



**MINISTRY OF LANDS, PUBLIC WORKS, HOUSING & URBAN  
DEVELOPMENT**

---

**DRAFT PUBLIC WORKS MANAGEMENT POLICY,  
2023.**

---

**September 2023**

## **TABLE OF CONTENTS**

FOREWORD .....	5
PREFACE .....	
ACRONYMS AND ABBREVIATIONS .....	
DEFINITION OF TERMS .....	

### **CHAPTER ONE: INTRODUCTION**

1.1 Background .....	5
1.2 Provisions under the constitution linking National and County Public Works...	6
1.3 Contribution of public works activities to the national economy .....	7
1.4 Understanding the construction sector in Kenya .....	10
1.5. The building industry and Vision 2030 .....	11
1.6. Policy linkage with stakeholders .....	12
1.7. Challenges facing the building industry in Kenya.....	13
1.8 Rationale for the Policy .....	17
1.9 Purpose and scope of the policy .....	19

### **CHAPTER TWO: POLICY GOAL, OBJECTIVES AND PRINCIPLES**

2.1 Vision of the Policy.....	20
2.2 Mission of the Policy .....	20
2.3 Policy Objectives .....	20
2.4 Policy Guiding Principles .....	21
2.5. Methodology.....	22
2.6. Policy review.....	22
2.7. Transition and policy implementation.....	22
2.8. Lead Ministry.....	22

### **CHAPTER THREE: POLICY STRATEGIES AND INTERVENTIONS**

3.1 Facilitating sustainable design and construction of buildings.....	23
3.2 Upholding and enhancing efficiency and accountability.....	25
3.3 Creating a viable and well regulated built environment .....	27
3.4 promote research and development activities.....	28
3.5 Disaster risk reduction and prevention .....	29
3.6 Upholding professionalism and enhanced competitiveness .....	31
3.7 Funding models .....	33
3.8 cross cutting issues into the built environment.....	34

### **CHAPTER FOUR: INSTITUTIONAL & IMPLEMENTATION FRAMEWORK**

4.1 Stakeholders in the building industry .....	37
4.2 Implementation Plan .....	38
4.3. Monitoring and evaluation .....	43

### **CHAPTER FIVE: CONCLUSION**

5.0. Monitoring and evaluation .....	44
--------------------------------------	----

## **ACRONYMS AND ABBREVIATIONS**

Ministries Departments and Agencies (MDAs)

Gross Domestic Product (GDP)

Building Organization and Operation Manual (BOOM)

Medium Term Plans (MTPs)

County Integrated Development Plans (CIDPs)

## DEFINITION OF TERMS

In this policy, unless otherwise.

**Building**— means a temporary or permanent movable or immovable structure including a structure intended for occupation by people, animals, machinery, or chattels; authorized to be constructed, undertaken, established, managed, operated, or maintained, and every use of land for any building work which is authorized

**Building Works** include any kind of building construction, site formation works, ground investigation, foundation works, repairs, alteration, addition, demolition and every kind of building operation including installation of electrical and mechanical building services.

**Disaster risk** means the potential loss of life, injury, or destroyed or damaged assets which could occur to a system, society or a community in a specific period of time, determined probabilistically as a function of hazard, exposure, vulnerability and capacity;

**Disaster risk reduction**” means either a policy goal or objective, and the strategic and instrumental measures employed for—

- a) Anticipating future disaster risk; and
- b) Reducing existing exposure, hazard or vulnerability;

**Risk** means the combination of the probability of an event and its negative consequences;

**Monitoring:** means a continuous process of collection, analysing and reporting data on specified indicators on a project's or programme's inputs, activities, outputs, outcomes and impacts, as well as external factors, in order to track actual achievement of objectives and progress in the use of allocated funds

**Project:** An undertaking of related activities aimed at meeting specific objective(s) within a defined time, cost and performance parameters.

**Public works:** projects and infrastructure that are planned, financed, and executed by the Government or a public agency for the benefit of the community. These projects typically involve the construction, maintenance, and improvement of public facilities

**Public works policy:** guidelines and regulations implemented to plan, fund, and manage infrastructure projects that benefit the public. These projects may include the construction, improvement, or maintenance of public buildings like schools, hospitals, parks, water and sewage systems, and other essential facilities.

**State Actors:** A person or entity acting on behalf of a Governmental body, and subject to the country's rules and regulations.

## **SECTION ONE: INTRODUCTION**

### **1.1. Background.**

Public Works function is the development, maintainance of infrastructure and the management practice where Government authorize construction be undertaken, established, managed, operated or maintained on public land to enable provision of essential services to improve the welfare of its citizens. Development and maintainance of these infrastructure is one of the core functions of a Government to enable it deliver its mandate. Provision of Public Works services in Kenya, specifically entails regulation, development, management, administration and setting of performance of buildings and other social infrastructure that promote accountability, safety, resilience and sustainable building development.

In pre-independence Kenya, Public Works Department was a key Government instrument responsible for the construction, development and maintainance of roads, bridges and buildings for public use. It spearheaded the opening up of the hinterland for setting up of Government activities, commercial interests and social benefits. This status prevailed right from the enactment of the protectorate through to the end of the colonial era. Currently the State Department for Public Works still plays some of these roles, more so in the design and development of the building industry. Public Works module in Kenya like many developing nations was initially heavily vested in Government Departments undertaking planning, financing and physical delivery of works. Such Departments would procedurally utilise public staff and equipment. Over the years, this model has gradually shifted to delivery through state authorities and outsourced implementation of works. In consequence, the future of Public Works should ideally embrace practices of the developed world which put strong emphasis on a regulatory regime. The regime would in essence, embrace overall national aspirations and international trends that harness and stimulate growth of a private sector-led building industry.

The Executive Order No. 1 of 2023 on the organization of the Government of the Republic of Kenya give the State Department for Public Works the following mandate:

- a)** Public Works policy and planning;
- b)** National Building Inspection Services;
- c)** Setting and management of building and construction standards and codes;
- d)** Supplies Branch
- e)** Co-ordination of procurement of common user items by Government Ministries;
- f)** Registration and Regulation of Contractors, Consultants for Buildings, Civil Works and Material Suppliers;

- g) Registration of Architects and Quantity Surveyors;
- h) Provision of Mechanical and Electrical building services;
- i) Building Research Services;
- j) Registration and Regulation of Civil, Building and Electro-Mechanical Contractors;
- k) Development and Management of Public buildings;
- l) Other Public Works.

Specifically, and in lieu of development and management of public buildings function, the State Department is charged with responsibility of;

- a) Supporting other Government Ministries, Departments and Agencies by carrying out project appraisals, prefeasibility, public participation on public building projects
- b) Supporting other Government Ministries, Departments and Agencies by preparing technical designs, documentation of building works and carrying out supervision of Government buildings and other infrastructure construction projects;
- c) Designing, supervising construction and rehabilitation of coastline infrastructure and pedestrian access
- d) Develop, manage and maintenance of public buildings and associated infrastructure;
- e) Ensuring contracts entered into are faithfully carried out; and
- f) Supporting MDAs in allied building services when called upon.

## **1.2. Provision under the Constitution linking National and County Public Works**

One of most significant feature of the Constitution of Kenya 2010 is the introduction of a devolved system of Government, which is unique to Kenya and provides for one (1) National Government and Forty-Seven (47) County Governments. The Governments at the National and County Levels are "distinct and interdependent," and shall conduct their mutual relations on the basis of consultation and cooperation. The distinctiveness of the Governments under the devolved system is determined by the Fourth Schedule of the Constitution, which has assigned different functions to the two levels of Government.

In observance of this provision, the Public Works Management Policy takes into account Part1 & Part 2 of the Fourth Schedule of the Kenyan Constitution on distribution of functions between the National Government and the County Governments where National Public Works and County Public Works respectively are assigned. The Constitution has spelled out the right to the attainment of a comprehensive effective and efficient infrastructure

development as enabler of making critical steps in infrastructure investments to support Sustainable Development Goals. Good public infrastructure may lead to linking people to quality public services.

This policy takes cognizance of the specific functions assigned to the two levels of Governments. The National Public Works is required to among others, carry out Public Works Planning and Policy Development, capacity building and technical assistance to the County Governments and develop industry standards and guidelines for the industry. The County Public Works and services include storm water management systems in built-up areas; and water and sanitation services, among others.

### **1.3. Contributions of National and County Public Works activities to the National Economy**

National and county Public works activities contribute significantly to the national economy in several ways;

- i. Job creation:* Public works projects create employment opportunities for a wide range of workers, including engineers, construction workers, technicians and administrative staff. These jobs provide income and stimulate economic activity in local communities.
- ii. Economic growth:* Public works projects, such as infrastructure development, stimulate economic growth by attracting private investment, improving transportation networks, and increasing productivity. This leads to increased business activity and job creation in related industries.
- iii. Improved productivity:* Well-maintained infrastructure including public buildings and ace roads improves the efficiency of transporting goods and services. This reduces transportation costs, enhances supply chain logistics, and increases productivity for businesses.
- iv. Business support:* Public works activities support businesses by providing essential services and infrastructure. Functional and well maintains public works enable businesses to operate efficiently.
- v. Tourism and recreation:* Public works projects that focus on developing recreational facilities and tourist attractions contribute to the tourism industry. This generates revenue to the country through visitor spending, accommodations, and other related services.
- vi. Environmental sustainability:* Public works activities that promote environmental protection and sustainability contribute to the economy by reducing costs associated with pollution and natural resource depletion.
- vii. Disaster resilience:* Public works activities related to disaster preparedness and response contribute to the economy by minimizing the impact of natural disasters. By investing in infrastructure inspections and audits as well as emergency management systems, the costs associated with damage and recovery can be reduced.

Kenya's economy recorded high growth rates of Gross Domestic Product (GDP) averaging 6.6% per annum during the immediate post-independence years (1964-1973) and towards the end of that decade. Deceleration of this growth which started in late 1970s, continued until 2002 when the economy registered a record negative growth rate of 0.2%. During the years 1997-2002 economic growth declined steadily with GDP recording an average annual growth rate of only 0.9%, against a population growth rate of 2.9% per annum. The economy has been on a recovery path since 2003 when GDP grew by 0.5% to 6.1 % in 2007, giving rise to an annual growth rate of about 4.3% against a population growth rate of about 2.8% per annum. Among the key factors contributing to the economic decline were poor infrastructure, particularly poorly designed public and private buildings, lack of social infrastructure networks, inadequate energy supply, a weak institutional framework, weak performance of the major sectors of the economy namely; transport and manufacturing sectors, and poor macro-economic management.

The building industry as a major component of infrastructure development plays a major role in wealth creation and improvement of livelihoods amongst Kenyans as evidenced by the continued growth in the employment opportunities offered by the sector. Wage employment in the private construction works has seen steady growth. Compensation to employees from building contractors increased over time due to accelerated building activities in the country.

Notwithstanding, the industry has remained a major contributor to the country's Gross Domestic Product. This essentially implies that the industry is a very indispensable component to the economic development of the country. The Economic Survey 2022 reports that the value and volume of the sector activities in Kenya are key indicators of the general economic performance due to the significant contribution of the sector to the total GDP. In 2021, the sector registered a growth of 6.6 per cent compared to a growth of 10.1 per cent recorded in 2020. Cement consumption rose from 7.4 million tonnes in 2020 to 9.1 million tonnes in 2021 representing an increase of 23.0 per cent. The specific segments captured in the policy contributed as below;

#### ***Private sector contribution.***

Loans and advances from commercial banks to the construction and real estate sectors grew by 0.9 per cent from KSh 526.5 billion in 2020 to KSh 531.3 billion in 2021. Notably, among private enterprises, building, construction and real estate had the highest share at 10.8 per cent during the period under review. Total employment in the sector went up by 2.5 per cent to 226.5 thousand persons in 2021. Reported real value of private building works completed in Nairobi City County stood at Kshs. 464.5 billion.



### ***National Government related activities contribution.***

The National Government expenditure on buildings and structures stood at Kshs. 21,180 million with counties expenditure rising by 36.9 per cent to Ksh 100.3 billion in 2021/22. The real value of reported public building works completed decreased from KSh 70.8 million in 2020 to KSh 63.2 million in 2021. The decline could be attributed to the few housing units completed by the Government during the review period and the increase in the cost of building materials, transport and fuel. Public employment in the sector went up by 9.2 per cent from 9.1 per cent in 2021.

### ***County Governments contributions.***

The value of buildings completed in the Nairobi City County decreased by 11.9 per cent, to KSh 88.1 billion in 2021 from KSh 100.0 billion in 2020. Building plans approved by the City County declined from KSh 153.6 billion in 2020 to KSh 102.9 billion in 2021. Apart from the sector's contribution to the GDP, it also contributes to offering solutions to two macro-economic problems which the country is currently grappling with, namely: housing and unemployment. According to the National Housing Policy, inadequacy in housing provision to the country's ever-growing population is seen as a major problem in this country. Interesting enough is that the industry, while providing a solution to the housing crunch, also provides employment to the unemployed. According to Construction Industry analysis report by the Competition Authority of Kenya in 2017 identified the sector as having a high potential of employment creation to provide much needed stimulus for growth of the agricultural sector and offers significant opportunities for export expansion.

While the building industry in Kenya has played its role in economic development, it faces a number of challenges. These challenges negatively affect the industry, leading to sub-optimal use of resources and potentials, limiting its capacity to contribute to social and economic development. This situation calls for better regulation of standards and enforcement. Kenya does not have a single concise unified policy to guide the country towards provision of efficient, quality buildings and other related social infrastructure for sustainable development. The Building Organization and Operation Manual (BOOM), the building code and other building regulations do not adequately address the challenges of the industry in light of modern technologies and demands resulting in uncoordinated sector growth, high levels of non-compliance and significant corruption levels by actors in the sector as manifested by improperly designed built up areas and unsafe buildings.

#### **1.4. Understanding the construction sector in Kenya.**

The construction sector involves the planning, designing, and building of structures, including residential, commercial and industrial buildings, as well as associated infrastructure. It is a crucial sector for economic development and plays a significant role in creating jobs and providing essential infrastructure for communities. To understand the construction sector better, it is essential to consider that the construction sector can be broadly categorized into different types, including residential construction, commercial construction, industrial construction and civil engineering construction. The sector involves various stakeholders, including clients (individuals, companies, or governments), architects, engineers, contractors, subcontractors, suppliers, and regulatory authorities. Each stakeholder plays a specific role in the construction process. The construction process typically involves several stages, starting from the conceptualization and design phase, followed by procurement of materials, construction planning, site preparation, actual construction work, and project completion. It requires coordination and collaboration among different stakeholders. Construction projects are subject to various regulations and permits imposed by local, regional, and national authorities. These regulations ensure compliance with safety standards, environmental protection, and building codes. Obtaining the necessary permits is crucial before commencing any construction activity. Effective project management is essential in the construction sector to ensure that projects are completed within budget, on time, and to the required quality standards. Project managers oversee the planning, scheduling, resource allocation, and coordination of all activities involved in the construction process. The construction sector has a significant impact on the economy, contributing to GDP growth, job creation, and infrastructure development. It also has multiplier effects on other industries, such as manufacturing and services, as it requires raw materials, equipment, and specialized services.

Kenya has a well-established construction industry that comprises infrastructure in commercial and residential buildings, engineering structures and affiliated trade service structures. The industry is a major contributor to Gross Domestic Product in the Kenyan economy and plays a leading role in determining economic growth. According to the Kenya National Bureau of Statistics (KNBS), the real estate and construction sectors have been some of the main drivers of economic growth in Kenya for the last five years. The Kenyan construction industry contributed 6.6 percent of the Gross Domestic Product (GDP) in 2021. The construction sector deals with among others, building of new houses, apartments, factories, offices, schools, building of roads, bridges, ports, railroads, sewers and tunnels, maintenance and repair of structures and produces the basic materials such as concrete. The industry's significance is due not only to the fact that it provides the buildings and infrastructure on which virtually every other sector depends, but to the fact that it is such a sizeable sector.

The Government has invested heavily on this sector in order to improve on infrastructure such as road networks and at the same time provide new residences for the locals. With increase in population, opportunities exist in the construction of residential, commercial and industrial buildings, including prefabricated built up areas. The boom can be attributed to among others, inadequate infrastructure comprising rail, roads and ports presenting opportunities for continued development in the building and construction sector. Sub-contracting in the construction industry has greatly increased in recent years. In most construction projects, especially building projects, it is common for 80 to 90% of the work to be performed by subcontractors. Subcontracting is used much more extensively on building construction projects than on engineering and industrial projects.

The principal responsibility of the country's construction industry is to provide adequate and actually constructed facilities which allow for other human activities to get some space for their operations. It is noted that the money expended in constructing every building structure together with its associated civil/structural engineering works in an economy, within a specified time period- mostly a calendar year- is termed as that country's gross construction output. The growth of construction industry is co-integrated with that of a country's GDP. This implies that, as a country develops, construction industry comes in handy in support of the infrastructure while trying to satisfy the rising demand for constructed facilities. This is a major reason for branding construction industry as a key contributor to a country's economy as observed by various researchers around the globe. With this regard, growth rate sustainability of the industry in any economy has a potential of giving the economy of the relevant country an upward push. Otherwise, it poses a major setback to the same economy due to this central role of the industry.

Based on the above analysis it is therefore recommended that development of an industry policy which is favorable to investment in the industry is key as this will lead to increased production of constructed facilities towards satisfaction of the demand in a country. At the same time, the move shall enable the industry in Kenya to contribute a higher percentage share to the Gross Domestic Product while creating more employment opportunities to the citizens.

### **1.5. The Building Industry and Vision 2030.**

The Kenya Vision 2030 is the national long-term development blueprint that aspires Kenya to be a globally competitive and prosperous Nation offering her citizens a high quality of life by the year 2030. The Vision, which is anchored on three pillars namely Economic, Social and Political pillars, is in line with the UN Sustainable Development Goals to spur partnerships engagement in support of its development agenda. Infrastructure development has been cited as a key

foundation onto which the Vision is anchored. The spirit of the Vision is that investment in infrastructure attracts other forms of investment into the country to support the country's overall development process. The Vision is being implemented in successive five-year Medium Term Plans (MTPs). Various National Government entities and County Governments have also aligned their Strategic Plans and County Integrated Development Plans (CIDPs) to this national development blue print and the MTPs through a consultative process.

The Population, Urbanization and Housing Sector Plan which is in line with the Third Medium Term Plan (MTP III 2018-2022) of the Kenya Vision 2030 and takes into account all Programmes and Projects that were initiated in the Second MTP as well as new projects that are key to effective and successfully implement Vision 2030. The progress in the implementation of these MTPs is monitored and reported through annual progress reports, mid-term and end-term reviews. The Vision 2030 sets very clear goals for achievement in the Fourth Medium Term Plan (2023-2027) towards accelerating socio-economic transformation to a more competitive, inclusive and resilient national economy. The accelerated infrastructure development shall be focusing on quality, aesthetics, functionality and due processes at all levels of planning, contracting and construction. The Vision include strengthening institutional frameworks for infrastructure development, efficiency, quality, enhancing local content, innovation in service provision and enhancing private sector participation in the industry. This calls for sustainable development and subsequent maintenance of Public and private buildings which in turn require that the industry be sufficiently vibrant and well regulated.

The building industry translates national socio-economic policies into social and economic infrastructure and buildings thereby contributing to wealth and employment creation. The development of an efficient, productive, cost-effective and environmental friendly building industry is therefore critical for improving the quality of life for the Kenyan populace.

#### **1.6. Policy linkage with stakeholders**

The Ministry of Lands, Public Works, Housing & Urban Development will continue to play the lead role in formulating strategic plans to implement this policy, building partnerships among stakeholders and ensuring availability of resources. In addition the Ministry together with the other National Government entities and County Governments are committed to playing a key role in the participatory partnership with industry investors, development partners, international agencies and other bodies. The contribution of these stakeholders has been invaluable and the Government will continue to encourage this collaboration and partnerships for the purposes of realizing synergies, providing linkages, promoting trust, goodwill and ownership among all stakeholders.

### **1.7. Challenges Facing the Building Industry in Kenya**

The building industry in Kenya faces several challenges that can impact its growth and sustainability. These challenges are widespread ranging from market driven, technology adoption, regulatory compliance, safety concerns, project management and coordination and economic uncertainties. These challenges require careful management and strategic planning. The building industry comprises both the public and private actors whose building products are consumed by the sector and a clear delineation cannot often be made between the two. This has led to establishment of developments that are not sustainable. In the long term on the facets of spatial planning and natural environment balance, this has led to catastrophic weather and climatic imbalances that could have been averted with intentional planning.

The following constitute major challenges;

#### **1. Uncoordinated building development and inadequate planning for maintenance in the industry**

The National and County Public Works are involved in supporting various Government Agencies and Departments in development of technical designs and documentation including costing of buildings projects upon the receipt of briefs. The National Treasury Circular No.16 of 2019 dated January 2020 on Guidelines on Public Investment Management for National Government and its Entities expressly provide for procedure on project identification and conceptualization, planning, pre-feasibility and feasibility as well as implementation, monitoring, evaluation and reporting for various Government entities. The guidelines require adequate pre-feasibility studies of project sites prior to design and documentation. In some instances;

- a) Government entities request National Public Works for design and documentation to be carried within a short period and unrealistic timelines contrary to the Guidelines.
- b) Some project briefs so received are not clear, precise and lack information considered key in the design process; and
- c) There are prolonged and unnecessary delays in correspondences and communication between the Government Agencies & Departments and Public Works teams which sometimes, may occasion accusations, among others, inflated estimates.

In effect, this has at times led to inadequate designs which may result in inaccurate cost estimates and specifications. The hurried documentation process has often been done without key pre-feasibility and feasibility components such as topographical, geotechnical, hydrological and other investigative surveys being considered.

A notable feature that distinguishes developed countries is the manner in which buildings are maintained. To achieve the aim of being a middle level income country with a high standard of living, a maintenance and inspection culture must be widely entrenched to ensure enjoyment of facilities meant for public use which is not the case presently. In cases where projects are successfully completed, there is no proper planning for their regular maintenance for sustainability due to the same reason of disaggregation of funds to various MDAs. Currently the industry is faced with serious scarcity of development and maintenance funds.

In the public building industry, development funds are scattered in various client MDAs. This function initially was the preserve of the Department responsible for Public Works, which also supervised project implementation. The disaggregation of these development funds to various MDAs has led to duplication of functions, initiation of unplanned, uncoordinated and scattered projects that end up being incomplete and stalled.

There exist varying designs and specifications for similar public projects that emanate from project consultants either being public works or the private sector being engaged by the Government entities. This is attributed to varied requests and briefs from Government entities and sometimes occasioned without adequate viability and budget considerations. This is also attributed to emergence of new building technologies, processes and materials in the market, lack of proper enforcement mechanisms and revised client briefs. In effect, this has led to varied project implementation costs and has at times occasioned real and/or perceived loss of Government funds.

Effective project management and coordination are essential for successful construction projects. Large-scale projects involve multiple stakeholders, including architects, engineers, contractors, and subcontractors. Coordinating and managing these diverse teams can be challenging, requiring effective communication, collaboration, and project management skills.

There is lack of a policy framework to coordinate and promote institutional mandates, regulate players, set norms and standards and allocate, distribute and redistribute resources to respond to the industry's dynamic needs in building technology, materials, and practices. In effect, the country has experienced a rise in failure of buildings which is attributed to lack of enforcement and compliance to existing building standards, codes and other building regulations. Lack of the policy has further inhibited the building industry from reaching its full potential.

## **2. Weak and out-dated Institutional, Legal and Regulatory Frameworks.**

Kenya has no Public Works Policy yet and as such, there is no clear legal and institutional decisions relating to the built environment that can be made. Current legislations in use are outdated and disjointed and their attendant regulations are equally disjointed and placed in different agencies pursuing separate objectives. While depending on fragmented policy, executive orders and National Treasury Circulars, provisions for both policy and planning largely target Government MDAs whilst buildings used by public are largely private.

MDAs have circumvented provisions requiring them to be guided and planned for, leading to rush jobs and cost escalations and often obtain financing prior to planning also leading to general wastage. Currently, building activities are arbitrary, un-coordinated, ad-hoc and politically-driven. This scenario portends a situation of non-budgeting and unlinked financing. This has rendered enforcement ineffective due to a raft of reasons. The resulting outcome manifests itself through substandard buildings and structures, informal construction activities and absence of standards in building structures and related facilities

A key feature of this scenario is unregulated building practitioners and practices which cannot be regulated or controlled. There is need to rein in wide discretion being currently used by MDAs and also bring in private buildings being used by public for closer supervision and inspection during and after construction. As provided for in the Constitution and espoused in Vision 2030, this policy should bring a road map for the manner in which building works are undertaken and maintained.

There is a multiplicity of institutions and Government entities with separate policies and laws including County Governments that are involved in the building development and approval chain. This creates unnecessary bureaucracies and complicated procedures which lengthen building processes increasing costs and risks.

Whereas the purpose of the building code is to promote order, safety in building works, the existing code governing the building sector is outdated, inadequate, lack effective and objective controls including enforcement mechanisms and has thus become a major impediment to the development of the built environment. The resulting outcome manifests itself through sub-standard buildings and structures, costs exceeding prescribed variation

limit, informal construction activities, engagement of unregulated building practitioners and practices and non-adherence to standards.

- i. Public Procurement and Asset Disposal Act, 2015 provide for restricted tendering as a procurement method that limits the request for tenders to a select number of suppliers, contractors or service providers. This tendering method is highly applied in building projects more-so renovations, refurbishments and small value projects and is potentially abused in acquisition of Works. In effect, this method, though considered a competitive procurement method, competition is limited to only firms shortlisted or invited by the procuring entity. It has, at times, been abused and used to reward cronies, family members and friends related to the procuring entity. In other instances, works are un-procedurally split into phases in the disguise of budget constraints for them to be *"effectively"* implemented under this procurement method.

National Public Works does not have control over the approval processes and development of buildings. Currently this function is being carried out by the counties and State Agencies domiciled outside the State Department. In effect, there is lack of a Government institution that provide coordination role, take responsibility, effectively support the investment within the sector and enforce compliance to the approved standards

### **3. Inadequate building research and low technology uptake in the industry.**

Challenges in building research in Kenya is heavily attributed to weak and disjointed building research policies coupled with low capacity in existing building research institutions which have eventually hampered growth and stability in the industry. These have led to the massive uptake of building materials and components from unsustainable sources and processes. The rising need for affordable and efficient infrastructure, use of sustainable locally available building materials and technological innovations, and environmental consideration call for heightened national research and innovation strategy to facilitate best building industry practices.

Sustainability and environmental concerns are increasingly important in the building industry. There is a growing emphasis on adopting greener building practices, using sustainable materials, reducing waste, and minimizing energy consumption. Building companies face the challenge of incorporating sustainable practices into their projects while balancing cost considerations and meeting regulatory requirements.

### **4. Exposure to disasters and risks.**

The building industry and its activities operate within diverse environments which are variously exposed to calamity. Whereas natural disasters are beyond the control of man, efforts must be made to anticipate their



occurrence. Man-made disasters are often a consequence of poor risk planning and management. Currently, disaster management is handled by various Agencies leading to uncoordinated approach to calamities. Global trends call for proper overall planning and coordinated responses, inclusive of risk planning, mapping, disaster preparedness and management. There is need to put measures in place at the onset of planning in the built environment, to cover risk after occurrence of a disaster.

Safety concerns are significant challenges in the building industry. Construction sites can be hazardous environments, and companies must prioritize worker safety. Implementing proper safety protocols, training programs, and providing necessary safety equipment is crucial to minimize the risk of accidents and injuries.

#### **5. Human and institutional capacity shortages.**

The uptake of building professions and training in the country as well as adoption of new skills in emerging areas has lagged behind the demand in the industry. As a result, there are inadequate skilled workers and professionals in the entire industry. This has been made worse by poor attitudes, poor remuneration, brain drain, inadequate training capacity among others.

An increasing phenomenon in the industry has been the entry of high capacity foreign private and state owned firms competing for high, medium and low end projects with local firms. This arises from access to public financing from home Governments, concessionary terms and preferences of entry into the local markets including use of duty free materials, machinery and equipment, giving them undue advantage over local consultants and contractors. The building industry often grapples with a shortage of skilled labor, such as carpenters, electricians, and plumbers. This can lead to delays in project completion and increased labor costs.

#### **6. Inadequate financing for the industry**

Public building financing is wholly dependent on the annual budget finance cycle. This annual cycle runs from July of the preceding year to the next June. The exception to this are the donor funded public projects whose financing profiles are differently negotiated. The closure of the financial year leads to a serious disruption of projects funding because all unutilized funds are returned to the National Treasury for re-allocation. This affects actual physical progress of building works with either a slowdown or stoppage of works until funds are re-allocated. Financing of building works from private financial sources is an emerging phenomenon which is gaining root in Kenya through various modules such as Private Public Partnerships (PPP), Annuity Fund and Government to Government engagements. However the cost of the credit from private financing escalates the project costs and programmes

which adversely affects the total cost of construction. There is need to evaluate emerging financing streams and their effect on the delivery of the Public Works mandate.

The building industry is sensitive to economic fluctuations. Economic downturns can lead to reduced demand for new construction projects, impacting the profitability and viability of building companies. Fluctuating material costs, such as steel, lumber, and concrete, can significantly impact project budgets. Factors such as supply chain disruptions, trade tariffs, and inflation can contribute to these cost increases. Companies must carefully manage their budgets and find ways to mitigate the impact of rising material costs

### **1.1. Rationale for Public Works Policy**

In Kenya, like in most countries, every Ministry has established one or more regulatory agencies to develop and implement technical regulations within its domain. There is no definitive national guideline for the development and implementation of technical regulations. Hence each Ministry and their Agencies develop and implement technical regulations as they see appropriate. Inevitably, this approach has led to divergences in technical regulation development and implementation more so in the building industry.

The need for this policy was espoused in the Vision 2030, the Third Medium Term Plan [MTP] I of 2018-2022 and the Fourth Medium Term Plan [MTP] IV of 2023-2027. The vision identifies the industry as a premier agent for the attainment of its Economic, Social, and Political goals, in a coordinated manner. The Third Medium Term Plan 2018-2022 identified lack of a coherent and integrated policy, legal and institutional framework as a challenge towards efficient provision of quality and sustainable buildings and other related infrastructure for sustainable development. The inadequacy or absence of comprehensive legal frameworks to check the industry has led to the industry's haphazard growth, high levels of non-compliance and corruption. The Fourth Medium Term Plan recognizes the need for comprehensive management approaches including development and implementation of a policy geared towards the development of the building industry.

For building industry to contribute to the realization of the Vision 2030, the challenges highlighted above need to be averted. This policy is therefore developed with an aim of providing a more comprehensive legal and institutional framework that will help in strengthening the capacity of the sector and improve efficiency and effectiveness in building infrastructure development processes at all levels of planning, regulation, contracting and construction. A strong emphasis on regulation, maintenance culture and risk planning will help realize the Vision

2030's strategic intent of making Kenya a globally competitive and prosperous nation with a high quality of life. Therefore, a guided framework to control the manner in which private and public entities and organizations plan, finance and undertake building projects is necessary for optimal and efficient operation.

## **1.2. Purpose and Scope of the Policy**

The purpose of this policy is to provide a framework for the planning, development, and management of public works including buildings and related infrastructural services. It sets out the objectives, principles, and guidelines for the implementation of projects and programs that aim to improve the quality of life for the public. This policy is informed by the need for a strategic approach to address challenges that continue to undermine the built environment in Kenya to effectively continue to support the National Development Agenda.

This policy encompasses a wide range of areas, public and private buildings, county public works functions assigned under the constitution and other related and associated infrastructure. The policy covers key challenges related to building sector. Specific areas of interest include building planning, development and management, legal, institutional and regulatory framework for the sector, risk planning and safety of built environment, research and development, funding, gender mainstreaming, adoption of innovation and technology, environmental considerations, among others.

The policy outlines the goals and objectives of public works projects, such as improving accessibility, promoting sustainability, enhancing public safety, and supporting economic development.

The Policy shall apply to;

- i. All institutions in the public sector; including National Government and its entities, constitutional commissions, independent offices, state organs and other actors that partner with the National Government entities in the planning, development, management, provision and implementation of the buildings agenda in Kenya.
- ii. As the case may be, non-state actors involved, directly or indirectly in planning, development, management, provision and implementation of the buildings agenda in Kenya.
- iii. Projects and programmes relating to planning, development, management, provision and implementation of social infrastructure not limited to fire and disaster management in buildings, foot bridges, activities relating to enhancement of blue economy marine works among others.
- iv. As the case may be determined, building works programmes emanating from County Governments.

## **CHAPTER TWO: POLICY GOALS, OBJECTIVES AND GUIDING PRINCIPLES.**

In light of the need to coordinate various activities relating to the built environment planning, development, management, provision and implementation in Kenya and the clear need for a framework that meets challenges and issues arising out of the current practices, this policy has at its core, the following;

### **2.1. VISION OF THE POLICY.**

A Public Works Management Policy that guides Kenya towards provision of a resource efficient, quality buildings and other social Infrastructure for sustainable development.

### **2.2. MISSION OF THE POLICY.**

To promote sustainable design, construction and maintenance of buildings for socio-economic development in Kenya.

### **2.3. POLICY OBJECTIVES.**

#### **2.3.1.Principle objective:**

The principle objective of this policy is to provide legal, administrative, institutional and technological framework for coordination, implementation and management of sustainable built environment and other related activities.

#### **2.3.2. Specific objectives**

The specific policy objectives are:

- i) Facilitate and coordinate sustainable design, documentation, supervision and development of buildings and other social infrastructure
- ii) Create viable and a well regulated built environment in Kenya.
- iii) Develop an effective legislative and administrative framework that supports buildings & other social infrastructure developed in Kenya.
- iv) Promote building research and adoption of technological innovations
- v) Strengthen disaster risk preparedness, reduction and management.
- vi) Uphold professionalism, human resource management and enhanced competitiveness in the industry
- vii) Source for adequate financing for the industry

## **2.4. POLICY GUIDING PRINCIPLES**

To meet these strategic objectives, the Government will be guided by the following broad principles:

### **2.4.1. Institutional principles**

Public policy making is undertaken at various levels of Government. As such, this policy will address arrangements for relationships at various levels of Government and other Non state actors as follows;

#### **a) National Government Entities.**

- i) The different state actors in the building industry will be involved in the design and delivery of strategic policy interventions in order to attain the best possible outcomes. A participatory approach should be applied where potential for improved outcomes exists. Non state actors shall be seen as a complementary to the public sector efforts in realization of this policy.
- ii) Accountability within the building industry will be reoriented towards the application of principles and practices of social accountability. This will further include reporting on performance, creation of public awareness, fostering transparency and public participation in decision making on building industry related matters. Projects and Programmes in the sector shall be guided by principles of transparency, accountability and good governance.
- iii) In implementing the various policy directions contained in this policy, the industry shall become robust and strive to meet the national, regional and global expectations for its contribution towards national growth and development.

#### **b) County Governments**

The National Government is committed to improving governance and service delivery at the local level and this will call for increased responsibilities and greater managerial competence. Some of the reform initiatives at this level will involve strengthening the institutional and legal frameworks supporting accountability and professionalism within the sector.

#### **c) Non-State Actors.**

The actors including non-governmental bodies, private sector players, International development partners and multinational corporations, media, academia, research institutions and other social movements playing key roles in Kenya's building sector. These organizations will be encouraged to participate in and lead efforts aimed at creating public awareness on relevant building sector issues, risk planning, research, development and lobbying.

#### **2.4.2. Principles of Stakeholder engagement.**

This principle ensures inclusiveness in the development, drafting, development of and revision of standards and technical regulations that may emanate from this policy. This policy is aware that stakeholders are important to this policy formulation and should be actively engaged in the policy implementation at all levels.

#### **2.5. Methodology.**

This policy was generated from;

- i. Issues and previous recommendation reports produced by thematic groups comprising of state and non-state actors.
- ii. Consultative workshops organized to collect views from stakeholders.
- iii. Reports documenting past initiatives on matters relating buildings and its related activities
- iv. Input from experts, research findings as well as reports from the academia.
- v. Benchmarking with best practices within and outside the region.
- vi. Other policy requirements requiring policy interventions in the field of buildings sector.

#### **2.6. Policy Review.**

The policy will be reviewed after every ten (10) years to take into account emerging issues and developments in the governance and market dynamics of the country's social-economic development. However, the policy may be reviewed to deal with exceptional circumstances arising within a period shorter than ten (10) years.

#### **2.7. Transition and Policy Implementation.**

Existing structures and initiatives will remain in force and guidelines will be issued by the Cabinet Secretary as and when need arises to operationalize this policy. Such guidelines shall take into consideration the principles of this policy. An appropriate legal framework may be developed for the effective implementation of this policy.

#### **2.8. Lead Ministry.**

The Ministry responsible for matters relating to Public Works is given oversight responsibility for the implementation of this Policy. The Ministry will establish an adhoc reference group with representation of ministries, organized business and industry representatives involved in development and implementation of a matter requiring any technical regulations. Relevant development partners may be invited as well. The Ministry may expand the reference group membership as and when necessary.

## **CHAPTER THREE: POLICY GOALS, STRATEGIES & INTERVENTIONS.**

In order to address the identified challenges enlisted in sub section 1.6 of this policy, several strategies will be implemented as outlined below;

### **3.1. Facilitation and coordination of sustainable design, documentation, supervision and development of buildings and other social infrastructure**

#### **a) Issues**

With notable challenges the industry face towards realization of coordinated process of planning, designing, documentation, managing and implementing building projects as well as carrying out period maintainance of buildings infrastructure, there is need to set a coordinative framework to support project management processes

#### **b) Objective**

Enhance the implementation of building infrastructure development agenda and specifically facilitate and coordinate sustainable design, development and routine maintainance of buildings and other social infrastructure

#### **c) Policy direction**

##### **At National Government Level;**

- i. Strengthening the design, documentation and supervisory of public building and related infrastructure function by establishing a development agency.
- ii. Continually advise on, plan, design and oversee regeneration and development of external land areas in identified building sites.
- iii. Strengthen and digitize project design and documentation including carrying out periodic review of building rates, project estimation and bills of quantities.
- iv. Reviewing and improving standard design types for typical buildings.
- v. Charging Public Works as the project manager for Public building projects, and related infrastructure.
- vi. Up-scaling valuation services in public buildings.
- vii. Establishing and strengthening project management in buildings' function.
- viii. Formulate a furniture design and development policy for public offices in Kenya
- ix. Developing a national buildings branding plan for missions abroad to enhance the image and market Kenya

- x. Continually advising on conservation and restoration of historical sites and buildings and blue economy marine works;
- xi. Establishing and strengthening facility and asset management function.

**In collaboration and partnership with County Governments;**

- i. Develop a national strategy of ensure as part of compliance, social and environmental impact assessments and strategic environment assessments on all new building projects are carried out.
- ii. Develop buildings maintenance guidelines clearly articulating roles of National and County Governments, developers and other stakeholders.
- iii. Strengthen spatial development planning and control functions within County Governments to ensure compliance.
- iv. Lobby for increase in the amount of funds allocated for maintenance of Public Buildings and other social Infrastructure to MDAs and Counties.

**The private sector players will;**

- i. Be encouraged to supply and support the adoption and embrace approved and certified building materials, processes and technologies which are cost effective, appropriate, incrementally up-gradable, environmentally sound and labour intensive
- ii. Be engaged and encouraged to support the Government in periodic review of building rates, through publishing of updated cost hand book of building materials.
- iii. Be supported moreso the private building consultants hired to design public infrastructure to bring their expertise in creating functional and aesthetically pleasing designs that meet the client's requirements and adhere to building codes and regulations.
- iv. Be encouraged and supported to bring new technologies and innovations to the design and documentation of buildings.
- v. Be encouraged to provide investment options, financial advice and financing for building projects moreso the banks and financial institutions.
- vi. Be encouraged to prioritize sustainability in their operations to promote sustainable practices, adopt energy-efficient designs, and the use of eco-friendly materials.
- vii. Be encouraged to invest in renewable energy solutions and green building certifications.

**The Development partners**

- i. Are encouraged to provide funding to assist the sector in among others, development of various guidelines and standards required in the sector, and in some instances for the design and documentation phases of community based building projects.



- ii. Are encouraged assist in providing technical expertise in architecture, engineering, or construction. They can provide guidance and advice on design principles, building codes, and sustainable construction practices.
- iii. Assist in project management, coordinating different stakeholders involved in the design and documentation process and ensure that the donor funded project stays on track, meets deadlines, and adheres to budget constraints.
- iv. With their extensive networks, may facilitate collaborations between architects, engineers, contractors, and other professionals to bring together the right expertise for the project and encourages knowledge sharing and innovation.
- v. May provide capacity building initiatives to local professionals and organizations involved in the design and documentation of buildings. This can include training programs, workshops, and mentoring to enhance skills and knowledge in sustainable design and construction practices.
- vi. Ensure the quality of the design and documentation process that may include review plans, specifications, and other documents to ensure they meet the required standards and regulations.
- vii. Provide expertise on incorporating environmentally friendly features, energy-efficient designs, encourage the use of sustainable materials and technologies. in buildings projects

**3.1.1. On upholding and enhancing efficiency and accountability in the built environment;;**

*The National Government will;*

- i. Provide for establishment and empowerment of regional works offices for effective and efficient performance.
- ii. Require preparation and forwarding to relevant professional and regulatory bodies, confidential reports on contractor's and building consultant's performance
- iii. Establish a national body to promote sound governance of the built environment professions
- iv. Empower National Public Works to oversight and advice on acquisition of building consultants by various National Government Entities.
- v. Require National Public Works develop a platform for approval and oversight on building designs and documentations for consultants engaged by various National Government Entities.
- vi. Support collaboration between State and Non-State Actors, in organizing workshops, seminars and symposiums on matters relating to the building industry.
- vii. Strengthen and carry out regular monitoring and evaluation on building projects.

- viii. Establish and operate a building information system for public building projects.
- ix. Support Professional and regulatory bodies in the built environment in identification and recommendation of appropriate sanctions for non performing consultants and contractors.
- x. Together with relevant stakeholders, develop and operationalize a national building development e-application system to streamline building approval processes.

### **3.1.2. Promotion of sustainable built environment**

#### **a) Issue**

The importance of the construction industry is generally acknowledged, but at the same time it can be a major source of environmental damage and occupational health problems. A number of the industry's activities are environmentally not sustainable partly due to lack of awareness of environmentally sound practices and technologies.

Global climate changes have triggered erratic weather patterns across the country. The unpredictable weather patterns have led to floods, destruction of public infrastructure, droughts, famines, low water levels and melting of snow from mountain tops. The situation is further aggravated by the lack of adequate, systematized information for long term predictions and planning to deal with the challenge of climate change and natural catastrophes.

#### **b) Objective**

To promote the application of sustainable construction practices that are environmentally friendly.

#### **c) Policy direction**

- i. Develop a legal framework relating to mainstreaming climate change practices into the built environment
- ii. Ensure provisions of Environmental Management and Co-ordination Act, No. 5 of 2015 of Kenya are adhered to
- iii. Develop a national strategy to incorporate the principles of green economy and implementation Plan to realize a climate resilient infrastructure in Kenya.
- iv. Ensure the agreed targets in the national energy efficiency and conservation strategy framework for the building sector are met.
- v. Enhance and integrate the national climate change action plan principles into building sector policies, strategies, action plans and projects
- vi. Develop and apply standards, guideline and other global best practices that support a sustainable and low carbon built environment

- vii. Support, encourage and incentivize the private sector to establish facilities for the collection, resale and re-use of building waste and materials
- viii. Encourage the private sector develop mechanisms of tapping more funds from capital markets as well as developing innovative strategies for utilizing REITs to deliver building projects;

### **3.2. Create a viable and well regulated built environment.**

#### **a) Issue**

- i. The current institutional arrangement in the construction industry is fragmented and characterized by overlapping functions. There is no effective collaboration among the promotional and regulatory bodies and some of their functions do overlap
- ii. Lack of common guiding principles in planning, development and coordination of built environment among different sectors result in competing and uncoordinated building construction practices. There remains however a number of issues that impact negatively on the built environment development, management and administration. In particular, there are overlapping institutional responsibilities, weak and out-dated institutional, legal and regulatory frameworks, insufficient collaboration, and some degree of fragmentation of authority and roles among various MDAs. This impedes effective and efficient management of the built environment. To effectively administer and coordinate the range of legal instruments and policies for the built environment, there shall be established proper administrative and legal framework relating to the sector to among others support enforcement and compliance with existing policies and legislation.

#### **b) Objective**

To ensure that the institutional framework is strengthened.

#### **c) Policy direction**

To support this initiative **the Government will;**

- i. Encourage collaboration between various National Government Entities and County Governments on review and harmonization of existing laws and other legislations that support the building industry.
- ii. Formulate a Building Standards and Control Bill to provide overarching framework relating to regulation, management, administration and development of matters relating to buildings and other related infrastructure.
- iii. Initiate the review of building laws and regulations that constitute the building Code.
- iv. Create an effective institutional framework and capacity to implement International Conventions treaties supporting the building industry.

- v. Formulate a legislation to regulate contractors in Kenya
- vi. Review design specifications, standards and other codes in the building industry.
- vii. Strengthen and support existing professional and regulatory bodies supporting the building industry.
- viii. Establish regulatory frameworks for the unregulated professions in the built environment
- ix. Establish the built environment professions council to promote inter-professional liaisons between statutory and regulatory bodies as well as promote sound governance of the built environment professions.
- x. Develop a framework for approval and registration of building products, building methods, components and systems.
- xi. Encourage the County Governments to promote compliance and adherence to established local, regional and international guidelines, codes of practices and standards of the industry.
- xii. Continually be engaging the private sector to be proposing and suggesting on policy improvements and better ways to implement this Policy.

### **3.3. Promote building research and adoption of technological innovations**

#### **a) Issue**

The building industry lags behind in terms of technological development. However, the improvement of the capacity and performance of the industry to international competitiveness cannot be achieved through use of inappropriate technologies and practices. To meaningfully improve the competitiveness of the industry, vigorous pursuit for technological development is needed. The strategic application of innovation that is increasingly becoming cheaper, more powerful and easily available requires aggressive promotion. Research and development institutions act as forums for exchange of knowledge. Over the years, there has also been an unfortunate disregard of good traditional materials and technologies. However, attainment of the nation's development goal requires the optimal use of traditional or local materials and technologies.

There are inadequate research activities, dissemination and low adoption of technological innovations in the sector.

#### **b) Objective**

To promote technological development.

### **c) Policy direction**

To effectively promote and coordinate building research services, **the Government will;**

- i. Strengthen the existing building research centre to fully co-ordinate research services in the building sector
- ii. Enhance technological, financial and human resources capacities in research and dissemination
- iii. Formulate and implement a national building research framework to enhance local production and use of building materials, products and technologies
- iv. Encourage and support trainings on promotion of alternative and appropriate building materials and technologies.
- v. Facilitate the setting up of exhibition centers across the country.
- vi. Develop national guidelines and other technical specifications on the use of locally manufactured building materials and components.
- vii. Promote the use of innovative technological methods in design, documentation, supervision and construction processes.
- viii. Adopt the deployment and integration of technology in project cycle
- ix. Together-with the County Governments, identify and implement incentives to promote development of affordable and locally appropriate quality construction tools and equipment
- x. Encourage the private sector to support in digitization of building processes, and documentations for buildings projects.

### **3.4 Strengthen disaster risk preparedness, reduction and management in the built environment.**

To enhance effective and co-ordinated disaster preparedness, response, mitigation, reduce disaster risks, vulnerabilities and enhance resilience to the impacts of disaster risks within the built environment, the Government will accelerate comprehensive quality audits of buildings. This including those under construction throughout the country to establish their structural safety and compliance with building requirements and regulations such as access by Persons with Disabilities (PWDs), fire safety facilities among others. The programme targets inspection, Quality auditing and testing of public and private buildings to determine their integrity. To address issues of exposure to disasters and risks in the built environment;

#### ***The National Government will;***

- i. Map out and regulate building construction in regions prone to earth movement, flooding and other natural hazards.
- ii. Strengthen the country's mechanism to carry out building inspectorate services by;

- a) Developing a legal framework relating to quality audit and inspection of buildings to ensure their safety and support of disaster risk governance of buildings in Kenya
  - b) Developing a legal framework relating to buildings control
- iii. Develop rules requiring buildings to be assessed and insured to enable those living in them be adequately compensated in the event of a disaster.
- iv. Enforce standards for disaster management preparedness in the building industry.
- v. Develop plans and streetscape designs for protection of natural resources to achieve sustainable development.
- vi. Develop and establish data banks and information systems on disasters and appropriate dissemination channels to enhance disaster preparedness.
- vii. Fully implement the provisions of Sendai declaration framework in the built environment
- viii. Carry out periodic inspect buildings to ascertain their structural integrity, the existence and use of safety equipment.
- ix. Issue inspection certificate to private and public buildings only after periodic inspection and necessary installations have been done to guarantee safety of people living or using buildings;

***The County Governments will;***

- i. Be supported to carry out capacity development programmes on disaster management.
- ii. In collaboration with key stakeholders, conduct investigations on fire incidences to determine cause and extent of damage and compile reports of such incidents
- iii. Be empowered to enforce fire safety standards and codes in buildings
- iv. In collaboration with key stakeholders, develop County a fire prevention and protection strategy for buildings
- v. Carry out periodically inspect fire safety equipment and installations to ensure compliance with fire safety standards and codes

***In regard to the private sector participation,***

- i. Building materials manufacturers and supplies will endeavour to improve the quality of building products and hasten the introduction of international good practices in the field of quality assurance;
- ii. Will be supported and incentivised to invest in development of quality building materials and processes thereby benefiting from the improved market opportunities;
- iii. Will be encouraged to participate in financing activities that support quality buildings.

- iv. Are encouraged to invest in and develop disaster-resilient infrastructure, such as buildings, by incorporating disaster risk reduction measures into their designs and construction practices, they can help mitigate the impacts of disasters.
- v. Shall be supported to conduct risk assessments of their facilities and operations to identify vulnerabilities and develop appropriate mitigation measures and
- vi. Will be encouraged to invest in research and development to develop innovative technologies and materials that enhance the resilience of the built environment.
- vii. Collaborations between the public and private sectors to leverage the strengths of both to enhance disaster risk management shall be encouraged.
- viii. Are encouraged to build the capacity of individuals and communities to better prepare for disasters.
- ix. Are encouraged to integrate disaster risk reduction and management into their corporate social responsibility initiatives.

### **3.5. Upholding professionalism, human resource management and enhanced competitiveness in the industry**

#### **a) Issues**

- i. The attainment of the Vision 2030 for Kenya demands for accelerated and coordinated infrastructure development. This in turn places an onus on public sector delivery agencies to perform beyond current capacity. Thus, rapid development of the capacity is required to ensure effective management of the delivery process in a way that creates an enabling environment for the performance improvement of the industry and value for money of the constructed facilities
- ii. Development of adequate human resources is essential if the industry is to meet the demands of its national development goals and the needs for its growth and competitiveness. While education of construction-related manpower is a responsibility of the education sector, there is however need for the construction industry to ensure that training capacities for its manpower are enhanced.

#### **b) Objective**

To develop capacity building for the industry's human resources.

#### **c) Policy directive**

To address human and institutional capacity shortages the Government will;

- i. Strengthen the accreditation and registration of the building industry professionals.

- ii. Develop special purpose professional programmes as part of the apprenticeship initiative for the built environment.
- iii. Promote continuous and sustainable training and re-orientation of building professionals on emerging approaches.
- iv. Create an entity to facilitate training and capacity development for the industry.
- v. Adopt and support the implementation of the National Climate Change Learning Strategy 2021-2031 into the built environment
- vi. Strengthen professional and regulatory functions to support continuous professional development programmes.
- vii. Initiate and implement ISO Certification processes relating to building development functions
- viii. Develop a plan to ensure professional integrity of building consultants.
- ix. Introduce competency based assessment and recognition in the building industry.
- x. Develop various guidelines on registration of consultants for the unregulated professions in the industry.
- xi. Develop various terms of engagement and scale of fees for the unregulated professions in the built environment.
- xii. Develop and implement a national strategy integrating the creative design economy into the national development agenda.
- xiii. Strengthen semi-skilled professionals and technicians in the industry.
- xiv. Promote and support professional associations developing the unregulated professions in the industry.
- xv. Develop and adopt various codes of conduct for the unregulated professions in the built environment.
- xvi. Recommend review of remuneration and benefits for professionals in the industry.
- xvii. Partner with County Governments in developing guidelines and related standards on safety and health in working environment.
- xviii. Work closely with the media to become actively involved in the dissemination of information related to improved built environment.
- xix. Collaborate with international development partners in developing human resources, training the people needed for implementing plans, policies and plans for the built environment.
- xx. Require the private sector practitioners adhere to established industry codes of practice relating to the industry.
- xxi. Introduce awards scheme for the best building public projects in Kenya
- xxii. Support and provide SMEs with business opportunities within public building projects
- xxiii. Adopt community participation as a procurement method on some public works programmes.
- xxiv. Support the Local Contractors Support Programme



- xxv. In collaboration with financial institutions, develop a legal framework to establish credit guarantee schemes.
- xxvi. Support the establishment of local assembly plants for construction machinery and equipment.

### **3.6. Source for adequate financing for the industry.**

#### **a) Issue**

The building industry within the public sector has over-relied on single model sourcing of project funds; the National Treasury. There is need to explore various models of pooling funding towards the sector. Thus, the government cannot effectively deal with the massive needs of physical infrastructure required for development without the mobilization of resources from both the public sector and the private sector. However, the government has the responsibility of ensuring adequate mobilization of public resources for the purpose of promoting development of backward sub-sectors of the economy. It is also to be noted that private sector financing has not been adequately mobilized to complement government financing. Erratic work opportunities being faced by the industry is equally a result of inadequate public and private sector financing of construction related activities.

#### **b) Objective**

To mobilize adequate financial resources for physical infrastructure development.

#### **c) Policy direction**

The Government shall continue to mobilize resources for physical infrastructure for the purpose of economic and social development of the whole country.

Specifically the Government will;

- i. Develop a programme that will facilitate further development and adoption in the use of Public Private Partnership framework in some public building projects.
- ii. Establish and operate building industry support programme as a partnership platform to open up new areas to support Public Works functions.
- iii. Formulate legislation for establishment of infrastructure financial institution to provide a range of funding instruments and associated incentives to the infrastructure sector.
- iv. Develop a guideline to support the green bond initiative.
- v. Consider issuance of green infrastructure bond to raise additional financing towards development of climate friendly infrastructure projects.
- vi. Establish the Contractors and builders Retention Fund

- vii. Establish a fund to enhance the supervisory and regulatory role of Public Works.
- viii. Designate Public Works as an Authority to Incur Expenditure for awarded building projects
- ix. Forge partnerships with the development partners to provide technical and financial assistance in the building industry.
- x. Facilitate a systemic and appropriate increase in the national allocation to building projects.

### **3.7. Mainstreaming cross-cutting issues in the built environment.**

There is low level of involvement of marginalized groups in most Public Works projects, incorporation of National Values and Principles and perennial inadequacy in the State Departments' budget and agenda due to resource barriers and exclusion against these principles in workings of Public Works.

#### **3.7.1. Promoting Corporate Governance**

##### **a) Issues**

Corporate Governance has now become a critical element of business management and economic growth. There is lack of effective corporate governance in the construction industry.

##### **b) Objective**

Ensure that corporate governance is enhanced.

##### **c) Policy Direction**

Create awareness and promote adherence to principles of corporate governance in the construction sector.

#### **3.7.2. Promoting the Prevention of Corruption In the Industry**

##### **a) Issues**

The building industry in Kenya is perceived to be a corrupt sector of the economy. Reasons for corruption are many and well documented; they include bureaucracy, greed, lack of transparency and accountability, and inadequate remuneration of employees.

##### **b) Objective**

Promote the prevention of corruption in the industry

##### **c) Policy Direction**

The government and the stakeholders of the industry are committed towards preventing corruption in the construction sector by:

- i. Enhancing efficiency, transparency and accountability in procurement, design and contract administration.
- ii. Instituting mandatory technical auditing of all major public-financed projects and any other projects where there shall be suspicion of malpractice.
- iii. Ensuring payment of living wages to employees
- iv. Adhering to National Regulations relating to Public Procurement.

### **3.7.3. Mainstreaming the interests of marginalized and vulnerable groups into the built environment**

#### **a) Issues**

In Kenya, the building industry is men dominated. Some efforts have been made to involve women, persons with disability and other vulnerable groups into public works activities. However, the level of involvement is still minimal. Furthermore, since most of them lack technical skills, they tend to be confined to manual jobs. At the moment there are very few female artisans, technicians and technical professionals compared to men. Since late 1980s the government has been making efforts towards women empowerment. In 1992 the Policy on Women in Development was formulated. The policy aims at ensuring full recognition and appreciation of women participation and involvement in national development programs at all levels. There is also an increasing level of youths both in rural and urban areas who are unemployed. Developing a strong construction industry would be an effective instrument in creating employment to rural as well as urban youth and ensuring their gainful contribution to the nation and themselves.

#### **b) Objective**

Promote women and youth participation in construction industry activities.

#### **c) Policy Directions**

The government and the stakeholders of the industry shall promote the development, participation and representation of women and youth in the construction industry to enable them acquire marketable skills and thus enhance income generation opportunities. Specifically on mainstreaming the interests of marginalized and vulnerable groups into the built environment, the Government will;

- i. Build capacity for marginalized groups, women, youths and persons living with disabilities to enhance their participation in the industry
- ii. Comply with Universal Accessibility Standards in building industry
- iii. Mainstream gender into building industry knowledge and information management

- iv. Ensure sensitization on matters of HIV& AIDS, Alcohol, drugs and substance abuse in the industry.

**3.7.4.** Towards realization of efficiency in procurement of common user items in the public sector, the Government will;

- i. Develop and manage suitable interactive and interoperable IT system for procurement process of Common User items and warehousing development and management.
- ii. Develop and improve warehouse and related infrastructure.
- iii. Re-establish and enhance the Stores and Service Fund as the operating and self-sustaining drive of the organization.
- iv. Finance the IT and warehouse development model in a combined self-sustaining module.

## **CHAPTER FOUR: INSTITUTIONAL & IMPLIMENTATION FRAMEWORK**

### **4.1 Stakeholders in the building Industry**

The key stakeholders in the building industry include the National Government, County Governments, professional and regulatory bodies, private Sector, International Development partners, consultants, contractors, project financiers, SACCOs, commercial banks, trade unions, education and training institutions, manufacturers and suppliers and the public.

Co-operation and co-ordination of actors and stakeholders involved in the building industry is necessary to ensure successful implementation of this policy. This section therefore emphasizes the need for all players to actively participate in the implementation of the policy.

The development and implementation of this policy is by no means only a Government responsibility. The private sector has a major responsibility as has civil society. These are elucidated in the sections below.

### **4.2. The private sector**

The private sector has a very important role in the implementation of this policy and its participation in the management of Quality built environment. In order to achieve the maximum benefit from this policy, the private sector spearheaded by the professional & regulatory bodies involved together with industry investors, as well as its organized structures should fully support various Governments' initiatives relating to implementation of the provisions of this policy

### **4.3. Non-Governmental Organizations (NGOs)**

The successful implementation of this Policy will require the active involvement of all of society, in particular associations for the promotion of quality and excellence in the built environment.

### **4.4. Development Partners**

A number of international development partners are active in Kenya. A Ministry or Kenya based organization is the designated counterpart for each of their development programmes. All these recipient organizations or counterparts in Kenya of the international development partners should ensure that development and capacity building programmes related to the quality built environment

## 4.2 Implementation plan

The Government in collaboration with its stakeholders will implement this policy consistently with national, regional and international legislations and standards. Nationally, the Government will enforce the existing legislation, review them where need arises and formulate new laws to enhance Public Works delivery and regulate the Building industry. The standards governing building industry will, where applicable, be performance oriented allowing enough flexibility to suit the various socio-cultural, economic and climatic situations of different local regions as stipulated in the Building laws, By-laws and Planning Regulations. Regionally and internationally, the policy will incorporate laws and protocols spelling out rules and the spirit of cooperation in matters that relate to Public Works.

Some of the legal instruments that will inform the implementation of the policy include and not limited to:

### a) **The Constitution of Kenya, 2010;**

The constitution of Kenya, which was enacted in 2010, has had a significant impact on the building construction sector in the country. The constitution introduced a devolved system of governance, which decentralized power and resources to 47 County Governments. This has had implications for the building construction sector, as County Governments now have more control over planning, land use, and infrastructure development within their jurisdictions. It has led to a more localized approach to construction projects and decision-making processes. The constitution emphasizes environmental conservation and sustainable development. It recognizes the right to a clean and healthy environment and imposes obligations on all levels of Government to protect and conserve the environment. This has implications for the building construction sector, as it promotes the adoption of environmentally friendly construction practices and the protection of natural resources.

b) **Vision 2030** is a long-term development blueprint for Kenya that was launched in 2008 which aims to transform the country into a globally competitive and prosperous nation with a high quality of life for all its citizens. The Vision 2030 blueprint recognizes the building construction sector as a key driver of economic growth and development in Kenya. The construction sector plays a crucial role in infrastructure development, job creation, and attracting investments. It is considered a priority sector under the economic pillar of Vision 2030. The vision emphasizes the need to enhance

infrastructure development, including the construction of roads, railways, ports, airports, energy facilities, and housing. The building construction sector is instrumental in delivering these infrastructure projects and meeting the growing demand for housing and commercial spaces. Vision 2030 also highlights the importance of sustainable urbanization and the development of smart cities. This requires the construction sector to adopt modern technologies, green building practices, and efficient urban planning..

**c) Africa Union Agenda 2063 blueprint**

The Africa Union Agenda 2063 blueprint is a strategic framework for the socio-economic transformation of Africa over a 50-year period, upto 2063. While the blueprint is a continental initiative, it has implications for individual countries like Kenya, including the building construction sector. The Agenda places a strong emphasis on infrastructure development as a key driver of economic growth and regional integration in Africa. This includes the construction of roads, railways, ports, airports, energy facilities, and ICT infrastructure. The building construction sector in Kenya plays a crucial role in delivering these infrastructure projects, as they are essential for achieving the goals of the blueprint. The Agenda recognizes the rapid urbanization happening in Africa and the need for sustainable urban development. It promotes the development of smart cities that are environmentally friendly, technologically advanced, and inclusive. The building construction sector in Kenya is instrumental in constructing the necessary infrastructure and buildings for smart cities, including sustainable housing, efficient transportation systems, and smart infrastructure. The Agenda encourages the adoption of green building practices, renewable energy solutions, and sustainable urban planning by adopting environmentally friendly construction practices, promoting energy-efficient buildings, and minimizing environmental impact during construction.

**d) Architects and Quantity Surveyors Act, Cap 525, Laws of Kenya**

The Act is a legislation that governs the architectural and quantity surveying professions in Kenya. It establishes the regulatory framework, licensing requirements, and standards of professional practice for architects and quantity surveyors in the country. The Act ensures that architects and quantity surveyors adhere to professional standards and ethics in their practice. This helps to maintain the quality and integrity of construction projects in Kenya.

The Act requires architects and quantity surveyors to comply with building regulations and codes in their professional practice. They play a crucial role in ensuring that construction projects meet the required standards and regulations related to safety, accessibility, health, and environmental sustainability. Architects are responsible for designing buildings that comply with building codes, while quantity surveyors provide cost management and control to ensure that projects are executed within budget and in compliance with regulations.

**e) Engineer's Act 2011**

The Act governs the engineering profession in the country by establishing a regulatory framework, licensing requirements, and standards of professional practice for engineers in Kenya. The Act ensures that engineers in Kenya adhere to professional standards and ethics in their practice. It sets requirements for professional registration, licensing, and disciplinary procedures, which contribute to the professionalism and accountability of engineers in the building construction sector. The Act ensures that only competent and qualified engineers are involved in construction projects, maintaining the quality and integrity of the sector.

The Act promotes collaboration and coordination between engineers and other professionals in the building construction sector. Engineers work closely with architects, quantity surveyors, contractors, and project managers to ensure effective project planning, design, and execution. They provide technical expertise in areas such as structural engineering, geotechnical engineering, electrical engineering, and mechanical engineering.

**f) National Construction Authority Act, No. 41 of 2011;**

The Act establishes the National Construction Authority, which is responsible for regulating and overseeing the construction industry in Kenya. It provides a regulatory framework for the construction industry in Kenya by requiring contractors, sub-contractors, and construction workers to be registered and licensed by the Authority. This ensures that only qualified and competent individuals and companies are involved in construction projects, promoting professionalism and quality in the sector. The Authority is responsible for handling consumer complaints and disputes related to construction projects. It provides a platform for consumers to seek redress and ensures that their rights are protected in the building sector.



**g) County Governments Act, 2012**

The Act of Parliament gives effect to Chapter Eleven of the Constitution by providing for County Governments' powers, functions and responsibilities to deliver services. The Act devolves power and resources to the county governments, allowing them to have control over various functions, including planning, regulation, and management of the building sector within their jurisdictions. This decentralization of power ensures that decision-making is done at the local level, leading to more effective and efficient management of the building sector. County governments are responsible for issuing building permits and enforcing building regulations within their jurisdictions. The act provides guidelines and procedures for obtaining building permits, ensuring that construction activities adhere to safety standards, building codes, and regulations. This helps in promoting quality construction and ensuring the safety of buildings.

**h) Environment Management and Coordination Act, 2015.**

The Act establishes the National Environment Management Authority (NEMA), which is responsible for issuing environmental licenses for various activities, including construction projects. Before commencing construction, developers are required to obtain an environmental license from NEMA. This license ensures that construction activities adhere to environmental standards and regulations. The Act further requires that all development projects, including those in the building sector, undergo an Environmental Impact Assessment to evaluate the potential environmental, social, and economic impacts of the project and ensures that appropriate mitigation measures are put in place.

**i) Public Health Act (Cap 242)**

The Act sets standards and regulations for sanitation and hygiene in buildings by establishing guidelines for the construction and maintenance of sanitary facilities. This ensures that buildings provide adequate sanitation facilities to promote public health and prevent the spread of diseases. The Act requires that all new buildings go through thorough checking by the public health personnel including scrutinizing building designs to verify whether adequate space has been allocated for the occupants. Incidences of overcrowding are undesirable, matters relating to waste disposal.

**j) Occupational Safety And Health Act, 2007**

The Act sets standards and regulations to ensure the safety and health of workers in the building sector. The Act plays a vital role in ensuring the safety and well-being of workers in the building sector. By setting safety standards, promoting risk assessment and management, establishing safety committees, and enforcing compliance, the act helps in creating a safer working environment and reducing the incidence of workplace accidents and injuries.

**k) Physical and Land Use Planning Act, 2019.**

This Law provides for the principles, procedures and standards for the preparation and implementation of physical and land use development plans at the national, county, urban, rural and cities level; and the administration and management of physical and land use planning in Kenya, amongst other things.

**l) Science, Technology and Innovation Act, 2013**

The Act provides a broader framework that supports and promotes the application of science, technology, and innovation in various sectors, including construction. It promotes research and development in various sectors, including construction by encouraging collaboration between researchers, academia, and industry to develop innovative solutions and technologies for the building sector. This can lead to the adoption of new construction materials, techniques, and sustainable practices that improve the efficiency, quality, and safety of buildings. By promoting research and development, technology transfer, capacity building, collaboration, and policy formulation, the act indirectly contributes to the improvement and advancement of the building sector in Kenya.

**m) Public Procurement and Disposal Act, 2015;**

The Act promotes transparency, competition, and value for money in the building sector. By establishing procurement procedures, encouraging competitive bidding, emphasizing quality control, and addressing asset disposal, the act helps in improving the efficiency, effectiveness, and accountability of procurement processes in the building sector.

**n) Urban Areas and Cities Act, 2011**

The Act plays a key role in regulating and promoting sustainable development in the building sector within urban areas. By providing

a framework for planning, development control, building standards, public participation, urban renewal, and building safety, the act helps in ensuring that urban areas are developed in a well-planned, safe, and sustainable manner.

#### **4.5. Monitoring and Evaluation**

Effective monitoring and evaluation strategies are vital for the successful implementation of his policy. These strategies ensure that the policy's objectives are achieved, progress is monitored, and necessary adjustments are made to enhance its impact. The performance of the building industry will be effectively monitored and evaluated through regular assessments of progress aimed at achieving quality works and providing feed back into policy, programmes and projects. This will enable the industry to respond to any identified constraints and take corrective actions.

There shall be conducted periodic evaluations of this policy to assess the outcomes and impacts. These evaluations can be done through surveys, interviews, and site visits to gather feedback from stakeholders, including building industry professionals, government agencies, and the public. The findings shall help identify gaps, challenges, and success stories, informing policy adjustments and future initiatives. Specifically, the Monitoring Evaluation, Accountability and Learning (MEAL) system adopted for this policy will be designed to provide feedback to stakeholders to ensure accountability, transparency, facilitate appropriate decisions on future implementation and review of the policy to ensure that the input, delivery, work schedules and target outputs are progressing according to the plan. Furthermore, capacity building for monitoring and evaluation should be prioritized. This includes training government officials, professionals, and organizations involved in the implementation of this policy on data collection, analysis, and reporting techniques. Strengthening their skills will enhance the quality and reliability of monitoring and evaluation efforts.

In conclusion, a robust monitoring and evaluation framework is essential for a buildings industry policy to effectively achieve its objectives. By establishing clear indicators, conducting periodic evaluations, engaging stakeholders, and ensuring transparency, the policy can be continuously improved, leading to a sustainable and thriving building sector

## **CHAPTER FIVE: CONCLUSION**

Successful realization of strategic goals of this policy calls for a multi-faceted approach. All the stakeholders have a role in ensuring that the overarching goal of facilitating sustainable development of the building industry in Kenya by establishing guidelines designed to provide cost effective, world class built environment and other facilities in support of Vision 2030 is attained. A well regulated and coordinated building industry in Kenya will contribute to economic growth and realization of the Vision 2030 as it is anchored on infrastructure as a key enabler. Whereas it is appreciated that the challenges highlighted in this document are not the only ones affecting the industry, innovative approaches, application of research and appropriate technologies and consistent mitigation of the challenges will bear positive results. The policy interventions highlighted in chapter three form the basis of this policy and propose solutions to the highlighted challenges.

The policy aims at influencing the attitude of the building industry players by setting parameters and standards that will guide the growth and competitiveness of the industry in Kenya. These attitudes are espoused in the nine thematic areas that form the basis of this policy and are expressed in policy statements. The building industry and the general economic environment however, are dynamic and this therefore calls for periodic reviews of the policy to address emerging challenges and embrace opportunities that come over time. The prospects for the building industry in medium and long term are assured based on the growing demand for infrastructure and growing investor confidence with the Kenyan economy.

This policy is therefore an assurance of commitment and charts the way forward in development of the building industry for the enjoyment of current and future generations utilizing and working in physical infrastructure in Kenya.

.....

**Cabinet Secretary**

**Ministry of Lands, Public Works, Housing and Urban Development**