

THE NATIONAL TREASURY AND PLANNING

**POLICY ON ASSET AND LIABILITY MANAGEMENT IN
THE PUBLIC SECTOR**

MARCH 2020

FOREWORD

The Government of Kenya through the Cabinet Secretary to the Treasury of Kenya has for years owned assets and incurred liabilities but there is no standardized policy or system to record the existence of assets immediately they are procured and liabilities when they are incurred. This makes the assets and liabilities identification, valuation and eventual recognition in the financial statements/registers process laborious and time consuming and, has led to loss of assets and liabilities information. This further makes auditing of Government Assets and Liabilities difficult and therefore affecting financial management and reporting in the public sector.

Assets and liabilities management in the public sector has faced a number of challenges which include: Lack of a uniform assets and liabilities management policy and uniform standardized reporting framework on treatment of assets and liabilities across the public sector. Kenya's mainstream Public Sector accounting is on cash basis which limits the Country's capacity in public assets reporting, control and management. Lack of reliable information on public assets and Liabilities hinders the determination of assets' value as well as evaluation of public sector assets portfolio management and lack of a public assets registry or a defined classification criterion where records of public assets exist.

In recognition of the challenges faced in asset and liability management, The National Treasury and planning has developed policy guidelines on asset and liability Management to standardize management, accounting and reporting on assets and liabilities across the public sector. The policy will guide the entities in compilation of asset registers at entity levels for consolidation, which will inform the formation of a central repository/national registry of all assets and liabilities.

To align the public sector assets and liabilities accounting with international best practices, the government intends to adopt accrual accounting. This policy will assist public sector entities in the identification, measurement, and periodic reporting of government assets and liabilities and also provide guidance on the accounting of assets and liabilities for eventual transitioning to accruals basis by all public sector entities. In addition, the policy will assist public entities determine the optimum assets levels as a tool for allocating resources and in overall, apply life cycle approach to management of assets. The public sector entity's asset life-cycle shall include Planning, Acquisition, Operation and maintenance and Disposal.

In this regards, all government entities including Ministries, Departments and Agencies, Counties and semi-autonomous government agencies will be expected to adopt and or customise their policies in line with this policy in the management of assets and liabilities at entity level and report to the National Treasury their consolidated assets and liabilities positions in the prescribed format.

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ABBREVIATIONS AND ACRONYMS

COG	Council of Governors
IGRTC	Intergovernmental Relations Technical Committee
MDA	Ministries, Departments and Agencies
NALM	National Assets and Liabilities Management
PSASB	Public Sector Accounting Standards Board
PFM	The Public Finance Management
PFMR	Public Financial Management Reform
PIPM	Public Investments & Portfolio Management
PPAD	Public Procurement and Asset Disposal
PPP	Public Private Partnership
PPRA	Public Procurement Regulatory Authority
SAGA	semi-autonomous government agencies
UFA	Unclaimed Financial Assets
UFAA	Unclaimed Financial Assets Authority

DEFINITIONS

“Asset” is a resource owned, or in some cases, controlled, by an individual or organisation as a result of past events and from which future economic benefits or social benefits are expected to flow to the entity. Assets may be movable or immovable property, tangible or intangible, and include equipment, land, buildings, animals, inventory, cash and cash equivalents, receivables, investments, natural resources like wildlife and, intellectual rights vested in the state or proprietary rights.

“Asset management” is a systematic process of planning, acquisition, operating, maintaining and disposing of assets in the most cost-effective manner including all costs, risks and performance attributes.

“Accounting officer” has the same meaning assigned to it in section 2 of the Public Finance Management Act, No. 18 of 2012.

“Accounting Standards Board” has the same meaning assigned to it in section 2 of the Public Finance Management Act, No. 18 of 2012.

“Cabinet Secretary” has the same meaning assigned to it in section 2 of the Public Finance Management Act, No. 18 of 2012.

“County Treasury” has the same meaning assigned to it in section 2 of the Public Finance Management Act No. 18 of 2012.

“Development expenditure” has the same meaning assigned to it in section 2 of the Public Finance Management Act No. 18 of 2012

“Effectiveness” relates to how well outcomes meet objectives. It concerns the immediate characteristics of an entity’s outputs, and the degree to which an asset contributes to achieving specified outcomes.

“Efficiency” relates to the productivity of public sector entity resources used to conduct an activity in order to achieve the maximum value for those resources, to ensure that it is appropriate to business needs, the best value for money, and consistent with the principles outlined in the PFM Act, 2012.

“Financial assets” refer to assets that arise from contractual agreements on future cash flows or from owning equity instruments of another entity. Examples of financial assets include cash, equity instruments of other entities held by the entity, a contractual right to receive cash or another financial asset from another entity.

“Liability” is a present obligation of the entity arising from past events, the settlement of which is expected to result in an outflow from the entity of resources embodying economic benefits or service potential examples

“National Treasury” has the same meaning assigned to it in section 2 of the Public Finance Management Act No. 18 of 2012. The title of the National Treasury to be used at a point in time may take the title as provided for under executive orders issued from time to time.

“Non-financial assets” means an item that has its value determined by physical and tangible characteristic for example stores, equipment, land, buildings, animals, inventory, stock, natural resources like wildlife, intellectual rights vested in the state or proprietary rights.

“Optimal mix of assets” means that a portfolio of assets that maximises returns to a public entity and minimizes risk. Such a portfolio comprises a balanced mix of financial and non- financial assets is also financed by longer term liabilities.

“Procurement” has the meaning assigned to it in section 2 of the Public Procurement and Asset Disposal Act of No. 33 of 2015.

“Public entity” has the meaning assigned to it in section 2 of the Public Procurement and Asset Disposal Act of No. 33 of 2015.

“Public asset” means a resource with economic value that public entity owns or controls with the expectation that it will provide future benefit to the state;

“Public private partnership” has the meaning assigned to it under section 2 of the Public Private Partnership Act, 2013

“Records” a document regardless of form or medium created, received, maintained and used by an organization in pursuance of legal obligation or in the transactions of business, of which it forms part or provides evidence.

“Semi-Autonomous Government Agencies” means agencies rather than ministries used to deliver central government services or county government services.

“State Corporation” has the meaning assigned to it in section 3 of the State Corporations Act Cap. 446.

“System” means a set of detailed methods, procedures and routines created to carry out a specific activity, perform a duty, or solve a problem.

“Transitional assets and liabilities” refer to assets and liabilities held by a government body temporarily but which are not owned by the entity. These include items that are a subject of freezing orders by the Central Bank of Kenya and courts; items held in lien by the government as well as items held as bonds, cash bail and sureties in the context of the justice system in Kenya.

“Useful life” is: The period over which an asset is expected to be available for use by an entity“ Value for money” means the undertaking by a procuring entity that results in a benefit accruing to that procuring entity defined in terms of cost, price, quality, quantity, timeliness and risk transfer

The terms used in this policy which are used in the Constitution, existing laws and regulations and, international recognised accounting standards shall have the same meaning as they have in the Constitution, laws and regulations and the internationally recognised accounting standards.

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DRAFT POLICY

1. INTRODUCTION AND RATIONALE OF THE POLICY

1.1. Background

This policy paper proposes a framework to guide and inform on management of public assets and Liabilities at both levels of Government (National and County). It is motivated by the recognition that, since independence the GoK has owned assets and incurred liabilities apparently without a standardized policy or system to manage the same. This policy framework is therefore essentially aimed at supporting public sector entities in their efforts.

Further the reports of OAG tabled in parliament and subsequent PAC reports point out that MDAs & Counties have shown a continued trend where fixed assets registers are either non-existent or are poorly maintained. After the promulgation of the constitutions 2010, transfer of assets and liabilities in the defunct local authority, National government functions that were devolved and states corporations /Agencies functions that were devolved has taken long hence counties have continued to acquire assets and incurring liabilities thus in effect implying that, fixed assets and liabilities registers therefore are incomplete as they do not show the true value /net worth of these entities. Good asset management is a vital catalyst for accelerating development in a country since asset and liability management is among public function that have direct impact on citizens.

Significant efforts have been made under the 2010 Constitution including legislation of PFM Act 2012 and PPAD 2015 and regulations thereof. Specific aspects on management of assets and liabilities were incorporated in these laws. These legislative actions did not cure the weaknesses on asset and liability management legal and institutional framework.

It is in recognition of these gaps and challenges that the National Treasury and planning has developed this Policy to guide and standardize management and reporting on assets and liabilities across the public sector. This policy proposes a framework for public entities to integrate life cycle approach to assets management as well management of liabilities.

1.2. Rationale of the Policy

The Government of Kenya (GoK) through the Cabinet Secretary of the National Treasury and Planning has for years owned assets and incurred liabilities but there has never been a standardized policy or system to record the existence of such assets immediately they are procured and liabilities when they are incurred. Guidelines that have been documented to provide guidance on planning, acquisition, operation and maintenance, disposal as well as recording and reporting on assets are inadequate. In addition, there are no guidelines on the identification, recording and reporting on liabilities. Different approaches have been adapted to assets and liabilities based on whether entities are using accrual or cash basis of accounting. Asset and liabilities management operations have also not been aligned to and integrated with strategic entities corporate financial and operational plans in the public sector.

This policy therefore has been developed to address the foregoing aspects regarding assets and liabilities management in the public sector. It is against this background that the policy will provide direction on assets and liabilities management irrespective of the basis of accounting adopted.

1.2.1. Vision of the Policy

Prudent management of assets and liabilities in the public sector to provide optimum economic, environmental and social benefits to the public.

1.2.2. Mission of the Policy

To bring uniformity and standardization in the management of assets and liabilities across the public sector in a manner which is consistent with Government policies, priorities and objectives, and aligned with internationally recognized standards.

1.2.3. Aims of the Policy

- (1) The aims of this policy are:
 - a) Promoting accountability on assets and liabilities management;
 - b) Effective management and safeguard of public assets;
 - c) the standardization in all public sector entities of:
 - (i) Planning, identification, acquisition, maintenance, disposal of, valuation/revaluation, recording and disclosure of assets in the public sector;
 - (ii) Assets and liabilities data management and reporting.
 - d) Proper authorisation of acquisition and disposal of assets; and
 - e) Accurate and timely information and reporting to facilitate decision making.
- (2) The policy is also aimed at consolidation and maintaining an updated inventories of assets and liabilities for both national and county levels of government.

1.2.4. Objective of the policy

The specific objectives of this policy are to:

- a) Strengthen the framework governing assets and liabilities management in the public sector.
- b) Create a strong framework for standardized, effective and efficient assets and liabilities reporting.
- c) Create a framework for development of National and County assets and liability inventories.
- d) Establish a framework for alignment of assets and liability management to relevant laws and regulations, national policy documents and to ensure compliance with prudent public financial management.
- e) Enhance the regulatory framework for management of assets and liabilities to ensure consistency with international good practice, through periodic reviews of existing laws, regulations, international accounting standards and proposal for the development of new legislation (if necessary).
- f) Provide the basis for identification of legal gaps with a view to making proposals for amendments to legislation to enhance sound assets and liabilities management for economic development.
- g) Provide a framework for the adoption of accrual basis of accounting by all public sector entities.

1.2.5. Scope of the policy

- (1) The policy covers the entire public sector including:
 - a) National government and national government entities; and
 - b) County government and county government entities.
- (2) Public entities may establish additional internal policies, guidelines or procedures that are consistent with this policy to supplement the governing principles contained in this document.

1.2.6. Policy development process

The process of developing this policy involved the establishment and operationalization of NALM department under the directorate of PIPM within the National Treasury, engagement of a consultant, drafting of policy in consultation with technical working teams drawn from identified MDAs, subjecting the draft policy to stakeholder's engagement and approval. The policy has benefited and has been informed by:

- a) consideration and factoring of provisions of the existing legal and institutional framework on the management of assets and liabilities;
- b) desk review and study of international good practice;
- c) review of internationally accepted accounting standards;
- d) challenges in management of assets and liabilities as highlighted by public sector entities' audit reports;
- e) lessons from previous attempts to develop a national asset register; and
- f) Consultations with stakeholders.

1.3. Key/ Guiding principles

The principles that guide this policy are in accordance with Constitution of Kenya 2010, Kenyan laws and regulations. Good governance entails a well-functioning assets and liabilities management system free from unethical practices. It involves transparency, accountability and predictability in the decision-making process and oversight mechanism to ensure prudent use of public resources. The key principles of the asset management policy are as follows:

1) Professionalism and integrity

The assets and liabilities functions shall be managed by professionals with requisite qualifications in asset and liability management recognized in Kenya. The officers shall conduct themselves in accordance with chapter 6 of the Constitution, Public Officer Ethics Act, 2003 (Revised 2009) and any other relevant laws; and codes of ethics, local and international treaties.

2) Maximization of value for money

Public entities shall ensure value for money by ensuring economy, efficiency, effectiveness, equity and creating a right environment for assets and liabilities management.

3) Compliance and conformity

Public entities shall comply and conform to all applicable laws of Kenya, regulations, policies and guidelines that relate to assets and liabilities management.

4) Transparency and Accountability

Public entities shall conduct their affairs in an open, fair, transparent and accountable manner when carrying out procurement of assets and liabilities as espoused by the Constitution of Kenya 2010, the PFM Act, 2012 and the PPAD Act, 2015.

5) Prudent planning

Asset and liability planning decisions shall be based on an evaluation of alternatives, which assesses risks and benefits, and applies the Government's core procurement principles of value for money and cost-benefit analysis across the assets and liability life-cycle.

6) Reliability

Data or information provided on assets and liabilities by public sector entities should be reliable for decision making by various users

7) Regular Reporting

Public entities shall ensure reporting at least annually on the status of their assets and liabilities in an accurate manner to the relevant Authorities.

2. SITUATION ANALYSIS

2.1. Introduction

This section covers:

- a) Overview of current legal and regulatory framework;
- b) Current institutional framework; and
- c) Gaps and challenges in assets and liabilities management in Kenya.

2.2. Overview of current legal and regulatory framework

Review of the existing laws regulations and policies indicated instances of deficiencies, contradictions and in some cases inconsistencies in the applicable laws and regulations which include

2.2.1. Legislative Authorities

Asset and liability management is guided by legislative authorities including but not limited to:

- a) The Constitution of Kenya, 2010
- b) The Cabinet Secretary to the Treasury (Incorporation) Act, Revised 2012 (1982)
- c) Public Finance Management (PFM) Act No. 18 of 2012
- d) Public Procurement and Asset Disposal (PPAD) Act No. 33 of 2015
- e) State Corporations Act, Cap 446, Revised 2016
- f) County Governments Act, No. 17 of 2012, Revised 2017
- g) Intergovernmental Relations Act, Revised 2012
- h) Privatisation Act No. 2 of 2005
- i) Public Private Partnerships Act No. 15 of 2013
- j) The Companies Act No. 17 of 2015
- k) Land Act, 2012

2.2.2. Subsidiary legislation

Asset and liability management is also guided by the following subsidiary legislation, among others:

- a) The Public Finance Management (National Government) Regulations, 2015;
- b) The Public Finance Management (County Governments) Regulations, 2015;
- c) Public Procurement and Asset Disposal Act Regulations;
- d) Executive orders;
- e) Government circulars;
- f) Gazette notices; and
- g) Other legal or statutory documentation that relate to assets and liabilities

2.2.3. Accounting standards

Asset and liability management in the public sector must comply with the accounting standards prescribed by the Public Sector Accounting Standards Board (PSASB) Kenya.

2.3. Current institutional framework

A Review of Current institutional framework indicated lack of coordination in the management of assets and liabilities in the public sector. The bodies involved in the management of assets and liabilities in Kenya include:

- i. Procuring entities
- ii. National Treasury
- iii. Public Procurement Regulatory Authority (PPRA)
- iv. Privatisation Commission
- v. Public Private Partnership Unit
- vi. County governments and County Treasuries

2.4. Gaps and challenges in assets and liabilities management in Kenya

The legal, regulatory and institutional frameworks currently in place pose certain challenges and significant gaps. These include:

2.4.1. Legal framework is fragmented, not harmonized and inadequate

The legal framework presents gaps and challenges to assets and liabilities management in various ways:

- i. Different aspects of assets and liabilities are covered by various laws
 - ii. There are conflicts between laws in some instances; and
 - iii. There are aspects on assets and liabilities management where no legislation exists.
- (1) Different aspects of assets and liabilities are covered by various laws, for example, the PPAD Act, 2015 focuses on the procurement and disposal of non-financial/physical assets. The PFM Act, 2012 on the other hand focuses on asset management with respect to maintenance of asset and borrowing records. PPP arrangements are guided by the PPP Act, 2013 while disposal of assets through privatization are governed by the Privatisation Act, 2005.
 - (2) There are conflicts between laws in some instances with respect to assets and liabilities management. For example, while the PFM Act, 2012 requires entities to refund any unclaimed funds after they have not been claimed for six years, the UFAA Act, 2011 provides different time frames for submission of different types of financial instruments. In this respect, while deposits for utility services, cheques, money orders, life or endowment insurance policy or annuity contracts are to be transferred to UFAA after the expiry of two years after due date of payment, amounts relating to dividend should be transferred to UFAA after expiry of three years.
 - (3) There are aspects on assets and liabilities management where legislation does not exist e.g. Cap 101 focuses on assets and does not address liabilities. The PFM Act, 2012 focuses on borrowings but does not address other categories of liabilities. There is also no legislation governing the activities of debt collection agencies in the public sector.

Based on the above, there is need to develop to review the current legal framework to address these gaps that brings together the legal provisions relating to assets and liabilities. There is also need to harmonise existing legislation in instances where there are conflicts as well as develop new legislation to address the gaps.

2.4.2. Lack of a coordinated institutional framework

The management of assets and liabilities in Kenya has been fragmented. Some entities have developed policies relating to assets and liabilities management, while others have no policy and deal with specific categories of assets and liabilities. For example, different players in the public sector play different roles in motor vehicles management including Government Fleet Management Unit, Ministry of Transport, Infrastructure, Housing and Urban Development, National Police Service, National Transport and Safety Authority, Government vehicle Check Unit, Accounting Officers at entity level and, Transport/Logistics

Departments/Units within entities, among others. The roles played by different bodies/ institutions are also outlined in the institutional framework discussed under section 2.3 above.

Therefore, there is need for coordination of the all entities with respect to assets and liabilities management in the public sector.

2.4.3. Policies are not standardised

GoK through the Cabinet Secretary to the Treasury of Kenya has for years owned assets and incurred liabilities but there has never been a standardized policy or system to record the existence of assets immediately they are procured and liabilities when they are incurred. Public sector entities have developed divergent policies for purposes of assets and liability management and as a result, policies on assets and liabilities management as well as accounting treatment are not standardized. Based on the above, this policy has been established.

2.4.4. Use of different basis of accounting

Kenya's mainstream public sector (National and County governments) uses cash basis of accounting for purposes of preparing their financial statements, hence the government uses IPSAS cash basis where all assets and liabilities are expensed. State corporations, on the other hand, have adopted accrual-based accounting which separates revenue, expenditure, assets and liabilities. This means that significant assets and liabilities are not reflected in public sector financial statements.

Use of cash basis limits the country's capacity in public assets reporting, control and management. It also hinders the determination of assets and liabilities values as well as evaluation of public sector assets and liability portfolio management. Therefore, there is need for all public sector entities to adopt a standardized basis of accounting to ensure completeness of reporting.

2.4.5. Lack of standardized assets and liabilities registers

Asset and liability registers maintained by public sector entities do not have a standardized format and hence have varied information contained therein. The classification of assets and liabilities into various categories also differs across the entities due to a lack of a defined classification criteria. This impedes the consolidation of the information into national registers of assets and liabilities. Based on this, there is need to develop standard assets and liabilities register formats as well as standardized categorization of assets and liabilities.

2.4.6. Lack of Legislation on Unclaimed non-financial assets

There is no legislation to facilitate management of unclaimed non-financial assets since the UFA Act, 2011 has a focus on financial assets.

2.4.7. Lack of standardized automated Information systems

Asset and liability management in the public entities within the Ministries, Departments, Agencies and Counties Governments remain largely manual. The state corporations, on the hand have computerized systems for capture of assets and liabilities information. The maintenance of manual assets and liabilities records is laborious and time consuming and could result in loss of assets and liabilities information. This among others makes audit of government assets and liabilities difficult and therefore affects financial management and reporting.

It is against this background that the national assets and liability management policy is developed to provide guidance geared towards standardizing management, accounting and reporting on assets and liabilities across the public sector. The policy will facilitate a sustainable, organised and well-regulated environment that upholds the guiding principles and objectives outlined in the Constitution of Kenya, 2010 and the PFM Act, 2012.

2.4.8. Gaps on the management of transitional assets and liabilities

There is a legal gap in the accounting, treatment, administration and reporting of the transitional assets (contingent assets) and liabilities (contingent liabilities). Examples of these items: those awaiting transfer to

public entities after successful recovery by the Assets Recovery Agency; items subject of freezing orders by the Central Bank of Kenya and courts; items held in lien by the government as well as items held as bonds, cash bail and sureties in the context of the justice system in Kenya; and items subject of forfeiture to the government (proceeds of trading in illegal narcotic drugs, forfeited bonds, cash bails and sureties' money).

DRAFT POLICY

3. LEGAL AND INSTITUTIONAL FRAMEWORK

In order to achieve the aims, objectives and strategies outlined in this Policy, the National Treasury has put in place appropriate institutional framework through the establishment and strengthening of institutions dealing with aspects of planning, acquisition, administration, reporting and oversight in respect to assets and liabilities.

This policy direction is aimed at improving management of assets and liabilities in the public sector to provide optimum economic, environmental and social benefits to the public. The following institutions will play a key role in the management of assets and liabilities:-

3.1. The National Treasury

The National Treasury as part of strengthening the institutional framework in this policy has established a department of National assets and Liabilities Management whose primary mandate is to coordinate the overall framework of management of assets and liabilities. The department will be responsible for the following functions;

- a) Monitoring of assets and liabilities management systems in the public sector and generate reports and give recommendations to accounting officers.
- b) Consolidate National government fixed assets and liabilities registers.
- c) continuous improvement and alignment of assets and liabilities policies and guidelines,
- d) support on optimal utilisation of assets through development of an optimal utilisation framework to guide public sector entities
- e) Providing support to counties on developing assets and liabilities management practices.
- f) Facilitate continuous capacity building and training of accounting officers on the requirements of this policy.
- g) Prepare annual report on National assets and liabilities for submission to Parliament.

In addition the following directorates have specific roles in respects to assets and liability management.

- a) Directorate of Accounting Services and Quality Assurance – The Directorate’s main focus is on financial reporting on assets and liabilities.
 - b) Directorate of Public Debt management – The Directorate is responsible for the management of national debt management.
 - c) Budget, Fiscal and Economic Affairs Directorate - The Public Procurement Department under this directorate is tasked with the responsibility of providing guidance on PPAD Act, 2015 and thus, guidance on procurement and disposal of assets.
1. The responsibilities of the National Treasury with respect to assets and liabilities have been defined under section 12 of the PFM Act, 2012. Under section 12 (1) (a), the National Treasury shall “*formulate, implement and monitor macro-economic policies involving expenditure and revenue*” and hence has overall responsibility for the formulation, implementation and monitoring of this policy.
 - a) The Cabinet Secretary to the Treasury (Incorporation) Act chapter 101, Revised 2012 states that the Cabinet Secretary to the Treasury of Kenya may acquire, *purchase, take, hold and enjoy movable and immovable property of every description, and may convey, assign, surrender and yield up, mortgage, charge, demise, reassign, transfer or otherwise dispose of, or deal with, any movable and immovable property vested in the Corporation upon such terms as to the Corporation seems fit; and in respect of or in connection with the matters aforesaid or any of them, the Corporation may do all such things and acts as bodies corporate may lawfully do.*
 - b) Section 12 (1) (b) of the PFM Act, 2012 stipulates that the National Treasury shall “*manage the level and composition of national public debt, national guarantees and other financial obligations of national government within the framework of this Act and develop a framework for sustainable debt control*”;
 - c) Section 12 (1) (d) avers that the National Treasury shall “*mobilise domestic and external resources for financing national and county government budgetary requirements*”;

- d) Section 12 (2) (g) states that the National Treasury shall *“be the custodian of an inventory of national government assets except as may be provided by other legislation or the Constitution”*;
 - e) Section 12 (2) (h) indicates that the National Treasury shall *“monitor the financial aspects of risk management strategies and governance structures for the national government and national government entities”*; and
 - f) Section 12 (2) (e) stipulates that the National Treasury shall *“consolidate reports of annual appropriation accounts and other financial statements of the national government and county governments and their entities.”*
2. Section 80 of the PFM Act, 2012 states that *“At the end of each financial year the National Treasury shall prepare for the national government, clear and comprehensible annual financial statements that consolidate the financial statements prepared by all national government entities, in accordance with formats prescribed by the Accounting Standards Board.”*
 3. The PFM Act, 2012 and related regulations also provides for certain organs of the National Treasury to carry out specific duties with respect to management of assets and responsibilities as follows:
 - a) Section 62 establishes the Public Debt Management Office (PDMO) whose functions are outlined under section 63. Section 63 (b) specifically stipulates that the PDMO has the responsibility of *“Maintaining a reliable debt data base for all loans taken the National Government, County Governments and their entities including other loans guaranteed by the National Government”*.

3.2. Parliament / County Assembly

The responsibilities of Parliament/ County Assembly with respect to assets and liabilities management, include the following, among others;

- a) Provision of oversight over the budgeting process and appropriate estimates of revenue and expenditure on assets and liabilities as provided for by the Public Finance Management Act, 2012; and
- b) Examination of financial statements and other documents submitted to the National Assembly/County Assembly and make appropriate recommendations for improving the management of Kenya’s public finances.

3.3. Cabinet/ County Executive Committee

The responsibilities of the Cabinet/ County Executive Committee with regard to assets and liabilities management include the following, among others:

- a) Provide strategic leadership and interventions in assets and liabilities management processes; and
- b) Provide necessary approvals, for proper, efficient and effective assets and liability management.

3.4. County Treasury

The responsibilities of the County Treasury with respect to assets and liabilities management are detailed under sections 104 and 107 of the PFM Act, 2012. In particular, Section 104(1)(g) stipulates that the County Treasury shall act *“as custodian of the inventory of the county government’s assets except where provided otherwise by other legislation or the Constitution”*. Section 107(2)(d) also states that *“over the medium term, the government’s borrowings shall be used only for the purpose of financing development expenditure and not for recurrent expenditure”*. In addition, section 107(2)(e) also requires the county debt to be maintained at a sustainable level as approved by county assembly. The county Treasury shall:

- a) develop county government asset and liability management guidelines in line with policy, guidelines and templates issued by PSASB with concurrence of the Cabinet Secretary, National Treasury and Planning.
- b) Constitute County assets and liabilities management committees to assist the county treasury in overall implementation of assets and liability management framework.

3.5. Office of the Auditor General

The Office of the Auditor General is responsible for the audit of assets and liabilities disclosed in public sector entity financial statements in accordance with the Public Audit Act, 2015. In particular, sections 7(1) (d) requires the Auditor General to “confirm that:

- a) all reasonable precautions have been taken to safeguard the collection of revenue and the acquisition, receipt, issuance and proper use of assets and liabilities; and
- b) collection of revenue and acquisition, receipt, issuance and proper use of assets and liabilities conforms to the authority.”

3.6. Internal Audit department

- (1) Sections 73 and 155 of the PFM Act, 2012 requires national and county public sector entities, respectively, to establish “*appropriate arrangements for conducting internal audit according to the guidelines issued by the Accounting Standards Board*” and also “*in accordance with international best practices for internal auditing.*” Explicitly, the internal audit arrangements shall be responsible for, “*verifying the existence of assets administered by the entity and ensuring that there are proper safeguards for their protection.*”

The Internal Audit Department is also responsible for providing assurance on risk management, including the risks associated with assets and liabilities.

3.7. Public sector entities

The Constitution, PFM Act 2012, PPDA Act 2015 gives the public Sector entities varied mandate in respect to management of assets and liabilities as follows:

- (1) The responsibilities of accounting officers of national public sector entities with respect to management of assets and liabilities are defined under Article 226 and 227 of the Constitution. The provisions of this article relate to the management, procurement, transfer and disposal of assets and liabilities.
- (2) Sections 72 and 153 gives Accounting Officers the responsibility to manage asset and liabilities in their respective entities. From the other sections, the Accounting Officers are required to, among others:
 - a) Ensure that all applicable accounting procedures are followed when acquiring or disposing of goods and services and that, in the case of goods adequate arrangements are made for their custody, safeguarding and maintenance
 - b) Manage the assets of the entity to ensure it receives value for money when acquiring, using and disposing of its assets; and
 - c) ensure that adequate systems and processes are in place to plan for, procure, account for, maintain, store and dispose of assets, including an asset register that is current, accurate and available to the relevant Treasury or the Auditor-General.
- (3) With respect to reporting on assets and liabilities, sections 81 (2) and 164(2) requires the Accounting Officer to include the following in the annual financial statements of the entity:
 - a) a statement of the entity’s debt which is outstanding at the end of the financial year;
 - b) a statement of the entity’s debt guaranteed by the national government as at the end of the financial year; and
 - c) a statement of the entity’s assets and liabilities as at the end of the financial year in respect of the recurrent Vote, development Vote and, funds and deposits, among others.

- (4) Section 162 (2)(c) requires every public officer to “ensure that adequate arrangements are made for the proper use, custody, safeguarding and maintenance of public property”.
- (5) According to section 23(2) (g) of the PFM (National government) Regulations 2015 and section 22(2)(g) of the PFM (County governments) Regulations, 2015, the Accounting Officer shall not “commit a government entity to any liability for which money has not been appropriated provided that expenditure for projects or programs implemented beyond one financial year is provided for in the subsequent financial years”.
- (6) Section 143 of the PFM (National Government) Regulations, 2015 also states that “the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws.” The section also clearly states that the accounting officer shall maintain a register of land and buildings, as well as for other categories of assets. Section 87 of the Regulations also outlines the information to be included in the register of bank accounts.
- (7) The responsibilities of accounting officers with respect to inventory control, assets and stores management are detailed under sections 159 – 162 of the PPAD Act, 2015.
- (8) Accounting officer shall establish an assets and liabilities management standing committee whose responsibilities are as detailed in policy statement 4.2.6 of this policy.

3.7.1. Delegation by the Accounting Officer

- (1) The Accounting Officer of a public sector entity may delegate to a public officer, in writing, any of the Accounting Officer's powers or functions under this policy.
- (2) In exercising powers and functions under a delegation, the public officer shall comply with any lawful directions of the Accounting Officer.
- (3) Delegation of power does not take away the responsibility of the accountability from the Accounting Officer.

3.8. Office of the Attorney General and the Department of Justice

- (1) The Office of the Attorney General and Department of Justice is established under Article 156 of the Constitution of Kenya 2010 and the Office of the Attorney General Act 2012 set out the Constitutional mandate and functions of the Attorney General.
- (2) The Attorney General is the Government principal legal advisor and with respect to assets and liabilities the Office of the Attorney General will:
 - a) Reviews contracts relating to the procurement and disposal of major assets and liabilities.
 - b) Prepares vesting orders in the transfer of assets and liabilities from one public sector entity to another.
 - c) as promoter of the rule of law and defender of the public interest and hence instrumental in resolving disputes relating to assets and liabilities by providing necessary interpretation.
- (3) The Attorney General also provides policy co-ordination and oversight and guidance on the legal aspects of this policy.

3.9. Office of the Controller of Budget

- (1) The Office of the Controller of Budget is an independent office established under Article 228 of the Constitution of Kenya with the core mandate being to oversee implementation of the budgets of the National and County Governments by authorizing withdrawal from public funds.
- (2) Its controlling function involves authorizing withdrawals of public funds by public sector entities, where, such funds are used for the acquisition and maintenance of assets as well as payment of liabilities.

3.10. Intergovernmental Relations Technical Committee (IGRTC)

- (1) The Intergovernmental Relations Technical Committee (IGRTC) is a body established under the Intergovernmental Relations Act, 2012.
- (2) It was formed to establish a framework for consultation and co-operation between the National and County Governments and amongst county governments and was further mandated to take over the residual functions of the Transition Authority.
- (3) IGRTC has a mandate to identify, validate, verify and transfer assets and liabilities relating to defunct Local Authority, devolved functions and devolved public entities and handover to the National Treasury.

3.11. Council of Governors (CoG)

- (1) The Council of Governors (CoG) is established under the Intergovernmental Relations Act, 2012 and comprises the Governors of the forty-seven Counties.
- (2) Its main functions are the promotion of visionary leadership; sharing of best practices and; offer a collective voice on policy issues; promote inter – county consultations; encourage and initiate information sharing on the performance of County Governments with regard to the execution of their functions; and, collective consultation on matters of interest to County Governments.
- (3) The Governors shall be a key player in the consultation and implementation of this policy the county level.

3.12. Performance Management and Coordination Office

The Performance Management and Coordination Office sets out the criteria for evaluation of public officers with respect to Key Performance Indicators (KPIs), including those relating to assets and liability management. The office also monitors the performance of the entities including the achievement of targets set on assets and liability management.

3.13. Public Procurement Regulatory Authority

PPRA is a regulatory body involved in the public procurement and disposal established under section 8 (1) of the PPAD Act, 2015 with the following functions among others:

1. Monitor, assess and review the public procurement and asset disposal system to ensure that they respect the national values and other provisions of the Constitution, including Article 227 and make recommendations for improvements;
2. Prepare, issue and publicise standard public procurement and asset disposal documents and formats to be used by public entities and other stakeholders;
3. Research on the public procurement and asset disposal system and any developments arising from the same; and
4. Advise the Cabinet Secretary, National Treasury and Planning on the setting of standards including international public procurement and asset disposal standards.

3.14. Public Sector Accounting Standards Board – Kenya

Section 192 of the PFM Act, 2012 establishes the Public Sector Accounting Standards Board (PSASB) with the following function, among others,

- (1) Prescribe formats for financial statements by all state organs and public entities.
- (2) The PSASB's mandate is to help ensure standardised reporting on public finance and to help ensure independence in the determination of accounting standards at the national and county level, based on best domestic and international practices.
- (3) The Board gives guidance to public sector entities on the application of accounting and reporting standards in the country.
- (4) Section 194 (5) states that *"The standards set by the Board shall promote transparency and other Constitutional values and principles in effective, prudence and efficient management of revenue, expenditure, assets and liabilities of the institution to which these standards apply"*.

3.15. Inspectorate of State Corporations

Section 18 of the State Corporations Act establishes the Office of the Inspector –General (Corporations) to advise the government on all matters affecting the effective running of state corporations and with powers to enter and inspect the premises, including any plant and installation thereon, of any state corporation.

3.16. National Land Commission

National Land Commission derives its mandate from Article 67 of the Constitution of Kenya 2010 and National Land Commission (NLC) Act 2012 with functions among others:

- (1) Manage public land on behalf of the national and county governments,
- (2) Recommend a National Land Policy to the national government,
- (3) Advise the national government on a comprehensive program for the registration of title in land throughout Kenya
- (4) Conduct research related to land and the use of natural resources, and make recommendations to appropriate authorities
- (5) Assess tax on land and premiums on immovable property in any area designated by law.

3.17. Privatisation Commission

The privatisation commission is an autonomous agency under the National Treasury. The Commission is a corporate body established under Section 3 of the Privatization Act (2005) to:

- (1) formulate, manage and implement the Privatization Programme;
- (2) make and implement specific proposals for privatization in accordance with the Privatization Programme; and
- (3) Carry out such other functions as are provided for under the Act.

3.18. Public Private Partnership Unit

- (1) The Public Private Partnership (PPP) Unit is a specialized unit within the National Treasury, established under section 11 of the PPP Act of 2013. The main role of the PPP Unit is to serve as the Secretariat and technical arm of the PPP Committee.
- (2) Further, the PPP Unit provides technical support (technical, legal & financial) to various government agencies (contracting authorities) keen to implement PPP projects. In this regard, the PPP Unit supports all the contracting authorities right from project identification, through to the phases of appraisal, procurement, negotiation, contracting and the operational phases.

3.19. Conclusion

The success for implementation of effective assets and liabilities management will depend on commitment to change, an attitude of continuous improvement, and close cooperation between oversight institutions, as well as assets and liabilities management structures within public sector. The National Treasury will ensure a coordinated approach to assets and liabilities management due to the multiple players and inter-related functions of government.

4. ASSET AND LIABILITY MANAGEMENT IMPLEMENTATION FRAMEWORK

4.1. Introduction

This section outlines the critical issues relating to assets and liabilities management and includes policy statements towards resolving the identified issues. Specific strategies to support policy statements will be included in the guidelines to be issued by the National Treasury.

4.2. Specific aspects of assets and liabilities management

4.2.1. Legal and regulatory framework

Critical issue

Laws guiding assets and liabilities management are not harmonized and are fragmented. There is need therefore to in some instances develop, review and/or harmonise the relevant legislation.

Policy statements

National Treasury shall put in place a framework for the review, harmonize and development of legislation governing assets and liabilities management. The National Treasury shall spearhead the review, harmonization and amendment of law(s) governing assets and liabilities management.

4.2.2. Coordination of institutional framework

Critical issue

The management of assets and liabilities in Kenya has been fragmented. Some entities have developed policies relating to management of assets and liabilities, while others deal with specific categories of assets and liabilities.

Policy statement

National Treasury shall have a program coordinating role in harmonizing institutions engaged in assets and liabilities management through its department of National Assets and Liabilities Management.

4.2.3. Asset and liability management policies

Critical issue

Policies on assets and liabilities management are not standardized in the public sector with each entity having their own assets and liabilities management policies. The overarching documents with respect to legislation are skewed towards cash basis of accounting.

Policy statements

- (1) National Treasury shall issue guidelines alongside this policy on assets and liabilities management for use by the public sector entities.
- (2) Public sector entities shall align their policies to the policy guidelines issued by the National Treasury.

4.2.4. Asset and liability registers

Critical issues

Public sector entities do not have a standard format for preparation of assets and liabilities registers. The classification of assets and liabilities into categories is also not standardized which raises a challenge in generating a consolidated national assets and liabilities inventories.

Policy statements

- (1) National Treasury, in consultation with PSASB, shall issue standardized templates for specific categories of assets and liabilities.
- (2) National Treasury shall prepare a national government inventories of assets and liabilities based on consolidation of entities assets and liabilities register.
- (3) County Treasury shall prepare a county government inventories of assets and liabilities based on consolidation of entities assets and liabilities register.
- (1) Public entities shall prepare their assets and liabilities registers based on templates indicated on 4.2.4(1) above

4.2.5. Asset and liability information systems

Critical issues

The information management systems used for assets and liabilities management are inadequate. Asset and liability registers are prepared manually for some entities while they are automated in others. In addition, there currently does not exist an information management system with capabilities to integrate, consolidate and analyse data at the National Treasury to facilitate consolidation of assets and liability information. The lack of assets and liability ICT based information systems has contributed to inefficiencies and wastage.

Policy statements

- (1) Public entities shall utilise ICT-based information systems for purposes of assets and liabilities recording and reporting.
- (2) National Treasury shall develop a data sharing system to integrate, collate, analyse and consolidate national assets and liabilities data into registers.

4.2.6. Establishment of assets and liabilities management standing committee

Critical issue

The assets and liabilities management structures currently in place at public sector entities are not adequate. Different officers play different roles in assets and liabilities management and such roles are disjointed and hence cannot ensure efficiency and effectiveness. For effective planning, acquisition, operation, maintenance and disposal of asset and liabilities there is need to develop a coordinated approach to assets and liabilities management at entity level.

Policy statement

Public sector entities shall establish, maintain and document adequate asset management structures, including a standing committee on assets and liabilities management. The committee shall comprise the head of accounting, head of finance, head of procurement and head of administration. The committee shall have a secretariat to coordinate its activities, preferably based in the finance/ accounting department. The responsibilities of the committee shall be the following, among others:

- a) Assess and ensure optimal asset levels of the entity as guided by National Treasury guidelines.
- b) Ensure compliance with this policy and the policy guidelines developed by the National Treasury.
- c) Institutionalise a *risk-based life-cycle* asset management approach.
- d) Prepare assets and liabilities register for each category of assets and liabilities.
- e) Develop consolidated assets and liabilities inventories for the entity.
- f) Submit the assets and liabilities registers and inventories to the Accounting Officer for signature and subsequent forwarding to the National Treasury.
- g) To ensure harmonized information on assets and liabilities provided to different oversight authorities and consistency of information included in an entity's financial statements.

4.2.7. Documents of ownership for assets

Critical issue

Some entities do not have documents of ownership for their assets. This is highlighted in audit reports, especially with respect to land, where entities do not have proof of ownership for their land, and motor vehicles, where entities do not have logbooks.

Policy statement

Accounting officers shall ensure that a public sector entity has documents of ownership for all its assets. Where an entity is a body corporate, the documents of ownership shall be in the name of the entity and shall be under the custody of the Accounting Officer. In all other instances, the documents of ownership shall be in the name of Cabinet Secretary to the National Treasury/County treasury and shall be under the custody of the National Treasury/County treasury. Entities will keep copies of their title documents.

The National Treasury will provide guidance on applicable documents of ownership for each category of assets.

4.2.8. Risk management

Critical issue

There is general lack of identification, documentation and allocation of risks associated with assets and liabilities in the public sector. Public sector entities do not have documented management frameworks on risk identification, assessment and reporting to facilitate focus of resources on risk management. Most state corporations have developed risk management frameworks but such frameworks may not be available in MDAs and counties. In the absence of documented guidelines and registers, mitigation measures have not been put in place. This could result in exposure to risks and ultimately, heavy losses to public sector entities.

Policy statements

- (1) National Treasury shall monitor implementation of risk management framework with respect to assets and liabilities.
- (2) Accounting officers shall identify, document and prepare risk registers as per guidelines issued by the National Treasury, including adequate mitigation strategies to address the risks identified.
- (3) Accounting officers shall submit entity risk registers/reports to the National Treasury on a regular basis.

4.2.9. Administration and management of assets

Critical issue

Public sector entities manage assets using different approaches to asset management. For harmony and standardization in management and accounting for assets, there is need for entities to adopt a common approach.

Policy statement

The public sector entities shall adopt the life-cycle approach of asset management which will include the following phases:

- a) Planning;
- b) Acquisition;
- c) Operation and maintenance; and
- d) Disposal.

4.2.9.1. Planning

Critical issues

Planning for assets in some public sector entities is characterized by inadequate integrated planning where plans are not coordinated with overall entity strategy and mandate. There are also instances of excess assets being held by entities and lack of critical assets for operations in some entities. In addition, there are cases of unplanned acquisition of assets and liabilities.

Policy statements

- (1) Planning for assets shall be linked to the broader strategic planning and medium term capital investment/acquisition plans, capital budgets, operating budgets and asset management plans of the public sector entity.
- (2) Assets must be planned for, budgeted for and approved.
- (3) Public sector entities shall hold only those assets that are necessary for the efficient, effective and economical delivery of their mandate and strategic objectives.

4.2.9.2. Acquisition

Critical issues

Based on audit reports of public sector entities, there are instances of acquisitions of assets outside procurement plans and budgets, overpricing of items as well as acquisitions that are not approved by the relevant officers. In other instances, acquisition is supply driven resulting in a mismatch between user needs and assets acquired.

In a number of cases, future operational costs on assets are not considered during acquisition and this leads to entities being unable to maintain assets acquired. Contingent liabilities have also not been taken into account when contracting for acquisition of assets, thus leading to heavy cash outflows in the future, for instances in public private partnerships.

In some cases, donated/gifted assets have been lost where developments are made on acquired assets before ownership has been transferred to public sector entities.

Policy statements

- (1) Assets acquisition shall be based on approved procurement plans and budgets. Any deviations from plans and budgets shall be approved by the Accounting Officer in accordance with existing laws and regulations.
- (2) Accounting Officers shall take into account corporate procurement arrangements negotiated by various government agencies in the acquisition of assets.
- (3) All asset acquisitions shall be based on the needs of the entity in view of its mandate and strategic objectives.
- (4) All donated assets must be approved by the Accounting Officer prior to acceptance.
- (5) The Accounting Officer must evaluate and document the future operational costs of all acquired assets and the effect they might have on future tariffs and taxes. Such costs shall especially be taken into account before a donated asset is accepted by a public sector entity.
- (6) No development or improvements can be made on assets before transfer of ownership is completed.
- (7) Before a decision is made to enter into a PPP, the public sector entity shall consult with the National Treasury for technical guidance and financial implications, especially with respect to potential contingent liabilities.

4.2.9.3. Operation and maintenance

Critical issues

Most public sector entities do not have asset maintenance plans. Some entities do not have robust asset identification/ tagging systems. In some instances, there are inadequate arrangements for the development, implementation and maintenance of security and internal controls over assets and liabilities. In this respect, there is lack of regular asset verifications, majority of assets are not insured and there have been reported losses of assets, and particularly, project assets.

Imprudent use of resources has been highlighted in public sector entity audit reports, for example, there are cases of idle assets being held by entities resulting from replacement of assets that are in good condition. Some public entities do not also have investment policies resulting in imprudent allocation of resources. Imprudent use of resources had resulted in cash flow challenges for some entities leading to their inability to fulfill their mandates.

In a number of cases, adequate asset records are not maintained. In particular, most entities do not have robust asset registers, where values of assets are not recorded. There is also lack of adequate information with respect to project assets. Most mainstream public sector entities do not have complete asset records due to the use of cash basis of accounting. In some instances, large balances are held in suspense accounts due to poor record keeping and lack of regular reviews and reconciliation of records.

Policy statements

- (1) Accounting Officers shall take responsibility for the control and utilisation of assets, monitor maintenance actions and budget for the operation and maintenance needs of each asset or category of assets under their control. All assets shall be properly maintained and in a manner which will ensure that such assets attain their useful lives.
- (2) The Accounting Officer shall develop and implement asset identification/ tagging system in accordance with guidance provided by the National Treasury.
- (3) The Accounting officer is responsible for ensuring that adequate arrangements are developed, implemented and maintained for the security and control of all assets within the public sector entity, both during and outside normal working hours.
- (4) The Accounting Officer shall be responsible for maintaining an accurate, current and complete register of assets under his or her control or possession as prescribed by the relevant laws and regulations.
- (5) The accounting officer shall prepare reconciliations of the amounts as per asset register and the amounts as per the general ledger. The variances shall be investigated and resolved.
- (6) Every Accounting Officer shall at least once during every financial year undertake a comprehensive verification and condition assessment of all fixed assets controlled or used by the public sector entity.
- (7) Initial valuation of assets for purposes of maintaining asset records shall be carried out either by management estimates or by the government valuer.
- (8) Insurance cover for the public sector entity assets shall be guided by risk exposure and cost-benefit criteria.
- (9) All project assets and liabilities should be reported to the National Treasury on quarterly and annual basis. The accounting officer is responsible for ensuring that all project assets are correctly identified, recorded and reported.
- (10) Accounting officers shall ensure that replacement of assets is based on useful life and condition.
- (11) An Accounting Officer shall ensure prudent management of assets so to ensure that the entity's resources are managed effectively and efficiently.
- (12) The Accounting Officer shall ensure optimal mix of assets, and, shall manage such assets in compliance with policy directives issued by the National Treasury.
- (13) Accounting officers shall ensure regular reconciliation of assets and liabilities records.
- (14) Accounting officers shall ensure that any unclaimed financial assets held in the suspense accounts and can no longer be applied to the original purpose intended are transferred to the Unclaimed Financial Assets Authority (UFAA).
- (15) Accounting officers shall monitor and evaluate asset performance, asset management and asset management systems against their respective objectives to ensure that they meet the intended service delivery objectives.

4.2.9.4. Disposal

Critical issues

There are many idle and unserviceable assets that have not been disposed of by public sector entities. In some cases, there have been haphazard disposal of assets and also instances where entities incur heavy costs during the sale of assets for example, where assets are not disposed of on "as is, where is" basis. In other instances, the useful life of assets is not considered in disposal and hence assets have been disposed of while they would still be useful to an entity for the achievement of its mandate. There is also conflict of interest in the disposal process where the entity has not obtained the best value for money, for assets disposed of.

Failure to dispose of assets leads to deterioration of assets and additional incidental costs being incurred as a result of holding assets, such as storage costs.

Policy statements

- (1) Accounting Officers shall provide an annual report on idle and unserviceable assets to the National Treasury.
- (2) An asset disposal plan shall be based on approved budgets which shall be integrated with entity strategic and operational plans.
- (3) Assets should be disposed of preferably, on “as is, where is” basis.
- (4) The public sector entity shall not dispose of an asset needed to provide the minimum level of entity services.
- (5) The disposal of an asset must be fair, equitable, transparent, competitive and consistent.
- (6) Land and buildings shall only be disposed of after approval by the National Treasury, in consultation with the National Land Commission and or the Ministry responsible for housing, as applicable.
- (7) Only the Cabinet Secretary to the Treasury, may approve an asset to be used as a donation from one public entity to another, and to private entities and individuals as provided for under Cabinet Secretary to the Treasury (Incorporation) Act chapter 101, Revised 2012
- (8) Transfers from public sector entities to private entities shall be in accordance with the contractual arrangements in place and applicable laws.
- (9) Accounting officers shall ensure all assets due for disposal are valued so as to determine a reserve price, based on guidelines issued by the National Treasury.

4.2.10. Administration and management of liabilities

Critical issues

Liabilities are acquired on incurrence of expenditure or acquisition of resources from third parties, when the resultant obligations remain unpaid. In the public sector obligations remain unpaid due to expenditure for unauthorised purposes, expenditure not included in budgets/ plans, poor prioritization of payments and, delays/ bureaucracies in payment processing. Delays in payment processing could also be due to execution of contracts/ agreements by invalid representatives of an entity. Liabilities could also arise from delays in submission of certificate of work done/ completion certificate, retention money held and delays in Exchequer releases.

Liabilities also arise due to lack of proper planning including lack of feasibility studies, poor project design, lack of cost-benefit analysis and failure to consider alternative funding. In addition, expenditure on multi-period projects that are not included in subsequent year budgets result in unavailability of funds to settle obligations and liquidity challenges at the end of a reporting period.

Additional liabilities are incurred by entity in instances of variation of contracts as well as shifts in the regulatory environment of an entity, relating to changes in laws and policies. This could also be due to failure to involve the Office of Attorney General and the National Treasury in negotiations and drawing contracts.

Lack of borrowing policies and weak implementation of existing policies at entity level to some entities also leads to outstanding obligations for an entity. In some instances, liabilities are due to poor governance/ mismanagement of public entities resulting in poor performing institutions. This causes unnecessary obligations on the part of the National Treasury to fund any liabilities of the institutions to third parties.

In a number of cases, adequate liability records are not maintained. In particular, some entities do not have robust liability registers, where values of liabilities are not recorded. Most mainstream public sector entities do not have complete liability records due to the use of cash basis of accounting.

Liability management in the public sector is characterized by lack of identification of contingent liabilities and lack of professional valuation of liabilities e.g. pensions and contingent liabilities.

The current legal provisions do not adequately guide entities on the treatment of provisions/ depreciation against the backdrop of budget accounting and the need for fund balances to be submitted back to the exchequer.

Policy statements

- (1) Accounting Officers shall ensure that the expenditure is for authorised official purposes and for the proper provision of goods and/or services in accordance with approved public sector entity budgets, plans, goals and objectives.
- (2) Expenditure relating to multi-period projects shall be factored in annual budgets.
- (3) Accounting Officers shall ensure that all contingent liabilities relating to the entity are identified, quantified and disclosed in the financial statements.
- (4) Accounting Officers shall prepare realistic cash flow projections to ensure that expenditure is paid for as and when incurred.
- (5) Accounting Officers shall put in place proper transitional arrangements in instances of policy and legal shifts to ensure incurrence of minimal liabilities.
- (6) Accounting Officers shall ensure that the Office of the Attorney General and the National Treasury are involved in negotiations and drawing of financial contracts, as guided from National Treasury.
- (7) Borrowing by public sector entities shall be in accordance with entity debt policy aligned with National Treasury policy and guidelines.
- (8) The National Treasury and Performance Contracting Unit under the Office of the President shall develop guidelines to ensure that Accounting Officers of public entities are held to account for the performance of their entities in respect of assets and liabilities management.
- (9) Accounting officers shall ensure that due diligence is undertaken before committing the entity to any project that could result in liabilities being incurred. The officers shall ensure proper planning of liabilities including feasibility studies, project design, cost-benefit analysis and alternative funding.
- (10) Accounting officers shall at all times ensure that proper records of all known liabilities/ contingent liabilities are kept.

4.3. Accounting for assets and liabilities

4.3.1. Proper accounting records not maintained

Critical issue

Proper accounting records are not maintained for prudent management of assets and liabilities. Some laws, such as the State Corporations Act, Cap 446, require public sector entities to set aside a cash reserve for the depreciation charge for each year to serve as a replacement fund. The treatment of provisions, depreciation and accumulated reserves is thus not clear.

Policy statements

- (1) The Accounting Officer shall ensure that proper accounting records are kept of all assets and liabilities held by the public sector entity, including unclaimed assets.
- (2) National treasury shall provide guidance on the treatment of provisions, depreciation, accumulated reserves and any other non-cash backed balance sheet items.

4.3.2. Use of different basis of accounting

Critical issue

Some entities in the public sector use cash basis of accounting for purposes of financial recording and reporting using while others use accrual basis of accounting.

Policy statements

- (1) PSASB shall prescribe the accrual basis of accounting as a standardized basis of accounting for all public sector entities.
- (2) National Treasury shall implement the basis of accounting prescribed by the Board.

4.4. Resource requirements for assets and liabilities management

Critical issue

Public sector entities may currently not have designated staff dealing with assets and liabilities management. The staff may also not have the requisite qualifications and experience in relation to assets and liabilities management. In addition, entities may not have the necessary resources to value the assets and liabilities under their custody.

Policy statement

Public sector entities shall leverage on existing resources in the public sector:

- Public sector entities shall utilize the staff already available in the public service.
- Accounting officers shall ensure that all relevant staff are sensitized and trained on this policy. National Treasury shall organize for regular training for staff involved in assets and liabilities management.
- Valuation of assets and liabilities shall be conducted by valuers in the relevant government ministries and agencies.

4.5. Compliance with this policy

- (1) Accounting officers shall ensure compliance with this policy including sensitization and training of officers on the policy.
- (2) Accounting officers shall monitor compliance of the entity with the policy and submit appropriate reports to the National Treasury.

5. POLICY MONITORING, EVALUATION, REPORTING AND REVIEW

For the National Treasury to effectively track and monitor the implementation of this policy, the following monitoring, evaluation and reporting framework will apply:

5.1. Monitoring

- (1) The Accounting Officer of every public sector entities is responsible for monitoring assets and liabilities management at the entity level in accordance with this policy. The Accounting Officer shall also ensure harmonization of entity assets and liabilities management policies with this policy in the next two years.
- (2) National Treasury is responsible for oversight of the implementation of this policy and for ensuring that its provisions are adhered to and applied consistently across all public sector entities. Compliance and monitoring will be assessed through quarterly reviews of reports submitted by public sector entities, field verification visits, optimal utilization tools used by entities, review of assets, liabilities and risk registers prepared by entities and regular analytics of information provided. In this respect, the Treasury will facilitate continuous capacity building and training of accounting officers and their staff on the requirements of this policy.
- (3) NALM will provide guidance on unique requirements, in exceptional circumstances due to nature of operations, unable to comply with the policy
- (4) The Internal Audit department will provide assurance on compliance of public sector entities with this policy and raise any concerns on assets and liabilities management.
- (5) The National Treasury will be responsible for ensuring continuous improvement in assets and liabilities management in the public sector.

5.2. Evaluation

The National Treasury will evaluate the implementation plan of this policy and report on the progress of its implementation to the Cabinet annually. The annual reports will evaluate the completeness and existence of asset and liability registers submitted by public entities as well as accuracy of values attached to specific assets and liabilities. Through the consolidation process, assets and liabilities relating to public entities will be reconciled to ensure authenticity of amounts recorded by various entities.

Annual additions of assets will be reviewed to ensure that value for money has been achieved in acquisitions. The National Treasury will undertake a baseline survey on assets and liabilities management and subsequently develop a detailed monitoring and evaluation framework with the relevant indicators to be tracked and impact evaluations.

5.3. Reporting obligations

- (1) The accounting officer shall ensure that quarterly and annual assets and liabilities reports, including assets and liabilities registers, risk registers and optimal utilization reports, are submitted to the National Treasury in the prescribed formats for review and consolidation.
- (2) The Accounting officer is responsible for submitting copies of entity harmonized policies and guidelines to National Treasury for concurrence.
- (3) National Treasury shall prepare an annual assets and liabilities status report for the national government and report to the Parliament of Kenya.
- (4) County Treasuries shall prepare an annual assets and liabilities status report for the county government and report to the County assembly.
- (5) Auditor General Office will conduct independent review to ensure policy compliance in the public sector.

5.4. Review of the policy

- (1) This policy will be reviewed from time to time to take cognizance of:
 - a) changes in policy, legislation and regulatory environment;
 - b) change in applicable accounting frameworks; and/or
 - c) trends in international good practice on assets and liabilities management.

(2) The Cabinet Secretary to the Treasury and Planning will be responsible for updating this policy.

5.5 Effective Date

This Policy will become effective on.....

DRAFT POLICY