



REPUBLIC OF KENYA

REGULATORY IMPACT ASSESSMENT

FOR

THE SUPPLIES PRACTITIONERS MANAGEMENT (GENERAL) REGULATIONS, 2026

SEPTEMBER, 2026

This Regulatory Impact Statement (RIS) has been prepared by the Cabinet Secretary for the National Treasury and Economic Planning pursuant to section 6 and 7 of the

TABLE OF CONTENTS

1.	INTRODUCTION.....	5
2.	REGULATORY IMPACT ASSESSMENT	5
2.1	REGULATORY IMPACT ASSESSMENT (RIS).....	5
2.2	REQUIREMENTS OF THE STATUTORY INSTRUMENTS ACT	6
2.3	REGULATORY-MAKING AUTHORITY AND THE LEGAL MANDATE	7
3.	STATEMENT OF THE OBJECTIVES OF THE PROPOSED LEGISLATION AND THE REASONS FOR PROPOSED REGULATIONS	8
4.	BACKGROUND AND CONTEXT OF THE REGULATIONS	9
4.1	BACKGROUND TO THE SUPPLIES PRACTITIONERS MANAGEMENT ACT AND THE KENYA INSTITUTE OF SUPPLIES MANAGEMENT	9
4.2	INTERNATIONAL CONTEXT	9
4.3	DOMESTIC CONTEXT.....	10
5.	EVALUATION OF THE PROBLEM.....	11
5.1	STATEMENT OF THE PROBLEM	11
5.2	ANALYSIS OF THE PROBLEM	11
5.3	CONSEQUENCES FOR NOT REGULATING.....	12
6.	POLICY AND LEGAL FRAMEWORK FOR THE PROPOSED REGULATIONS	13
6.1	CONSTITUTIONAL FRAMEWORK	13
6.2	NATIONAL LEGAL AND POLICY FRAMEWORK	14
6.2.1	<i>National policy framework</i>	14
6.2.2	<i>National legal framework</i>	14
6.2.3	<i>Related financial and sectoral frameworks</i>	15
7.	PUBLIC PARTICIPATION AND CONSULTATIONS	15
7.1	LEGAL BASIS FOR PUBLIC PARTICIPATION AND CONSULTATIONS.....	15
7.2	THE PROCESS OF PUBLIC PARTICIPATION AND CONSULTATIONS.....	16
7.3	<i>Public Consultation Approach and Methodology</i>	16
8.	OVERVIEW OF THE PROPOSED REGULATIONS	17
8.1	SCOPE OF THE PROPOSED SUPPLIES PRACTITIONERS' MANAGEMENT (GENERAL) REGULATIONS, 2026.....	17
9.	REGULATORY AND NON-REGULATORY OPTIONS AND THE REASONS WHY THEY ARE NOT APPROPRIATE.....	19
9.1	THE ALTERNATIVES	19
9.1.1	<i>Option one: status quo</i>	19
9.1.2	<i>Option two: Application of administrative measures</i>	20
9.1.3	<i>Option Three: Adoption of the proposed Regulations</i>	20
10.	COST-BENEFIT ANALYSIS	20

10.1	COSTS	20
10.2	BENEFITS	20
10.3	NET ASSESSMENT	21
10.4	PREFERRED OPTION	21
11.	COMPLIANCE AND IMPLEMENTATION	21
12.	CONCLUSION	22
13.	RECOMMENDATION.....	22
	ANNEXURES	24

EXECUTIVE SUMMARY

This Regulatory Impact Statement (RIS) for the proposed Supplies Practitioners Management (General) Regulations, 2026 has been prepared by the Cabinet Secretary for the National Treasury and Economic Planning to operationalise and enforce the Supplies Practitioners Management Act (Cap. 537). The Kenya Institute of Supplies Management is the statutory body mandated to Regulate and oversee the supplies management profession in Kenya. While the obtaining 2015 Regulatory framework helped establish early professional structures, it is now over a decade old and has exposed significant Regulatory gaps in the wake of rapid changes in procurement technology. These gaps limit Regulatory effectiveness and leave the profession vulnerable to ethics and integrity issues, highlighting the urgent need for a modernised, coherent, and responsive Regulatory framework.

The proposed Regulations establish a comprehensive Regulatory framework covering Registration, Licensing, professional conduct, discipline, and governance. Specifically, the Regulations introduce clear procedures and qualifications for standardising registration and annual licensing for both individual Practitioners and practicing firms. Key accountability measures include converting general ethical principles into legally binding standards (such as Mandatory Continuous Professional Development, conflict of interest disclosures, and whistleblower protections), requiring mandatory professional indemnity insurance to protect clients from negligence, and imposing a prescribed scale of fees to prevent destructive market undercutting. Furthermore, the framework tightens operational oversight by requiring Heads of Procurement to submit annual procurement plans and end-of-year reports, establishing direct disciplinary referral pathways from key oversight watchdogs like the Public Procurement Regulatory Authority (PPRA) and Public Procurement Administrative Review Board (PPARB), and introducing robust democratic governance guidelines for Kenya Institute of Supplies Management meetings, including a mandatory 200-member quorum.

To resolve these professional deficiencies, the RIS evaluated three policy options. Maintaining the status quo (Option 1) was deemed inappropriate because leaving the outdated 2015 Regulations unchanged, would perpetuate high long-term costs, Regulatory uncertainty, and weak enforcement against unqualified Practitioners. Relying strictly on administrative measures like voluntary guidelines and circulars (Option 2) was also deemed inappropriate, as soft-law instruments lack the necessary statutory authority to legally mandate licensing conditions, compulsory indemnity insurance, or formal disciplinary consequences. Consequently, the adoption of the proposed Regulations (Option 3) is the preferred option because it is the only path that consolidates the Regulatory framework under a single instrument, resolves legal uncertainties, and equips Kenya Institute of Supplies Management with the necessary enforcement capabilities to fully implement the Act.

A qualitative cost-benefit assessment indicates that while practitioners and firms will face manageable, recurrent compliance costs, the long-term public benefits far outweigh these costs. In alignment with constitutional requirements, the National Treasury will conduct extensive public participation and consult various stakeholders. The Regulatory Impact Statement (RIS) recommends the adoption of the Regulations.

1. INTRODUCTION

The Kenya Institute of Supplies Management is a statutory body established under the Supplies Practitioners Management Act, Cap. 537, with the mandate to regulate and oversee the supplies management profession in Kenya through registration and licensing of Practitioners, enforcement of professional standards, accreditation of training programmes, and promotion of ethical conduct and continuous professional development.

As the Regulator of the profession, Kenya Institute of Supplies Management contributes to good governance, accountability, transparency, and efficient management of public and private sector resources. The Act provides the legal framework for regulation of the profession and empowers the Cabinet Secretary to make Regulations to facilitate its implementation. Over time, changes in procurement practices, technology, governance standards, and professional expectations have exposed gaps in the existing regulatory framework, particularly in relation to registration, licensing, accreditation, disciplinary procedures, continuous professional development, and fee administration. The fragmentation of the existing framework has limited effective implementation and enforcement of the Act. The proposed Regulations seek to address these gaps by consolidating the existing framework, establishing clear procedures and standards to strengthen professional Regulation, improve compliance, enhance service delivery, and promote public confidence in the profession.

This Regulatory Impact Statement (RIS) has been prepared in accordance with Sections 6, 7, and 8 of the Statutory Instruments Act, 2013, to assess the need, objectives, impacts, and stakeholder views relating to the proposed Regulations.

2. REGULATORY IMPACT ASSESSMENT

2.1 REGULATORY IMPACT ASSESSMENT (RIS)

Regulatory Impact Statement (RIS) is a systematic policy tool used to examine and measure the likely benefits, costs, and effects of new or existing Regulations. Regulatory Impact Statement (RIS) is an analytical report to assist decision makers. As an aid to decision making Regulatory Impact Statement (RIS) includes an evaluation of possible alternative regulatory and non-regulatory approaches with the overall aim of ensuring that the final selected regulatory approach provides the greatest net public benefit. Typically, the structure of Regulatory Impact Statement (RIS) contains the following elements:

- (a) title of the proposal;
- (b) the objective and intended effect of the Regulatory Policy;
- (c) an evaluation of the policy problem;
- (d) consideration of alternative options;
- (e) assessment of all their impacts distribution;
- (f) results of public consultation;
- (g) compliance strategies, and
- (h) processes for monitoring and evaluation.

The Regulatory Impact Statement (RIS) is conducted before a new government regulation is introduced to provide a detailed and systematic appraisal of the potential impact of a new Regulation to assess whether the Regulation is likely to achieve the desired objectives. Regulatory Impact Statement (RIS) promotes evidence-based policymaking as new Regulations typically lead to numerous impacts that are often difficult to foresee. The Regulatory Impact Statement (RIS) confirms whether a proposed regulation is welfare-enhancing, in that, the benefits will surpass costs. The Regulatory Impact Statement (RIS) therefore has objectives of improving understanding of the real-world impact of Regulatory action, including both the benefits and the costs of action, integrating multiple policy objectives, improving transparency, consultation and enhancing governmental accountability.

2.2 REQUIREMENTS OF THE STATUTORY INSTRUMENTS ACT

The Statutory Instruments Act (Cap 2A Laws of Kenya) is the legal framework governing the conduct of Regulatory Impact Statement (RIS) in Kenya. Sections 6 and 7 require that *if a proposed statutory instrument is likely to impose significant costs on the community or a part of the community, the regulation-making authority shall, prior to making the statutory instrument, prepare a regulatory impact statement about the instrument.*

The Act further sets out certain key elements that must be contained in the Regulatory Impact Statement (RIS) namely:

- (a) a statement of the objectives of the proposed legislation and the reasons;
- (b) a statement explaining the effect of the proposed Legislation;
- (c) a statement of other practicable means of achieving those objectives, including other regulatory as well as non-regulatory options;

- (d) an assessment of the costs and benefits of the proposed statutory rule and of any other practicable means of achieving the same objectives; and
- (e) the reasons why the other means are not appropriate.

Section 5 of the Act requires that a Regulation-Making Authority to conduct public consultations drawing on the knowledge of persons having expertise in fields relevant to the proposed statutory instrument and ensuring that persons likely to be affected by the proposed statutory instrument are given an adequate opportunity to comment on its proposed content.

2.3 REGULATORY-MAKING AUTHORITY AND THE LEGAL MANDATE

Section 36 of the Supplies Practitioners Management Act empowers the Cabinet Secretary, in consultation with the Council, to make Regulations generally for the carrying out of the provisions of this Act. In particular, the Cabinet Secretary may provide in paragraphs (a) (b) (f) and (h), for:

- (a) the form and method of keeping the registers and records under the Act;
- (b) the conditions of admission to the registers and of the issue of licenses;
- (c) the standards and conditions of professional practice of persons registered or licensed under the Act; and
- (d) the summoning of meetings of and the direction of the proceedings of the Council.

In exercise of the above powers, the Supplies Practitioners Management (General) Regulations, 2026 have been developed to establish a framework to address existing Regulatory and operational gaps in the implementation of the Act, strengthen professional standards and accountability, improve Regulatory effectiveness, provide legal certainty, and ensure that the Regulatory framework remains responsive to emerging developments in supplies management practice and governance. These proposed Regulations constitute a statutory instrument which will enable the full implementation of the Act.

The Cabinet Secretary has now prepared this Regulatory Impact Statement (RIS) and undertaken public consultations, in partial fulfilment of the requirements of the Statutory Instruments Act. These Regulations are likely to impose costs on the supplies sector which plays a key role in Kenya's economic development.

3. STATEMENT OF THE OBJECTIVES OF THE PROPOSED LEGISLATION AND THE REASONS FOR PROPOSED REGULATIONS

The Supplies Practitioners Management (General) Regulations, 2026 are developed under the Supplies Practitioners Management Act (Cap. 537 Laws of Kenya) by the Cabinet Secretary for the National Treasury and Economic Planning in consultation with the Council. The primary object of these Regulations is to structure a cohesive, professional, and ethical framework for the supplies management sector in Kenya.

Specifically, the Regulations constitute a framework that seeks to provide–

- (a)** clear procedures for registration and licensing of members of the Institute: this sets clear qualifications, academic requirements, and standards for the registration of members, alongside mandatory annual licensing procedures for both individual practitioners and practicing firms to ensure they are legally authorized to operate;
- (b)** for the recognition of Fellows of the Institute: this provides a structured process for nominating and awarding Fellowship status to members who have rendered outstanding services, demonstrated leadership, or made significant contributions to the profession;
- (c)** standards of professional practice for members of the Institute: this mandates that all members maintain high standards of professional ethics by adhering to core principles such as integrity, professional competence, fairness, transparency, and confidentiality. It further enforces strict guidelines regarding conflict of interest, whistle blower protection, and prudent resource utilization;
- (d)** for the conduct of meetings of the Institute: It outlines the governance rules, notice requirements, quorum rules, and voting protocols for conducting the Annual General Meetings and Special General Meetings of the Institute;
- (e)** the procedure for lodging and determination of disciplinary cases against members of the Institute: It establishes clear procedures for lodging, investigating, and determining disciplinary cases against members before a Disciplinary Committee, allowing for sanctions such as reprimands, suspensions, fines, or removal from the register;
- (f)** for accreditation of training programmes; and
- (g)** for the administration of fees and charges in compliance with the Act.

These Regulations consolidate and rationalise the Regulatory framework while strengthening professional standards, accountability, transparency and regulatory certainty. The Regulations will provide Practitioners and other stakeholders with a clear and predictable framework for compliance and will strengthen the capacity of the regulatory system to protect the integrity and reputation of the supplies management profession.

4. BACKGROUND AND CONTEXT OF THE REGULATIONS

4.1 BACKGROUND TO THE SUPPLIES PRACTITIONERS MANAGEMENT ACT AND THE KENYA INSTITUTE OF SUPPLIES MANAGEMENT

The Supplies Practitioners Management Act is the key statute that professionalised and regulated supplies practice in Kenya by creating a mandatory registration and licensing regime for practitioners, and by establishing the Kenya Institute of Supplies Management as the national professional body.

Section 3(1) of the SPMA establishes the Kenya Institute of Supplies Management as a body corporate with perpetual succession and a common seal. Its mandate centres on registration, licensing, regulation and standards-setting for the profession. Its key functions include: registering and licensing all supplies practitioners in Kenya; regulating practice, including enforcing professional standards and conduct; establishing, monitoring, improving and publishing standards for the Supplies profession; and supporting the training and certification framework in conjunction with the examination board created under the same Act.

The enactment of this Act marked a great milestone as it converts procurement and supplies work from an unregulated occupation into a statutorily regulated profession. It creates a single national register and licensing requirement, which employers and regulators can rely on to verify practitioner status while underpinning continuous professional development (CPD), ethical standards, and disciplinary mechanisms through Kenya Institute of Supplies Management's Regulatory role. It's in seeking to fully operationalise this Act that the proposed Regulations are made.

4.2 INTERNATIONAL CONTEXT

Globally, supplies and procurement work is no longer viewed as a purely commercial function. Regulators increasingly treat it as a frontline control point for public spending, competition, anti-corruption, human rights, environmental protection, trade compliance, and corporate accountability. Regulation of this profession is intensifying due to the reality that purchasing decisions determine which suppliers receive business, where goods originate, and whether labour, environmental, and legal risks

enter an organisation's operations. Government and Regulators have therefore moved from voluntary responsible-sourcing guidance toward mandatory due-diligence, disclosure, import-control, and Supplier-governance duties.

Regulation is therefore making professional competence, ethics, and accountability more important in procurement practice. Poor decisions can expose an organisation and, in some settings, responsible individuals to contract challenges, debarment, financial penalties, reputational damage, supply disruption, civil claims, or criminal investigation. Obtaining internationally is the emphasis on transparent, traceable, ethical, sustainable, and legally compliant procurement. Procurement professionals are increasingly expected to demonstrate not only that they obtained value for money, but also that they managed the social, environmental, trade, integrity, and governance consequences of every sourcing decision.

The Supplies practice in Kenya aligns with these international realities. It borrows from the United Nations Sustainable Development Goals which embed environmental, social, and economic considerations into procurement decisions. Economically, sustainable public procurement is seen as a catalyst for green innovation, inclusive growth, and development of local industries. The Regulations are aligned with international best practices promoted by professional bodies such as the International Federation of Purchasing and Supply Management (IFPSM) and the Chartered Institute of Procurement and Supply (CIPS).

4.3 DOMESTIC CONTEXT

In Kenya's development agenda, Regulation of supplies and Procurement Practitioners is treated as a governance, economic-transformation, and public-value issue, not merely an administrative requirement. Procurement controls are intended to ensure that public resources produce infrastructure, services, jobs, local industrial growth, and inclusive prosperity while limiting corruption, waste, exclusion, and poor-quality delivery.

The current policy setting situates procurement reform firmly within Kenya's overarching development architecture. It is aligned to the United Nations Sustainable Development Goals (particularly those relating to decent work and economic growth, industry, innovation and infrastructure, reduced inequalities, and peace, justice and strong institutions), Kenya Vision 2030, the Fourth Medium-Term Plan (MTP IV) 2023–2027, and the Bottom-Up Economic Transformation Agenda (BETA). BETA prioritises agricultural transformation, the MSME economy, housing and settlement, healthcare, and the digital superhighway and creative economy. Consistent with the 2026 Budget Policy Statement, procurement reform which encompassing digitisation, local content requirements, and preference and

reservation schemes, is recognised as an essential instrument for delivering inclusive growth, job creation, lower costs of living, and broad-based economic transformation.

5. EVALUATION OF THE PROBLEM

This Part identifies the problem to be solved, giving evidence of its nature and the magnitude, and explaining why it has arisen.

5.1 STATEMENT OF THE PROBLEM

The Supplies Practitioners Management Act, Cap. 537 established Kenya Institute of Supplies Management as the Regulator of the profession. Upon its enactment, the Cabinet Secretary developed the Supplies Practitioners Management (Registration and Licensing) Regulations, Supplies Practitioners Management (Discipline) Regulations, and the Supplies Practitioners Management (Examinations) Regulations to operationalise the statutory framework and establish the institutional mechanisms necessary for regulation of the profession. While the 2015 framework was instrumental in putting the regulatory architecture of the profession into operation, the circumstances that informed the development of those Regulations have, however, materially changed. The 2015 Regulations are now more than a decade old, and the profession has undergone significant institutional and operational development. This is coupled with changes in supplies management, technology such as Artificial Intelligence (AI) and blockchains, governance requirements such as Environmental Social and Governance (ESG), and operational efficiency including costs, hence creating regulatory and implementation gaps in the current framework.

These gaps affect practitioners, training institutions, employers, public and private sector organizations, and the public by limiting regulatory effectiveness, creating compliance uncertainties, and constraining Kenya Institute Supplies Management's ability to effectively discharge its mandate. The proposed Regulations seek to address these challenges by providing a modern, coherent, and responsive framework that strengthens professional regulation, promotes accountability, and aligns the profession with national priorities and international best practices.

5.2 ANALYSIS OF THE PROBLEM

These Regulations are intended to provide a comprehensive framework for the administration and Professional Regulation of Supplies Practitioners, including registration, licensing, professional standards, continuing professional development, maintenance of registers and records, administrative

procedures and professional accountability. The Regulations will also address areas various gaps that have been identified including:

(a) Professional gaps

The supplies management sector currently suffers from a lack of a unified professional framework, resulting in inconsistent service delivery across public and private entities. Regulations 3 and 4 on Objects and Scope respectively identifies the absence of standardised Registration and Licensing has created a regulatory vacuum. This allows unqualified individuals to manage complex procurement cycles without the safeguards and recognition that come with professional accreditation, standards of practice such as professional indemnity, scale of fees and Fellowship status.

(b) Deficiencies in ethical and professional standards

The profession is currently plagued by systemic vulnerabilities in integrity, transparency, and accountability. The Standards of Supplies Management Practice in Part V addresses these underlying failures, specifically the mismanagement of resources and the absence of mandatory Continuous Professional Development (CPD). Without these regulations, the profession remains vulnerable to corruption and mismanagement thus ultimately undermining the public's trust in procurement outcomes.

(c) Ineffective disciplinary and referral mechanisms

There is currently no legally mandated pathway for the Public Procurement Administrative Review Board (PPARB) or the Director-General of the Public Procurement Regulatory Authority to refer malpractice practitioners to the Institute for debarment. These regulations institutionalize a structured process that ensures misconduct cases raised in public hearings don't just end but are formally escalated. This ensures that practitioners found guilty of fraud or negligence in public hearings face immediate professional consequences.

5.3 CONSEQUENCES FOR NOT REGULATING

These Regulations serve as a cornerstone for the Kenyan supplies sector, introducing statutory controls that professionalise, regulate, and protect the industry. These Regulations are critical to the sector and the consequences for failing to regulate would mean the following will not be achieved:

(a) Professionalisation and standardization of entry

The regulations establish rigid educational and professional requirements for registration and mandate a certificate of moral fitness signed by other licensed Practitioners to verify character. By requiring Practitioners and practicing firms to take out annual licenses and professional indemnity covers, the framework ensures that only qualified, vetted, and active specialists handle Supplies Practitioner responsibilities in Kenya.

(b) Instilling Integrity and public trust

The Regulations establish a comprehensive, legally binding Code of Ethics. Supplies Practitioners must maintain professional competence, integrity, fairness and objectivity, confidentiality, and prudent resource utilisation as anticipated under Article 227 of the Constitution. To prevent corruption, the Regulations provide clear boundaries, such as the mandatory written declaration and recusal in conflicts of interest.

(c) Market price stabilization and quality protection

The proposed Scale of Fees provides a standardized framework for the remuneration of non-permanent or advisory services based on equity and transparency. Most importantly, the prohibition of undercutting protects the market from a destructive race to the bottom, ensuring that supplies services are selected based on the quality of expertise rather than cut-rate pricing.

(d) Robust accountability and disciplinary integration

The disciplinary process is tightly woven into supplies practitioners' management monitoring systems. Kenya Institute of Supplies Management's Disciplinary Committee can receive direct referrals from key statutory watchdogs, including the Public Procurement Administrative Review Board (PPARB) and the Director-General of the Public Procurement Regulatory Authority (PPRA). By outlining structured, fair hearing procedures and enforcing strict sanctions (such as reprimands, suspensions, fines, or permanent removal from the register), the regulations establish a highly effective framework to curb systemic malpractice.

(e) Empowering democratic governance

The regulations set a clear framework for conducting general meetings of the Institute. Requiring a robust quorum of 200 registered members and establishing clear voting rights guarantees that practitioners have a strong, active, and legally protected voice in governing Kenya Institute of Supplies Management.

These regulations matter because they turn constitutional and policy ideals such as fairness, transparency, value for money, and development, into enforceable rules that shape behaviour, reduce risk, and improve performance across the entire supplies sector.

6. POLICY AND LEGAL FRAMEWORK FOR THE PROPOSED REGULATIONS

Kenya's Supplies practice sits at the intersection of constitutional mandates, dedicated procurement statutes, professional regulation under the Supplies Practitioners Management Act, and broader national development policies that use public spending as a tool for socio-economic transformation.

6.1 CONSTITUTIONAL FRAMEWORK

Article 227 of the Constitution is the supreme legal anchor for public procurement. It requires that when a State organ or public entity contracts for goods or services, it must do so through a system that is fair, equitable, transparent, competitive and cost-effective. The Constitution places public procurement within Chapter 12 on Public Finance, signalling that procurement is not just an administrative function but a core element of public financial management and accountability.

This constitutional standard drives all subsequent Legislation and Policy where every procurement law and Regulation must be read as giving effect to Article 227.

6.2 NATIONAL LEGAL AND POLICY FRAMEWORK

6.2.1 *National policy framework*

The ***National Public Procurement and Asset Disposal Policy, 2020*** aims to achieve a public procurement and asset disposal system that is fair, equitable, transparent, competitive, sustainable and cost-effective. Key among these include: proper regulation of the system through laws, rules and guidelines; stimulation of socio-economic development through procurement; promotion of ethical practices and professionalism in procurement and asset disposal; fostering sustainable procurement practices and leveraging technology for efficiency; and increasing participation of historically disadvantaged groups and MSMEs, and supporting growth of local industries. This policy explicitly frames procurement as a development tool, not just a transactional process.

The ***Kenya Vision 2030*** underpins long-term economic and social transformation and as such procurement policy and practice are aligned to Vision 2030's goals of sustained growth, industrialisation, and improved service delivery.

The ***Buy Kenya – Build Kenya Strategy of 2017*** aimed to increase competitiveness and consumption of locally produced goods and services, thereby supporting employment, value addition, and poverty reduction.

The ***Local Content Policy*** promotes development of local skills, maximum use of Kenyans in the workforce, domestication of capabilities, and use of locally sourced goods and services to enhance global competitiveness of Kenyan industries.

These strategies rely heavily on public procurement to create demand for local products and services, making supplies practice central to long term development agenda.

6.2.2 *National legal framework*

The ***Public Procurement and Asset Disposal Act (PPADA)*** was enacted to give effect to Article 227 and to provide procedures for efficient public procurement and asset disposal by public entities. It applies to all State organs and public entities and covers procurement planning, processing, inventory and asset management, disposal of assets, and contract management. The Act operationalises the constitutional principles of fairness, transparency, competition, and cost-effectiveness, while also embedding socio-economic objectives such as support for local industry and MSMEs. It recognises persons with professional qualifications in procurement or supplies management from a recognised institution and who are members of Kenya Institute of Supplies Management or another recognised professional body. This directly links the Public Procurement Asset Disposal Act to the Supplies Practitioners Management Act and Kenya Institute of Supplies Management's Regulatory role. The Public Procurement Asset Disposal Act is supported by detailed regulations, notably the Public Procurement and Asset Disposal Regulations, 2020, which operationalise the Act's procedures and coordination mechanisms.

The ***Supplies Practitioners Management Act, Cap. 537*** (SPMA) focuses on the professional side that is training, registration, licensing, and regulation of supplies practitioners in both public and private sectors. It establishes Kenya Institute Supplies Management as the national professional body and regulator of practitioners; and the Kenya Institute of Supplies Examinations Board (KISEB) to prescribe syllabuses and conduct certification examinations. The Act was introduced to support professionalism in the procurement function, ensuring that those managing public and private supplies meet defined competency and ethical standards. Together, the Public Procurement Asset Disposal Act, PPADA governs how public procurement is done while the Supplies Practitioners Management SPMA governs who may practice as a procurement or supplies professional and under what standards.

6.2.3 *Related financial and sectoral frameworks*

The ***Public Finance Management Act, 2012*** governs overall public financial management, including budgeting, commitment control, and expenditure management, which directly affect how procuring entities plan and execute procurement.

The ***Public Private Partnerships Act, 2021*** regulates procurement and contracting for PPP projects, providing a special regime for large infrastructure and service delivery arrangements that involve private partners.

7. PUBLIC PARTICIPATION AND CONSULTATIONS

Public participation is a constitutional requirement. An evaluation of the public consultation process is therefore necessary to ascertain whether all interested parties had the opportunity to present their views. Regulations should be developed in an open and transparent fashion, with appropriate procedures for effective and timely input from interested parties such as affected businesses, interest groups, professional bodies and other government ministries, departments and agencies and counties.

7.1 LEGAL BASIS FOR PUBLIC PARTICIPATION AND CONSULTATIONS

According to Article 10 of the Constitution of Kenya, 2010, participation of the people, inclusivity, transparency, and accountability are constitutional requirements whenever the State or public officer applies the Constitution, enacts any law, or makes or implements a public policy. This requirement is premised on the sovereignty principle which vests all sovereign power to the people of Kenya. This power entitles the people to unfettered access to the process of making public decisions through their involvement.

Regarding the Subsidiary Legislation making process, the Statutory Instruments Act requires that the regulatory making authority shall undertake public consultations before making statutory instruments and particularly, where the proposed Regulations are likely to have a direct or a substantial indirect effect on business or restrict competition.

The Act provides that in determining whether any consultation that was undertaken is appropriate, the

regulation making authority shall have regard to all relevant matters, including the extent to which the consultation: drew on the knowledge of persons having expertise in fields relevant to the proposed statutory instrument; and ensured that persons likely to be affected by the proposed statutory instrument had an adequate opportunity to comment on its proposed content.

The Statutory Instruments Act further requires that the persons to be consulted should either directly or by advertisement through representative organizations be invited to make submissions by a specified date, which should not be lesser than fourteen days or be invited to participate in public hearings concerning the proposed instrument.

7.2 THE PROCESS OF PUBLIC PARTICIPATION AND CONSULTATIONS

In line with the Constitutional requirements on public participation and the Statutory Instruments Act which obligates a regulation making authority to undertake appropriate consultations with persons likely to be affected by the proposed instruments, the Ministry continuously engaged the public and private stakeholders in the development of the draft Regulations.

Pursuant to section 5 of the Statutory Instruments Act, the Ministry identified specific stakeholders whom it engaged in a consultative process. These include the main institutions and individuals who will be directly or indirectly affected by the proposed statutory instrument.

The stakeholders identified for engagement for purposes of developing the proposed Regulations are as shown below –

- | | |
|--|---|
| 1. The Council of the Institute | 7. The Public Procurement Authority |
| 2. The Registrar of the Institute | 8. Public Procurement entities |
| 3. Professional bodies | 9. Private Procurement entities |
| 4. The Kenya Institute of Supplies Examination Board (KISEB) | 10. Accounting officers in the public sector |
| 5. Registered members of KISM | 11. Accounting officers in the private sector |
| 6. Public Procurement Administrative Review Board (PPARB) | 12. The general public |

7.3 Public Consultation Approach and Methodology

The Ministry adopted the following methodology for purposes of public participation:

- (a) posting of draft copies of the Draft Regulations and the Regulatory Impact Statement onto the Ministry's website inviting representations generally and specifically from the identified stakeholders;
- (b) notification of the stakeholders of the ongoing process and invite them to give their submissions on the draft regulations within a specified reasonable period;
- (c) publication of a notice of the intended stakeholder engagement in the *Kenya Gazette*;
- (d) posting of an advertisement in a newspaper with national circulation inviting any person or institution to make their submissions within a specified date and directing them on where they can get copies of the regulations;

- (e) advertisement in social media; and
- (f) physical and virtual engagements with select stakeholders where possible.

Based on the above approach, a series of meetings were held between the Ministry, Kenya Institute Supplies Management and key stakeholders where several written presentations were also received.

8. OVERVIEW OF THE PROPOSED REGULATIONS

This Part provides an overview of the Regulations and assesses whether the proposed Regulations are clear, consistent, comprehensible, and comprehensive.

8.1 SCOPE OF THE PROPOSED SUPPLIES PRACTITIONERS' MANAGEMENT (GENERAL) REGULATIONS, 2026

The Supplies Practitioners Management (General) Regulations, 2026 establishes the regulatory framework for registration, annual licensing, professional conduct, Fellowship, discipline, professional fees, indemnity insurance, compliance monitoring, and governance meetings of the Kenya Institute of Supplies Management.

The following is the scope of the proposed Regulations:

(a) Registration of members

The Regulations provide for the registration of members through several routes: Kenyan academic qualifications being certificate, diploma or degree in a relevant field, combined with professional certification in supplies management; foreign academic or professional qualifications, subject to authentication and assessment; or through recognition of prior learning for persons already engaged in supplies management who possess the required competence and are assessed and certified by the Examinations Board. Applicants must also provide a certificate of moral fitness signed by two registered and licensed Institute members. Foreign-qualified applicants must submit authenticated certificates and evidence of professional standing from the relevant foreign regulatory or professional body.

(b) Licensing and professional practice

A member who engages in the business of a Supplies practitioner must obtain an annual licence in the professional activities that they wish to practice in. A member is eligible for a licence if the member holds a valid registration certificate and has complied with the Council's continuing professional development requirements.

(c) Fellowship and honorary recognition

The Regulations provide for Fellowship where the Council may annually nominate members who have rendered outstanding service to the Supplies profession. A nomination may be made by a Fellow in good standing; a Council member or another person or body approved by the Council. For Honorary

Fellowship, the Council may confer Honorary Fellowship on a non-member who has rendered exceptional service to the Institute or profession. An Honorary Fellow is not a member of the Institute and does not acquire membership rights or obligations, although the Council may grant specified privileges.

(d) Professional standards and ethical practice

The Regulations convert broad ethical expectations into enforceable professional obligations. Failure to comply may amount to professional misconduct. Practitioners must maintain professional competence; act with integrity; and operate transparently and accountably among other professional standards. Members must also maintain the knowledge, skills and competence necessary for effective supplies practice. They are expected to undertake prescribed CPD, attend relevant training and remain informed about regulatory changes and professional best practice. Failure to satisfy competence or CPD requirements may result in suspension, non-renewal of a licence or disciplinary action.

(e) Procurement planning and reporting

The Regulations impose specific operational obligations on heads of supplies or procurement. They impose the requirement of an annual procurement plan, and end-of-year procurement report. Failure to prepare or submit the required plans and reports constitute a breach of professional standards and may lead to disciplinary action.

(f) Compliance assessment and enforcement

The Regulations assign the Chief Executive Officer a compliance-monitoring role. The CEO may assess compliance with professional standards; registration and licensing status; and accreditation of institutions offering CPD programmes. If non-compliance is found, the CEO must prepare a report within **seven days** and refer it to the Disciplinary Committee for appropriate action.

(g) Professional fees and terms of engagement

The Regulations establish a prescribed scale of professional fees for licensed practitioners and firms providing professional supplies services in Kenya. It applies to non-permanent, consultancy, advisory and project-based work, but not to salaried practitioners acting in full-time employment.

Practitioners must not charge below the prescribed scale unless the Institute grants written approval. Undercutting may amount to professional misconduct and, for repeated or serious breaches, may result in removal from the register.

(h) Professional indemnity insurance

Every practitioner and firm must maintain professional indemnity insurance with a properly licensed insurer. The policy must cover claims arising from professional acts, omissions, errors or negligence and remain valid throughout the licensing period.

Evidence of insurance is required when applying for a licence, at renewal and whenever requested by the Council. If insurance lapses, is cancelled or becomes ineffective, the practitioner must notify the Council and immediately cease practising until compliant cover is restored.

(i) Disciplinary process

The Regulations provide for a disciplinary process where complaint may be lodged by the Public Procurement Administrative Review Board, the Director-General of the Public Procurement Authority, a procuring entity, and Institute member or any other person or entity. Complaints are generally to be filed using the prescribed form and supported by particulars of the alleged misconduct, evidence and the applicable fee. Oral complaints or complaints by persons unable to read or write must be reduced into writing and explained to the complainant before signature or thumbprinting. Screening and investigation, Hearing safeguards, sanctions and decisions and review and referrals and provided for adequately in the Regulations.

(j) Institute meetings and governance

Finally, the Regulations provide for Institute meetings and governance. The Council must convene an Annual General Meeting in April each year. At least 60 days' notice is required. Members wishing to propose a motion must generally submit it at least 45 days before the meeting, supported by a mover, seconder and relevant documents. Proposed motions must be circulated to members at least 15 days before the meeting. The quorum for commencement of a general meeting is 200 members. If quorum is not achieved within one hour, the meeting is adjourned and a subsequent meeting must be convened within 30 days. At the subsequent meeting, the members present may constitute a quorum if the required number is again absent. A Special General Meeting may be convened by Council or requisitioned by at least 200 members. A members' requisition must state the purpose of the proposed meeting and be submitted in the prescribed form.

9. REGULATORY AND NON-REGULATORY OPTIONS AND THE REASONS WHY THEY ARE NOT APPROPRIATE

9.1 THE ALTERNATIVES

Three options were assessed against the objectives of closing regulatory gaps, strengthening professional standards and accountability, and fully operationalising the Supplies Practitioners Management Act.

9.1.1 *Option one: status quo*

Retaining the 2015 regulations unchanged would leave in place an outdated and fragmented framework. Registration and licensing routes remain incomplete, professional standards lack enforceable detail on ethics, CPD, conflicts of interest and procurement reporting, disciplinary processes are not integrated with referrals from the Public Procurement Administrative Review Board or the Public Procurement Regulatory Authority, and neither professional indemnity insurance nor a binding scale of fees is mandated. This option fails to address institutional fragmentation, ethical deficiencies or weak accountability. It perpetuates regulatory uncertainty, limits Kenya Institute Supplies Management's enforcement capacity and continues to expose the public and procuring entities to unqualified practice and integrity risks. The status quo is therefore not an appropriate means of achieving the stated objectives.

Based on the foregoing, maintaining the status quo will mean that the regulatory oversight capacity of the Authority will remain inadequate.

9.1.2 *Option two: Application of administrative measures*

Reliance on guidelines, circulars, voluntary codes and internal directives without new binding regulations was considered. While such measures can raise awareness, they lack legal force. Mandatory licensing conditions, enforceable ethical standards, compulsory indemnity insurance, a binding fee scale and formal disciplinary referral pathways cannot be imposed through soft-law instruments alone.

Non-compliance would carry limited consequences, creating inconsistent application and legal uncertainty. Administrative measures therefore cannot deliver the coherent, enforceable framework required and are not an appropriate alternative.

9.1.3 *Option Three: Adoption of the proposed Regulations*

The proposed Regulations consolidate and modernise the framework under a single instrument. They establish clear registration and licensing routes, enforceable professional and ethical standards, mandatory CPD and indemnity insurance, a prescribed scale of fees, structured disciplinary processes with formal referral channels, compliance monitoring, and transparent Institute governance rules.

This option directly closes the identified gaps, provides legal certainty, equips KISM with effective enforcement tools, and aligns practice with constitutional, statutory and policy requirements. It is the only option that fully achieves the objectives.

10. COST-BENEFIT ANALYSIS

A qualitative cost-benefit assessment was conducted from the perspectives of practitioners, firms, KISM, procuring entities and the public.

10.1 COSTS

Practitioners and firms will incur moderate recurrent costs: annual licensing fees, CPD participation, professional indemnity insurance and administrative effort for procurement planning and reporting. Kenya Institutes Supplies Management will face additional but limited administrative and enforcement costs for processing applications, compliance monitoring and disciplinary proceedings. Transitional costs will arise in updating systems and guidance.

These costs are proportionate and, in many cases, formalise existing market practice.

10.2 BENEFITS

The benefits associated with promulgating these regulations include:

- (a) enhanced professional standards: which will provide clear competence-based registration and licensing, linked to CPD, raised professional standards and reduced errors and suboptimal procurement outcomes.
- (b) protection from financial loss: there will be mandatory indemnity insurance protects clients from financial loss arising from negligence.
- (c) enhanced integrity and reduction in professional leakages: the provision of enforceable ethical standards and integrated disciplinary processes, including formal referrals from oversight bodies, will strengthen integrity and reduce leakage in public procurement.
- (d) protection of service quality: the fee scale and prohibition on undercutting protect service quality.
- (e) improved governance of Kenya Institute Supplies Management enhances institutional accountability.

Collectively, these measures support value for money, public confidence and national development objectives under the Bottom-Up Economic Transformation Agenda and the Kenya Vision 2030. Benefits accrue widely to procuring entities, clients, government and the public, while costs fall mainly on regulated practitioners and the Regulator.

10.3 NET ASSESSMENT

The status quo avoids short-term compliance costs but sustains higher long-term costs from weak regulation and integrity failures. Administrative measures impose lower formal costs but deliver only partial and uneven benefits. Adoption of the proposed Regulations yields the highest net public benefit: moderate, manageable costs are outweighed by stronger professional standards, reduced malpractice risk, improved procurement outcomes and greater public protection.

10.4 PREFERRED OPTION

Based on the foregoing and cost benefit analysis above, it is clear the third option (development and adoption of the proposed Regulations) is the preferred option. The other two options have little or no impact in addressing the problem.

11. COMPLIANCE AND IMPLEMENTATION

As different aspects of the proposed Regulations are evaluated and analysed, it is important to determine how compliance and implementation of the actual provisions will be achieved. It is the duty of the Authority to assess the adequacy of the institutional framework and other incentives through which the Regulations will take effect, and design responsive implementation strategies that make the best use of

them.

The implementation and enforcement of these Regulations will be undertaken through the existing institutional framework, the Institute in consultation with the Cabinet Secretary responsible for the National Treasury and Economic Planning.

12. CONCLUSION

Based on the above analysis, the following matters are apparent:

- (a) Regulatory-Making Authority and the legal mandate: Section 36 of the Supplies Practitioners Management Act empowers the Cabinet Secretary to may make regulations generally for the better carrying out of the provisions of the Act and in particular for those listed in paragraphs (a), (b), (f) and (h).
- (b) Requirements of the Statutory Instruments Act: Section 5 requires that a regulation- making authority to conduct public consultations and to drawing on the knowledge of persons having expertise in fields relevant to the proposed statutory instrument; and to ensure that persons likely to be affected by the proposed statutory instrument had an adequate opportunity to comment on its proposed content. Sections 6 and 7 require that an RIA be prepared where a statutory instrument is likely to impose significant costs on the community. The RIA must contain certain key elements namely:
 - (i) a statement of the objectives of the proposed legislation and the reasons;
 - (ii) a statement explaining the effect of the proposed legislation;
 - (iii) statement of other practicable means of achieving those objectives, including other regulatory as well as non-regulatory options;
 - (iv) an assessment of the costs and benefits of the proposed statutory rule and of any other practicable means of achieving the same objectives; and
 - (v) the reasons why the other means are not appropriate.

The public consultation and RIS content requirements have been fully met.

- (c) Other existing legal frameworks: The proposed Regulations do not propose to have any new legislation to be enacted or any of the existing laws to be amended. They harmonize with other laws making their implementation effective.
- (d) The proposed Regulations as drafted are clear, consistent, comprehensive, and comprehensible enough to cover all matters.

13. RECOMMENDATION

This Regulatory Impact Statement concludes that the proposed Supplies Practitioners Management (General) Regulations, 2026, are is necessary to provide a comprehensive framework for the administration and professional regulation of supplies practitioners, including registration, licensing,

professional standards, continuing professional development, maintenance of registers and records, administrative procedures and professional accountability, discipline, elections and meetings. This will enable the efficient and effective implementation of the Supplies Practitioners Management Act.

It is recommended that these proposed Regulations be adopted.

ANNEXURES

Annexure 1: The Supplies Practitioners Management (General) Regulations, 2026.

Annexure 2: Public Notice on Public Participation for the Proposed Regulations.

Annexure 3: Report on Stakeholder Consultations.