

Kenya Roads Board (General) Rules, 2021

Legal Notice No.

THE KENYA ROADS BOARD ACT
(No. 4 of 1999)
THE KENYA ROADS BOARD (GENERAL) RULES, 2021
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THE KENYA ROADS BOARD ACT
(No. 7 of 1999)

IN EXERCISE of the powers conferred under section 37 of the Kenya Roads Board Act, 1999 the Board, with the approval of the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works makes the following Rules —

THE KENYA ROADS BOARD (GENERAL) RULES, 2021

PART 1— PRELIMINARY

Citation **1.** These Rules may be cited as the Kenya Roads Board (General) Rules,

Interpretation. **2.** In these Rules, unless the context otherwise requires—

“Act” means the Kenya Roads Board Act ,1999

No. 7 of 1999;
No. 18 of 2012; “Accounting Officer” has the meaning assigned to it by Section 2 of the Public Finance Management Act, 2012

“Board” means the Kenya Roads Board as established under Section 4 of the Act;

“Board of Directors” means the Board established under section 7 of the Act;

“Cabinet Secretary” means the Cabinet Secretary for the time responsible for matters related to roads;

“Contract” means the contract for supply of goods or works or services under discussion;

“Fund” means the Kenya Roads Board Fund established by Section 31 of the Act;

“Inspector” means such person duly appointed by the Director General by gazette notice whether public officer or otherwise, whether by name or title of office to be Inspector in accordance with provisions of Section 26 of the Act, and to perform such functions as specified in sections 27 and 28 of the Act.

“Monitoring” means examining and verifying that the road works are being executed in accordance with the standards set by the Cabinet Secretary under relevant Act of Parliament and these Rules;

“Periodic Maintenance” means all the maintenance works carried out in a periodic cycle of five to ten years. Typical activities include resealing or re-carpeting of paved roads, overlays of less than 100mm, fog sprays and shoulder reforming but do not include pavement layer reconstruction or the addition of a pavement layer do not constitute periodic maintenance;

“Road Agency” means any organisation or body specified in the first Schedule to the Act and includes all bodies receiving monies from the Board for the purposes for which the Board is established and includes County Governments ;

"Roadside development" means a physical structure or facility on land within or adjoining a road reserve;

“Road Maintenance Levy Fund” means the Fund established by Section 7 of the Road Maintenance Levy

Fund Act, 1993;

No. 9 of 1993

“Road Maintenance” means the preservation of roadways, roadsides and structures as nearly as possible to their original condition or as subsequently improved and the operation of road facilities and services to provide satisfactory and safe transportation.

“Road Network” means the road network in Kenya, whether classified or unclassified, of regional or local importance, public or private, adopted or unadopted, or otherwise howsoever described;

“Routine Maintenance” means all maintenance works required continuously or at interval on every road whatever its engineering characteristics or traffic volume, and comprises activities such as grass cutting, drain cleaning, culvert and bridge cleaning and maintenance, road furniture and bridge guard rails maintenance, paved road patching, edge repair, crack sealing, and line marking, and also unpaved road grading, shaping and pothole repair.

Application

3. These Rules shall apply to —

(a) all road agencies responsible for national trunk roads that receive financing from the Board and shall cover all goods, works and services funded by the Fund;

(b) the roads departments responsible for county roads networks;

(c) the roads department of Kenya Wildlife Services responsible for roads within national parks and game reserves; and

(d) the Classified and Unclassified roads receiving funds from the Fund.

Object and Purpose of these Rules.

4. The object and purpose of these Rules is to —

No. 9 of 1993.

- (a) facilitate oversight of the road network and coordination of road maintenance, rehabilitation and development.
- (b) provide means of administering the powers vested on the Director General, Kenya Roads Board under the Road Maintenance Levy Fund Act, Kenya Roads Board Act, the Public Finance Management Act and any other related legislation;
- (c) ensure accountability, efficiency, transparency and effective application and utilization of the Road Maintenance Levy Fund; and
- (d) provide for procedures for compiling of road works programmes to the Road agencies;
- (e) provide a list of documents required for records management and reporting for effective monitoring and evaluation of road agencies;

Duty of Board to provide information to Road Agencies on disbursements.

5. The Board shall —

- (a) one year before the beginning of the financial year, inform the Road Agencies of the funds likely to be available for road maintenance, rehabilitation and development;
- (b) inform all Road Agencies the priorities in the funds allocation and criteria to be applied in making the allocations;
- (c) at the beginning of each financial year, develop a disbursement programme, by way of a cash flow projection for one year and allocations to every Road Agency;
- (d) after every three months, release monies as provided for under Rule 5(1) (a), or in such manner as may be provided under the Act or these Rules.

6. (1) A Road Agency or a County Government may at any time apply to the Board to consider any works or programme to be funded under the Fund.
- (2) Where the Board having considered the application has reason to believe that any works programme that does not comply with the requirements of the Act or these Rules, the Board

—

- (a) may reject the application; and
- (b) shall communicate its decision to the applicant in writing, citing the grounds for rejection.

PART II- ANNUAL PUBLIC ROADS PROGRAMME

Submission of Annual Roads Programme and Prioritization of Works.

7. (1) Every Road Agency shall, not later than six months before the commencement of every financial year, submit the Annual Road Works Programme in the manner set out in the Second Schedule.
- (2) An Annual Road Works Programme under this Rule shall contain —
- (a) the Financial year to which the Annual Road Works Programme relates;
 - (b) the Road Agency's identity or the county name as the case may be;
 - (c) the locality of the road to which the programme relates;
 - (d) the road identity including name and number, and section name;
 - (e) the section length;
 - (f) the type of intervention or description of the works;
 - (g) an estimated budget costs for the current and the next three years;
 - (h) the current condition; and
 - (i) surface type of the road.
- (2) The Board shall upon receiving all the Annual Road Works Programme by the end of the stipulated time period ,keep a register which shall contain the Works programmes received.
- (3) Every Road Agency shall provide adequate budget for multi-year projects spread over the contract period.
- (4) Every Road Agency shall, in coming up with Annual Road Works Programme and implementation of works, apply the cost estimation manual published by the Board from time to time.

(5) A Road Agency shall, in developing the Annual Road Works Programme —

(a) comply with the budget ceilings issued in accordance with Rule 5;

(b) conduct Annual Roads Inventory Condition Survey, to determine the maintainable portion of the road network and submit the data to the Board in the form set out in the third Schedule.

(c) hold stakeholder meetings for prioritization of road works and submit minutes of the meetings to the Board;

(d) ensure it is within the approved five -year Road Sector Investment Programme;

(e) ensure the order of prioritization of road works follows the sequence of routine maintenance, spot improvement, periodic maintenance and rehabilitation; and

(f) ensure at least twenty percent of the road works are carried out through use of local labour-based methods.

(6) The Board shall upon receipt of the Annual Roadworks Programme from a Road Agency, review the programme to ensure compliance with requirements provided under these Rules.

(7) Any Annual Roads Works Programme that does not comply with these Rules shall be rejected by the Board and communicated to the Road Agency within 3 days of the decision to reject such Annual Road Works Programme.

(8) A Road Agency may ,where an Annual Road Works Programme has been rejected pursuant to these Rules, within thirty days of receiving the decision of the Board in writing, and in any event not later than the 31st day of December of the Calendar year, whichever is earlier ,review and resubmit the Annual Road Works Programme to the Board.

(9) The Board shall upon receiving all the Annual Roads Work Programmes , consolidate the programmes into the Annual Public Roads Programme by February of each calendar year.

(10) The Board shall not later than the thirtieth day of April each year, submitted to the Cabinet Secretary and the National Treasury the Annual Road Works Programme for approval.

(11) The Board shall publish, publicize and disseminate Annual Road Works Programme.

(12) Every Road Agency shall, in prioritization of road works, adhere to the requirements of the “Annual Roads Work Programme Planning and Reporting Manual” published by the Board from time to time.

Road Inventory and Condition Survey.

8. (1) Every Road Agency shall submit to the Board an updated Road Inventory and Condition Survey for the road network under its jurisdiction not later 30th day of September of each year which shall be in a form set out in the second schedule.

(2) A Road inventory and Condition Survey submitted under this Rule shall form the basis for a roads maintenance needs assessment for prioritization under Rule 7.

Revision of Annual Public Roads Programme.

9. (1) A Road Agency shall, having submitted their programme, not vary the Annual Road Works Programme without written approval of the Board.

(2) Where a Road Agency requires to revise its Annual Road Works Programme, the agency shall do so in accordance with Rule 6 of these Rules and in any event not later than 31st day of January.

(3) Any person, being an officer of an agency, who without approval of the Board attempts to vary or varies any Implementation of works which is not included in the Annual Road Works Programme, commits an offence and shall be liable on conviction to the penalties specified under Part VII of the Public Finance Management Act 2012 or Part XVI of the Public Procurement and Asset Disposal Act 2015.

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No. 33 of 2015.

PART III – FINANCIAL PROVISIONS AND ADMINISTRATION

Duties of Road Agencies.

10. Notwithstanding any obligation imposed on a Road Agency under these Rules, a Road Agency shall, for the purposes of utilising funds received from the Fund –

- (a) maintain, rehabilitate and develop the categories of roads within its mandate;
- (b) utilise disbursed funds to implement the approved Annual Road Works Programme;
- (c) put in place and implement quality control and quality assurance systems;

- (d) supervise and monitor road works within their area of jurisdiction

Duties of County Governments

11. The Chief Executive Officer in charge of Roads in a County, a Chief Officer in a County or such other authorised officer shall, for the purposes of utilising funds received from the Fund —

- (a) approve County roads work plans;
- (b) provide public notices for purposes of traffic management during the works implementation;
- (c) ensure the final inspection and issuance of defect liability certificates upon completion of designated works under the works programme;
- (d) ensure that illegal structures are cleared out of the road reserve and encroachment has stopped;
- (e) ensure assessment of property within the right of way and compensation to owners where necessary is paid or duly discharged before commencement of any designated works under the works programme provided that such compensation shall not be paid out of the funds allocated for works programme
- (f) not in any way alter the agreed works programme without prior consent of the Board
- (g) furnish the Board with such reports as may be required for the review of the works programme. Following such review, the County shall promptly and diligently in order to take, or assist the Board in taking any corrective action deemed necessary to remedy any shortcoming noted in the implementation of the works programme or to implement or assist the Board in implementing such other measures as may be necessary for the furtherance of the objectives of the works programme
- (h) at the request of the Board exchange views with regard to the progress of the works, programme, the performance of its obligations and other matters relating to the objectives of the works programme
- (i) promptly inform the Board of any condition which interferes or threatens to interfere with the progress of the works programme or the performance of its obligations
- (j) maintain or cause to be maintained, separate records and accounts in accordance with sound accounting practices
- (k) retain all records (contract, orders, invoices, bills,

receipts and other documents) as evidencing expenditures and enable and assist the Board to examine such records.

(l) cause to be opened and operated a separate bank account for the Funds disbursed by the Board to be known as the

“ Name of County-Road Maintenance Levy Fund”

(m) not to use or permit to be used, the Road Maintenance Levy Fund account aforementioned as security or otherwise for borrowing of any funds or engaging in any activity not directly associated with the works programme;

(n) carry out the works programme with due diligence, safety, efficiency, be cost conscious in order to get value for money and in an environmentally friendly manner, and in conformity with appropriate administrative and financial practices; and

(o) ensure compliance with the conditions of utilization of the Fund issued by the National Treasury from time to time.

- Opening of Bank Accounts.
12. (1) Each Road Agency shall cause to be opened a bank account for the funds disbursed from the Fund to be known as ‘Name of Agency -Road Maintenance Levy Fund’.
- (2) The Board shall suspend funding to a Road Agency that fails to open a Bank account as stipulated in Rules 10 and 11 , until the said Road Agency complies.
- (3) All bank accounts shall be opened, operated and closed in accordance with Section 28(1) of the Public Finance Management Act, 2012 and its applicable Rules.

- Deposits into the Bank Account.
13. (1) All receipts from the Fund shall be deposited into the Road Agency’s Road Maintenance Levy Fund Bank Account.

(2) A Road Maintenance Levy Bank Account shall not be a fixed deposit account and neither shall funds held in a Road Maintenance Levy bank account be held in a fixed deposit account.

- Payments from the Bank Account.
14. (1) All Road Agencies shall make payments related to the Road Works Programmes approved in accordance with Rule 6 from their respective Road Maintenance Levy Fund bank account.

(2) Payments may be done either by instructions or electronic fund transfer in accordance with the Public Finance

Management Act, 2012 and its Regulations.

Signatories to the Bank Account.

15. (1) The accounting officer of a Road Agency for matters related to roads shall be a mandatory signatory to all electronic payments and fund transfers.

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(2) The accounting officer in charge of the Road Agency shall designate other signatories and any changes in signatories in accordance with the Public Finance Management Act 2012 and its Regulations.

Budget Ceilings.

16. (1) The Board shall on or before the 1st day of July of the financial year preceding the year to which the budgetary ceilings relate, issue to the Road Agencies budgetary ceilings for the following financial year.

(2) Allocations to County Governments shall be based on County Allocation of Revenue Act of the financial year to which it relates.

Disbursement programme.

17. (1) Every Road Agency shall within three months before the beginning of the financial year submit to the Board an annual expenditure projection for every three months in the financial year.

(2) The Board shall indicate to Road Agencies at the beginning of each financial year, cash flows for every three months.

(3) The Board shall monitor receipt of funds from Road Maintenance Levy Fund and allocate each tranche to the respective Road Agency in accordance with the Rule 16 (2).

Release of Funds and Withholding of Funds.

18. (1) The Board shall release funds to Road Agencies who have complied with the provisions of these Rules provided that the Road Agency has utilised at least seventy percent of the funds allocated in the previous financial year.

(2) The Board shall withhold the release of funds to Road Agencies who have not complied with these Rules until such a time compliance is achieved.

(3) The Board shall issue ninety days notice to any Road Agency that consistently fails to comply with these Rules of its intention to appoint another Road Agency to implement its annual Roads Work programme.

(4) Upon the expiry of the notice issued under Rule 18(3), the Board shall appoint a Road Agency to implement annual Roads Work programme and release all the funds withheld.

(5) Any Road Agency which is aggrieved by any decision under this Rule may appeal to the Cabinet Secretary for a review of the decision.

Partial Release of Funds.

19. Where the Annual Road Works Programme for a Road Agency has not been approved at the beginning of a financial year, the Board may release on account, of not more than thirty percent of the funds allocated to the Road Agency for the year to which it relates.

Utilization of the Fund.

20. Any funds received by a Road Agency from the Board shall only be used for road development, rehabilitation and maintenance as approved in the Annual Public Roads Programme.

Administrative Expenses.

21. (1) A Road Agencies shall not exceed the overheads and administrative expenses thresholds specified in section 6 (2) (1) of the Act.

(2) A person who utilizes any Administrative expenses in any manner in contravention to the provisions of Rule 20 commits an offence and shall be liable, on conviction to the penalties specified under Part VII of the Public Finance Management Act 2012 or Part XVI of the Public Procurement and Asset Disposal Act 2015.

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Expenditure Limit.

22. (1) Any expenditure incurred by a Road Agency or County Government on budgeted line items shall be limited to the amount approved in the budget.

(2) Where there are compelling reasons to exceed the budgeted amount in a specific budget line, the Board may upon request or application by a Road Agency, approve such excess after being satisfied that there are compelling reasons for the same.

(3) Any excess approved under Rule 22 (2) shall be covered by a corresponding saving within the same expenditure category such that the overall ceiling for that category is not exceeded.

Reallocation of funds for works

23. A Road Agency shall not use the amount earmarked for road works in a particular project towards payment of overheads whether relating to that or any other project.

Authority to incur expenditures.

24. (1) No person other than the accounting officer to whom the "Authority to Incur Expenditure" has been issued, in whatever form, shall commit or incur expenditure against that Road Agency.

(2) A person authorised to incur expenditure may with the approval of the authority delegate the responsibility to an officer of the Authority to

commit or incur expenses.

Fixed Assets Register.

25. (1) Every Road Agency shall maintain a Fixed Assets Register relating to the Fund wherein various details of fixed assets will be recorded.

(2) The Fixed Assets Register shall contain the following details:

(a) the description and type of asset.

(b) the cost of the asset, supplier and date of acquisition.

(c) the serial numbers, title documents of the asset and provision for licenses where applicable.

(d) rates of depreciation;

(e) accumulated depreciation up to close of financial year;

(f) written down value as at the end of the financial year;

(g) Value of the asset, as per the last valuation;

(h) date of disposal and the net realizable values;

(i) profit or loss on disposal;

(j) the exact location of the asset; and,

(k) identification numbers of the assets, to be coded on the basis of category, and location of the assets.

Savings and Earnings.

26. (1) Where a Road Agency realises savings and or interest earnings from the work program and operations, the funds shall be declared and utilized for the purposes for which the Fund was intended.

(2) Every Road Agency shall submit a work plan for the savings and interest earnings to the Board before spending.

(3) Any member or officer of a Road Agency that fails to declare or seek approval for the expenditure of savings and earnings in accordance with the Act and these Rules commits an offence and shall be liable, on conviction, to the penalties prescribed under Part VII of the Public Finance Management Act, 2012 and Part XVI of the Public Procurement and Asset Disposal Act, 2015.

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Carry over funds.

27. (1) At the end of each financial year and not later than sixty calendar days from the end of the financial year, every Road Agencies shall submit to the Board bank balances and corresponding road works for which the funds were to be utilized.

(2) The carry over funds and associated road works shall be included in the Annual Road Works Programme for the following financial year.

Funds not to be applied as security for borrowing.

28. A Road Agency shall not apply, or permit to be applied, the funds in the Agency's Road Maintenance Levy Fund Account as security or otherwise for borrowing of any funds and engaging in any activity not associated with the approved works programme.

Maintenance of Cash Books.

29. (1) All Road Agencies shall maintain a cash book for the Kenya Road Board Fund Account to be written and balanced daily and the cash in hand verified by the officer in charge of the cash book.

(2) All monies received shall be recorded serially in the cash book with adequate details of the transaction.

(3) The Road Agencies shall maintain registers and records of bank accounts, cash books and impress in accordance with the Public Finance Management Act 2012 and its pursuant Regulations.

Cash Book.

30. (1) The Cash Book shall be checked on a daily basis by a senior accounts officer of the Road Agency who shall sign the cash book at the last entry examined to signify that he has satisfied himself as to the correctness of all entries made since the last signature.

(2)The cash book balance shall be reconciled with the

bank balance at the end of every month.

Account not to be
overdrawn.

31. The Road Agencies Road Maintenance Levy Fund Bank Account shall not be overdrawn.

Payment vouchers,
adjustment journals,
banking and issuance of
receipts.

32. (1) All receipts of monies from the Board shall be acknowledged promptly on an authorized pre-numbered receipt, which shall be signed, stamped and dated.

(2) All payment vouchers, adjustment journals and receipts shall comply with the provisions of the Public Finance Management Act 2012 and its regulations.

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Financial Records and
automation of financial
operations.

33. The Board and every agency or County authority shall keep Financial records may be maintain the records in manual or electronic form and shall be kept in accordance with the Public Finance Management Act 2012 and its Regulations

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Annual Reports and
Financial Statements.

34. (1) The accounting officer shall prepare annual reports and financial statements with respect to the Road Maintenance Levy Fund account in compliance with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time.

(2) A financial statement prepared by road agencies in subrule (1) shall report on transactions in respect of the Road Maintenance Levy Fund with specific reference to funds received from the Board.

Books of Account

35. All accounting documents whether manual or electronic shall be under strict control at all times and they shall include —

- (a) local purchase order;
- (b) local service order
- (c) authority to incur expenditure;
- (d) cheques;
- (e) cash receipt and payment books; and
- (f) the impress warrants.

Accounts and records to be kept and preserved.

36. (1) Every Road agency shall maintain detailed accounts and records which shall include —

- (a) cashbook, bank statements and bank reconciliations;
- (b) payment vouchers
- (c) ledgers;
- (d) fixed assets register;
- (e) quarterly and annual reports and financial statements and non – financial reports;
- (f) quarterly Annual Road Works Programme Progress reports;
- (g) Approved Annual Road Works Programme
- (h) Procurement documents, Local Service Orders, Local Purchase Orders, and contract;
- (i) Inspection and verification reports; and
- (j) Measurements sheets.

(2) Accountable documents, books and records shall be preserved in accordance with the provisions of the Public Finance and Management Act 2012 and Regulations made thereunder.

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(3) The books of accounts kept and maintained under this Rule shall be made available to the Board for review.

(4) The Board shall suspend disbursement of funds to a Road Agency which contravenes the provisions of these Rules.

Sanctions and Penalties

37. (1) The Board may where it receives a complaint from any person or where it has reason to believe that an Agency has failed to adhere to any provisions of the Act or these Rules, declare the Agency to be non-compliant.

(2) Where a Road Agency is non-compliant, the Board may -

(a) suspend funding to the Road Agency;

(b) appoint another Road Agency, and release funds allocated for works by the non-compliant Road Agency, to the newly appointed Agency

(c) institute measures to recover any amounts misappropriated by a public officer.

(3) Any member of the public may lodge a complaint of allegation of misappropriation of funds with the Board against any Road Agency.

(4) Without prejudice to subrule (3) the Board may, where it is satisfied of the complaint against misuse of funds allocated for any road work, conduct a special investigation for the purposes of determining the veracity of the complaint or allegation.

(5) Notwithstanding subrule (3) the Board may on its own motion conduct a special investigation where it has reason to believe that there is misappropriation of funds by a Road Agency.

PART IV –PROJECT MANAGEMENT AND REPORTING

Efficient and Effective
delivery of road works.

38. (1) Every Road Agency shall ensure compliance with design and supervision standards for road works issued by the Cabinet Secretary from time to time.

(2) Each Road Agency shall establish and implement quality management systems for delivery of road works including materials testing and supervision.

(3) Each Road Agency shall ensure that any planned work is executed within time, cost, set standards and specifications.

(4) Goods, works, and services shall be procured in a manner that promotes economy, efficiency, effectiveness and equity and in accordance with the Public Procurement and Asset Disposal Act, 2015.

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Supervision of Works.

39. (1) Road works shall be supervised in accordance with supervision standards for road works issued by the Cabinet Secretary from time to time.

(2) Road Agencies shall maintain project supervision records which shall be made available to the Board as and when required.

Site Safety.

40. (1) Road Agencies shall plan for road safety activities and establish and implement safety management plans for road works.

(2) Road Agencies shall maintain road works safety records and the same shall be made available to the Board upon request.

Environment.

41. (1) Each Road Agencies shall develop and implement Environmental and Social Management Plan for maintenance projects.

(2) The Board may cause Environmental and Social Management Plans developed under Regulation 41(1) to be clustered at regional levels for efficiency and economy.

(3) Each Road Agencies shall prepare and implement

Immediate Interventions

safety and environmental management plans for road works before commencement of works.

42. (1) Where a Road Agency considers that a section of the road under its jurisdiction requires an immediate intervention works, the Road Agency may request approval from the Board to undertake such works.

(2) The Board shall establish and cause to be followed transparent and objective procedures to access and account for immediate interventions.

Contracts Format.

43. (1) All contracts for goods, works and services funded by the Fund shall be in writing

(2) Contracts entered into by Road Agencies for road works, goods and services shall specify *inter alia*, the following

(a) Parties to the contract;

(b) Contract price and period;

(c) Scope of works, bills of quantities, drawings and specifications

(d) Conditions of contract as prescribed by Public Procurement Regulatory Authority.

(3) Any payments by Road Agencies for contracts which do not comply with the above shall be considered ineligible expenditure and shall be recoverable from the authorizing officer.

(4) A Public Officers who authorizes ineligible expenditure shall be subject to sanctions under Part VII of the Public Finance Management Act, 2012 and Part XVI of the Public Procurement and Asset Disposal Act, 2015.

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Contract project file

44. (1) Each Road Agency shall keep and maintain a contract file.

(2) The contract file in subrule (1) shall contain the following –

(a) copies of procurement plan;

(b) site photographs;

(c) site instructions;

(d) minutes of meetings;

(e) a copy of the contract agreement;

(f) payment certificates;

- (g) record of force account;
- (h) any other relevant correspondences for inspection and audit.

45. (1) Road Agencies shall submit to the Board copies of all signed contract documents for road works including all Variation Orders when they occur not later than two (2) weeks after project completion.

(2) Road Agencies shall 30 days from the end of every quarter submit reports of all works and projects implemented in the preceding quarter.

(3) The Reports must be approved by the Director General of the Road Agency before submission

(4) Subject to the provisions of the Act and these Rules, Road Agencies shall report in a format provided for under the Third Schedule.

(5) The Board shall not release any funds to a Road Agency that fails to submit reports stipulated under Rule

PART V – MONITORING AND EVALUATION

Technical Compliance,
Financial and
Performance Audits

46. (1) The Board shall conduct technical, financial and performance audits of all works, goods and services funded by the Fund.

(2) The Board may conduct a special or ad hoc technical, financial and performance audits from time to time.

(3)The audits shall be conducted by an Inspector.

(4) The Board shall issue two weeks notice prior to the intended audit to inform Road Agencies of the intended audits except where a special or ad hoc audit is ordered under Rule 46 (2).

(5) The notice shall spell out the audit scope, objectives, basis, information required, audit checklist and audit program.

(6) There shall be entry and exit meetings between the Inspector and Road Agencies and the minutes of these meetings shall be signed off by both parties.

(7) The Road Agencies and County Governments shall provide conducive work area with easy access to all records, books and reports as may be required by the Inspectors.

(8) Road Agencies shall avail such officers as may be required to accompany the Inspectors for field visits.

(9) An Inspector may call off or postpone an audit in the following circumstances;

- (a) Failure to provide a conducive work area;
- (b) Failure to avail documents and information;
- (c) Failure to provide such officers as may be required for field visits;
- (d) Physical threats;
- (e) Insecurity;
- (f) Absent auditee.

(10) In the event of suspension or calling off an audit in subrule (9) the Inspector shall prepare and submit report within 7 days to inform the Director General.

Duty to avail documents and information to the Inspector.

47. (1) Each Road Agency shall make available to the Inspector the following information -

- (a) books;
- (b) accounts;
- (c) records and other documents;
- (d) correspondence;
- (e) statements and records relating to goods; works and services financed by the Fund; and
- (f) any other information as determined by the Board and as may be required by the Inspector

Provided that –

- (i) the books, accounts, records and other documents shall not, in the course of the audit, be removed from the premises at which they are produced;
- (ii) the Inspector may make copies of any books, accounts, records and other documents required for purposes of its report; and
- (iii) all information obtained in the course of the audits shall be confidential and used solely for the purposes of the Act and these Rules.

(2) Where a special audit is ordered, the Road Agency shall avail information in subrule (1) within seventy two hours of request of the Inspector.

Penalties for Failure to Comply

(3) The Inspector shall within thirty days of commencing an audit issue an audit report.

(4) Any clarifications sought shall be availed to the Inspector within fourteen days.

48. (1) Where an inspection report under Rule 47 is filed with the Board, the Board shall notify Road Agencies which fail to comply with the Inspector's request or hinders an Inspector from carrying out audits or gives false information after expiry of allowed period.

(2) A person being an authorised member of a Road Agency who fails to comply with the Inspector's request or hinders an Inspector from carrying out audits or gives false information commits an offence and shall be liable on conviction to the penalties specified under the Public Finance Management Act, 2012.

No. 18 of 2012

(3) The Board may, in addition to the remedies provided for under Subrule (2), suspend funding to the Road Agency.

49. (1) Each Road Agency shall submit to the Director General written responses to audit reports and queries within thirty days from the date of receipt of the reports.

(2) Upon expiry of the thirty days, the Director General shall conclude the audit report and submit it to the Board.

Implementation of Audit report and Recommendations

50. (1) Each Road Agency shall submit an action plan within thirty days, stipulating the time frame for addressing the recommendations in the audit reports issued under Rule 47, which shall be reviewed by the Director General.

(2) Failure to implement an action plan shall amount to non-compliance under Rule 39.

PART VI – MISCELLANEOUS

Register of Complaints.

51. (1) A person, public agency and or stakeholder aggrieved by any decision of a Road Agency may lodge a complaint to the Director General which shall be entered in a register of complaints established and maintained by the Director General.

(2) The complainant shall attach or provide any documents necessary to support the complaint.

(3) Notwithstanding the foregoing, a complaint may be made anonymously or treated in such a manner as to protect the identity of, or particulars of the complainant where necessary, as may be directed by the Director General.

Procedure for handling a complaint.

52. The Board shall within fourteen days of receipt of a complaint in Rule 51 notify the relevant Road Agency and request to respond within thirty days from the date of such notice with a report of action taken to address complaints filed under Rule 51

Investigations

53. (1) Notwithstanding, the provisions of Rule 51 and 52, the Board may where it deems necessary institute investigations into a complaint received under Rule 51 (1).

(2) Where an investigation is instituted under subrule 1, the Road Agency shall provide all books and records, required by the Board.

(3) The Director General shall send a report of the investigation to the Road Agency.

(4) The Road Agency shall implement the recommendations of the report as directed.

(5) Any Road Agency that fails to implement recommendations of the investigation report, shall be liable to penalties as prescribed in Rule 37.

(6) A Road Agency aggrieved by the decision of the Director General shall appeal to the Cabinet Secretary.

Forms

54. The Board may from time to time determine any other forms for the better carrying out of the provisions of the Act and these Rules in accordance with Section 26 of the Statutory Instruments Act, 2013.

No. 23 of 2013.

**FIRST SCHEDULE
DESIGNATED ROAD AGENCIES**

S/No.	AGENCY	Designation
1.	Kenya National Highways Authority (KeNHA)	Management, development, rehabilitation and maintenance of Classes S, A and B roads (referred to as Primary National Trunk Roads)
2.	Kenya Rural Roads Authority (KeRRA)	Management, development, rehabilitation and maintenance of Secondary National Trunk Roads Classes C
3.	Kenya Urban Roads Authority (KURA)	Management, development, rehabilitation and maintenance of Secondary National Trunk Roads Classes H, J.
4.	Kenya Wildlife Service (KWS)	Management, development, rehabilitation and maintenance of roads in National parks
4.	County Governments	Management, development, rehabilitation and maintenance of County Roads Classes D, E, F, G, K, L, M, N, P.

SECOND SCHEDULE
FORMS
FORM A
(r 6.14)

ARWP FORM												
<u>ANNUAL ROAD WORKS PROGRAMME</u>	FY-											
<u>NAME OF RA/COUNTY GOVERNMENT</u>												
<u>RA/COUNTY CODE</u>												
<u>BUDGET(KSHS)</u>												

ITEM NO.	ROAD NUMBER	SECTION/ROAD NAME	SURFACE TYPE	SECTION LENGTH	ACTIVITY CODE	ACTIVITY DESCRIPTION	WORKS CATEGORY	METHOD	UNIT MEASURE	PLANNED QUANTITY	PLANNED RATE	AMOUNT
										GRAND TOTAL		

Signed by: Designation Date: Sign:

FORM C (r 7.1)

PROGRESS REPORT FORM		
QUARTERLY ROAD WORKS PROGRESS REPORT		
NAME OF RA/COUNTY GOVERNMENT		
COUNTY CODE		
BUDGET(KSHS)		

RA/COUNTY GOVERNMENTS PROGRESS REPORT SHEET.														
PLANNED WORKS								ACHIEVED WORKS						
								QTR 1		QTR 2		QTR 3		
COUNTY NAME	ROAD No.	ROAD NAME	WORKS CATEGORY	ST	KMs	AMOUNT PLANNED	CONTRACTOR NAME	KMs	Exp(Kshs)	KMs	Exp(Kshs)	KMs	Exp(Kshs)	KMs
TOTAL					-	-	-	-	-	-	-	-	-	-

Signed by: Designation: Date: Sign:

Dated the 2021

JAMES WAINAINA MACHARIA,
Cabinet Secretary of Transport, Infrastructure, Housing, Urban
Development and Public Works.