



**STRATHMORE INSTITUTE  
DIPLOMA IN PROCURMENT  
END OF SEMESTER EXAMINATION  
DPR 1203: PROCURMENT LAW**

DATE: 19<sup>th</sup> December 2018

Time: 2 Hours

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**Instructions**

1. This examination consists of **FIVE** questions.
2. Answer **Question ONE (COMPULSORY)** and any other **TWO** questions.

**QUESTION ONE**

You have been invited to give a speech to the Parliament of the Republic of Maziwani on *‘designing an optimal public procurement system for the 21<sup>st</sup> century’*.

The backdrop of this invitation is the fact that ever since the formation of the Republic of Maziwani almost 60 years ago, Maziwani has not had a proper, reliable and indigenous public procurement framework. For the better part of its existence, public procurement in Maziwani was conducted through Crown Agents, Treasury Circulars, and only recently, through haphazard regulations and legal notices. These directives often conflicted each other and did not provide a wholesome framework for the regulation of public procurement.

Further, the conflicting legal regimes led to numerous intractable socioeconomic and political challenges, which include: a) systemic corruption; b) deep-seated ethnic, political and ideological divisions; c) historical injustices; d) stark income disparities and other forms of inequality; e) impunity; f) and an inefficient bureaucracy adopted from its colonial heritage.

The Parliament of Maziwani is now desirous of ending the sad state of affairs and has sought your help in designing a public procurement framework.

**Required;**

- a. The economic rationale to public procurement regulation. **(8 marks)**
- b. The social rationale to public procurement regulation. **(8 marks)**

- c. How Maziwani can use the public procurement framework to tackle its socioeconomic and political challenges. **(14 marks)**

## **QUESTION TWO**

- a) Part IX of the Kenyan Public Procurement and Asset Disposal Act (No. 33 of 2015) provides for the different methods which may be used by accounting officers of a procuring entity in procuring for goods, services and works.

Outline 8 methods of procurement allowed under the Kenyan law. **(8 marks)**

- b) Under section 135 of the public procurement and asset disposal Act a procurement contract must have the relevant tender documents. Identify 7 such documents that that are a required as a minimum. **(7 marks)**

## **QUESTION THREE**

- a) Outline 8 challenges that are facing Kenya in the implementation of the public procurement and disposal laws. **(8 marks)**
- b) Outline 7 roles played by the national Treasury in public procurement and Disposal. **(7 marks)**

## **QUESTION FOUR**

Klinsman Security Services Ltd ('Klinsman') applied for an advertised tender for the provision of security services to Kenya Power and Lighting Company Ltd ('KPLC'), a State Corporation.

Klinsman, despite having the lowest bid among all ten bidders, was not selected to provide security services to KPLC. Instead, Mulika Mwizi Enterprises Ltd was awarded the tender, despite quoting a price that was almost double what Klinsman quoted.

Klinsman is therefore aggrieved and seeks your advice on how to raise his objection to the award of the tender. He is keen to explore all the possible legal channels towards the satisfaction of this goal.

Advise Klinsman on the legal options they have. **(15marks)**