



**STRATHMORE LAW SCHOOL
MASTERS OF LAW (LL.M)
SUPPLEMENTARY EXAMINATION
LLM 8310: PUBLIC PRIVATE PARTNERSHIPS**

Date: **Friday, 15th May 2026**

Time: **3 Hours**

Instructions:

- a) Question One is Compulsory
- b) Answer Question One and any other Two

QUESTION ONE:

(30 marks)

The Minister of Finance has called your law firm for advice on three project proposals that the Ministry has received from the Ministry of Transport and Infrastructure, Ministry of Health, and the Ministry of Interior and Coordination of National Government. The description of the projects is as follows:

- (i) The Ministry of Transport wants to carry out major upgrades to the main port in Mombasa, which include a new port.
- (ii) The Ministry of Health wants to build a new national referral hospital to complement two existing national health referral facilities.
- (iii) The Ministry of Interior and Coordination of National Government wants to construct a National Police University, similar to the National Defence University, in order to have specialised and high-level education programmes for its senior members of the Service.

The preferred options for realising these projects is through PPPs. The Minister of Finance wants your technical inputs regarding each of these projects. Specifically, the Minister wants to know if any type or form of PPP is appropriate for each project, or whether the Ministry should pursue PPP arrangements for the three projects, at all.

- (i) Provide a detailed memo explaining the types of PPPs suitable for each of the projects and their essential and distinguishing elements **(10 marks)**
- (ii) Provide detailed advice on each of the three projects, including whether PPP arrangements, as opposed to other alternatives of delivering services, are the suitable vehicle for pursuing the expected outcomes in each of the projects **(20 marks)**

QUESTION TWO:**(15 Marks)**

After the cancellation of a government to government contract to construct a dual carriage way from Nairobi to Nakuru, the Ministry of Transport is preparing a to float a bid for construction of the carriage. Using appropriate examples and illustrations, you are required to advise the Ministry on:

- (i) The obligations of the Ministry as a contracting authority and its relationship with the newly established Directorate of PPPs **(5 marks)**
- (ii) The bid preparation process **(10 marks)**

QUESTION THREE:**(15 marks)**

“The privatisation of public services, championed by the Thatcher Government in Britain and other countries in the late 1980’s, was driven by NPM-based beliefs [New Public Management] that there should be a ‘roll-back of the state’ with the private sector providing services where this is more efficient” ER Yescombe & Edward Farquharson, *Public-Private Partnerships for infrastructure: Principles of Policy and Finance* (2007) (Second edition), at p.451.

Using the above statement, discuss the theoretical and governance underpinnings of PPPs, their evolution, as well as the justification and rational for using PPPs as means of delivery of public infrastructure and services. **(15 Marks)**

QUESTION FOUR:**(15 marks)**

“One of the prevailing notions about PPPs is that upfront costs are wholly paid for by the private sector, allowing the public to spread their costs (whether as users or through taxes) throughout the life of the project. However, this is a myth – governments, multilateral development banks (MDBs), and bilateral financing institutions all play strong roles in the various stages of financing PPPs.” Quote from ‘How are PPPs really financed?’ by Jenny Chao, in *World Bank Blogs*, 13 December 2016.

Using the above statement as the premise of your analysis, discuss the nature of financial obligations between the contracting authorities and the private sector in typical PPP processes. In your answer, make a distinction between the different forms or type of PPP Projects. **(15 marks)**

QUESTION FIVE:**(15 marks)**

The Ministry of Water and Environment just completed a procurement process of selecting a company that will assist in building a wind energy project in Yatta, Machakos County. The successful company, Kinu Ltd, has retained your services to assist in negotiating a contract with the Ministry. While a draft contract was prepared by the Ministry and given to prospective

bidders during the bid process, the company wants some substantial revisions in the document before the financial close.

- (i) What essential issues and processes should the Ministry of Water and Environment bear in mind while revising the contract? **(5 marks)**
- (ii) Discuss some of the main clauses that should be in the revised contract. Using Kenyan and appropriate comparative jurisprudence, identify and discuss key and emerging issues in dispute resolution in PPP processes in Kenya. **(10 marks)**

