest.

REGULATORY IMPACT STATEMENT PPP (GENARAL) REGULATIONS 2026

S/No.	Section Proposed for Amendment	Current Provision	Proposed Amendment	Justification / Rationale
1	Cost-Benefit Analysis	States implementation will attract no significant costs.	Include implementation, monitoring, and compliance costs.	New obligations carry resource implications for government institutions.
2	Impact Assessment	Focuses largely on governance.	Include impacts on planning, infrastructure quality, urbanization, and environmental sustainability.	PPPs directly affect development outcomes.
3	Public Participation	General consultation approach.	Explicitly identify professional bodies and civil society organizations as stakeholders.	Promotes participation by actors affected by PPP projects.
4	Monitoring Framework	No measurable indicators.	Introduce governance and implementation Key Performance Indicators.	Enables future assessment of regulatory effectiveness.
5	Investor Confidence	General statement.	Provide evidence of expected investors, governance, and project delivery benefits.	Strengthens the basis for adopting the regulations.

REGULATORY IMPACT STATEMENT PPP (PROJECT MAGEMENT) REGULATIONS 2026				
S/ No.	**Section Proposed for Amendment**	**Current Provision**	**Proposed Amendment**	**Justification / Rationale**
1	Financial Cost Analysis	States no significant additional costs.	Quantify compliance, reporting, contract management and independent expert costs.	Supports evidence-based regulation.
2	Benefit Analysis	Broad governance statements.	Include measurable performance indicators.	Improves monitoring and accountability.
3	Public Participation	General consultation provisions.	Include targeted engagement with professional bodies and local communities.	PPP projects directly affect the built and natural environment.
4	Comparative Analysis	Limited benchmarking.	Include comparison with international PPP project management good practice.	Strengthens policy justification.
DRAFT PPP (PROJECT MANAGEMENT) REGULATIONS 2026				
S/ No.	**Section Proposed for Amendment**	**Current Provision**	**Proposed Amendment**	**Justification / Rationale**
1	Regulations 5-7	Project identification and concept notes.	Require consistency with approved physical, regional and county spatial plans.	Integrates PPPs with planning frameworks.
2	Regulation 6	Project concept notes.	Include planning, climate, environmental, and urban design screening.	Early identification of risks improves project quality.
3	Regulation 7	Evaluation criteria.	Include place-making, sustainability and built-environment quality indicators.	Public infrastructure should generate broader societal value.
4	Regulations 8-23	Privately Initiated Proposals.	Require publication of consultation reports and project summaries.	PIPs require enhanced transparency due to reduced competition.
5	Regulation 20	Publication of feasibility studies.	Publish executive summaries accessible to the public.	Supports meaningful public participation.
6	Regulation 21	Direct negotiations under PIPs.	Require independent value-for-money review and certification.	Protects public resources where competitive bidding is not used.

7	Regulation 32	Contract Management Framework.	Incorporate infrastructure quality, sustainability, and asset-performance review mechanisms.	Ensures performance extends beyond contractual compliance.
8	Regulation 34	Contract Management Plan.	Include user satisfaction and post-occupancy evaluation.	Measures actual infrastructure outcomes.
9	Regulation 37	Contract Management Team.	Include planners, architects and environmental professionals where applicable.	Strengthens long-term infrastructure oversight.
10	Regulation 41	Independent Experts.	Create multidisciplinary panels of architects, planners, engineers, quantity surveyors and environmental experts.	PPP oversight should reflect all technical dimensions of infrastructure projects.
11	Regulation 40	Project implementation reporting.	Introduce public disclosure of implementation reports for major projects.	Enhances transparency and public trust.