

**PARLIAMENT OF KENYA
THE SENATE**

SENATE BILLS DIGEST

Issue No...../2018

THE PUBLIC PRIVATE PARTNERSHIPS (AMENDMENT) BILL, 2017

Sponsor:	Sen. Leader of Majority Party
Date of Publication:	29 th December, 2017
Date of First Reading:	12 th September, 2018
Committee referred to:	Finance and Budget
Type of Bill:	Ordinary Bill

1. Purpose of the Bill

The Bill seeks to amend the Public Private Partnerships Act, No. 15 of 2013 to recognize County Governments as contracting authorities and in particular, to provide for the entry into public private partnership agreements by County Governments.

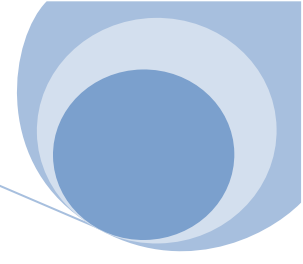
2. Background

The Bill regulates the process through which contracting entities engage with private entities in the provision of services and the establishment of facilities through public private partnership agreements.

3. Overview of the Bill

The Bill provides for-

- (1) recognition of county governments as distinct contracting parties by including them in the definition of a Authority under section 2 of the Principal Act;
- (2) inclusion of County Governments in the Rules for framework by introducing the words “the county governments or” under Clause 5;
- (3) to empower the Contracting Authority by granting them the permission to reserve certain projects for disadvantaged groups;
- (4) to give the County Governments the mandate to approve the county priority list and then submit the list to the Public Private Partnership Unit for publication alongside the national government priority list;



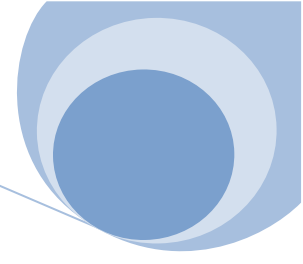
- (5) the Bill provides that the Committee upon receipt of the project lists from the national government contracting authorities and the recommendations of the Unit, it shall consider the lists and submit to the Cabinet, for approval, a national priority list which shall include county approved priority lists of public private partnership projects that have been submitted to the Unit;
- (6) to set expressly the technical expertise that the contracting authority shall have to procure the development, preparation, procurement, contract negotiation and management of a project in the Act. It also provides for the appointment of a transaction advisor to assist the contacting Authority that does not have the technical expertise procure the project under the Act;
- (7) to provide for a detailed manner for the preparation of evaluation report. It provides that the proposal evaluation team may reject all submissions by bidders, prepare a report stating the reasons for the rejection and then submit the report to the accounting officer. Further, it provides that a bidder whose bid has been rejected shall not be entitled to compensation and that where all bids have been rejected, the contracting authority may start a new tender process; and
- (8) to provide for the procedure for county government public private partnership projects. It gives a county government a right to enter into a public private partnership agreement and that it shall be responsible for the administration of the overall project development cycle. It further provides that where a county government intends to enter into public private partnership agreements, it shall cause user departments or county corporations, as the case may be, to prepare project proposals for approval at the county government level, detailing the strategic and operational benefits of entering into such an agreement.

4. Consequences of the Bill

The Bill seeks to amend the Public Private Partnerships Act, 2013 in order to provide a framework that will regulate the entry by county governments into, and implementation of public-private partnerships as envisaged by the Act. This shall regulate the manner in which County Governments carry out public private partnerships.

5. Way Forward

Pursuant to standing order 140(5) of the Senate Standing Orders, the Standing Committee on Finance and Budget shall facilitate public participation and shall take into account the views and recommendations of the public when the committee submits its report to the Senate.



The Bill was Read a First Time in the Senate on 12th September, 2018. Pursuant to standing order 143(1) of the Senate Standing Orders, the Committee is required to submit its report to the Senate within thirty (30) calendar days of the committal of the Bill to the Committee, therefore, by 12th October, 2018.

Any comments on the Bill may be submitted to the Office of the Clerk of the Senate, 1st Floor, Main Parliament Buildings, Nairobi, Kenya, through P.O. Box 41842-00100, Nairobi, Kenya or email: senatebills@parliament.go.ke.

Note:

1. This Digest reflects the Bill as forwarded to the Committee on Justice, Legal Affairs and Human Rights for consideration and adoption and does not cover any subsequent amendments to the Bill made after publication of the Bill.
2. The Digest does not have any official legal status.

DIRECTORATE OF LEGAL SERVICES