



# THE ACEK NEWSLETTER

ISSUE 05 | MAY 2021



## Trending News:

Energy Transition in Africa | Public Private Partnerships Bill 2021

## Chairman's Note



Greeting from the Association of Consulting Engineering of Kenya (ACEK). Our resilience against the odds of new normal is bearing fruits. I'm glad to report that all ACEK committees are fully constituted and are operational to ensure our services meets, if not supersedes, members' expectation.

The 5<sup>th</sup> month of 2021 saw ACEK handle its activities as scheduled in the calendar of events for the year. Notable events held in the Month were: participation in FIDIC Africa 2021 Conference - The council leadership, head of secretariat (CEO) and the chairperson of Future leaders were engaged in the conference that discussed the vital question; **Are African consulting engineers ready to change Africa into the global powerhouse**

*of the future?* ACEK successfully carried out Training on the FIDIC Guide to Practice - The Business of a Professional Services Firm. Engineers were trained on organization of consulting firms, Administration, Business development, sustainable development, HR and financial management. The training was informed by the realization that consulting engineers, in addition to the technical capacity, require business insights to successfully run business oriented engineering consultancies.

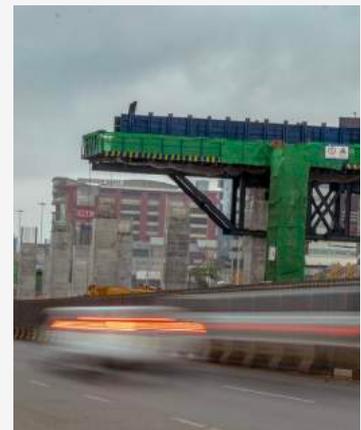
As a little glimpse to the future, ACEK is preparing its first magazine which from now on, we intend to produce at the turn of every quarter. Stakeholders are invited to weigh in, both in content contribution and relevant advertisement requests at affordable prices.

We are setting trends in engineering associations and consultancy. Join us in reading that which matters to both you and us in our monthly Newsletter.

Don't drop your guards, stay safe and God bless us all.

### Enjoy the read,

Eng. Henry A. Ndugah | Chairman ACEK



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Norkun Intakes Ltd

# Energy Transition in Africa

By Prof Izael Da Silva-DVC R&I Strathmore University



Today, close to 800 million people in Africa have no access to electricity. This is more than half of the people in the world who live in these circumstances. To make matters more complex, the birth rate in this continent is high and thus about 20 to 30 million people are born every year making the number of people without electricity a “moving target”.

This challenge is captured in the Sustainable Development Goal (SDG) number seven. The good news is that Government, Private Sector and Research & Teaching Institutions are all committed to achieving the goal of universal access to electricity by 2030. This is called the Triple Helix. Once these three forces rally behind the SDG7, synergy happens, and many targets thought to be impossible become viable in an almost magic fashion.

The not so good news is that in this target is almost impossible to achieve in the nine years which separates us from 2030. The main barriers are four: Finances, Capacity building, Suitable Policies and Regulations and Awareness. Finances is the main barrier. Africa is a poor continent. For one to have an idea, all the GDP of the 50 plus countries in this continent put together is smaller than the GDP of Japan alone. For a sector to thrive training is of essence. The situation of Africa in terms of training for the energy sector is just starting. It is foreseeable that millions if not billions of dollars are required to create capacity for Africa in the decade we have start living. Policy is perhaps the less challenging of the four barriers as we can just copy what the rest of the world has done and learn from their mistakes such that we can have a good and enabling regulation of the sector. It has happened in the Telecommunication sector and there is no reason for it not to happen in the electricity sector. Finally, the barrier of awareness has to be overcome. Most of the African people use paraffin for lighting and firewood and charcoal for cooking. This is what their great grandparents did, their grandparents, their parents and eventually themselves. So, the task of teaching close to a billion people about electricity for lighting and cooking is not a simple one and again it requires funds which are not available. Nonetheless the world is changing and there is no reason to believe it won't happen in Africa. Again, it happened in the telecommunication sector and today Africa is the most promising continent in everything related to ICT.

Talking about change, it is interesting to realize that there are three revolutions going on right now in the energy sector. The first one is decarbonization. There is a concerted global effort to reduce carbon emission. This entails using more renewable energy, mainly solar PV and wind and reducing the use of fossil fuel. The second one is decentralization. Here the current and future trend is to produce electricity in the same location where it is consumed. This way there is saving on avoiding investment in transmission and distribution. Possible decentralized power systems are solar PV, wind, hydrogen, biomass, etc. Finally, the third revolution is digitization where the use of internet of things allows for a double way flow of communication between the consumer and the utility providing electricity. Part of this change is ability of becoming a “prosumer” which is a mix of consumer and producer as the current regulations in Kenya allow for any utility client to install a solar system for personal consumption in your home and be able to dispatch electricity to the national grid and be paid for it. This is called Feed-in-tariff. Another possible option is “Net-metering” where a dual meter measures your consumption and also the production. At the end of an agreed period, say a month or a quarter, you pay the utility only if you used more power than what you produced.

Today in Europe and also in the US and Canada a user can choose which utility is to serve his/her electricity requirements. Here there is no such possibility as yet but the 2019 Energy Act makes provision for that such that another electricity producer can use the distribution lines belonging to KPLC to reach your house paying KPLC for what is called “wheeling charges”. In Kenya we do not have a school to train people on energy regulations. This is bound to change shortly as this is of essence for the development of Kenya to become a manufacturing country with the ability to add value to our products.



**ACEK is bringing you,  
The Consulting Engineer  
Magazine**

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| Placement         | Advert Size       | Rate (KShs) | Price inclusive of VAT (KShs) |
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| Centre Spread     | 2, Pages          | 188,000     | 218,080                       |
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# The Public Private Partnerships Bill 2021

By Louise Mathu, an Advocate of the High Court of Kenya | Lead Consultant at Gennis Consulting | Policy and Regulatory Specialist



Public Private Partnerships (PPPs) have been and continue to be a useful arrangement through which countries undertake complex infrastructure projects that are typically also heavily capital intensive in nature.

The question arises however;

## What exactly is a PPP?

There is no one widely accepted definition of a PPP. The World Bank's Knowledge Lab defines a PPP as 'a long-term contract between a private party and a government entity, for providing a public asset or service, in which the private party bears significant risk and management responsibility, and remuneration is linked to performance'.

Kenya has been undertaking projects under the PPP framework from as early as the 1990s through the introduction of independent power producers in the electricity sector. Since then, a few other projects have been undertaken, such as the Rironi-Mai-Mahiu-Nakuru Project and the Nairobi Expressway, both of which are currently under construction. Other projects in different economic sectors such as health and education are also in the development pipeline.

Key to the development of PPPs is a clear and robust legal framework. Kenya first enacted a PPP law in 2013 – The Public Private Partnerships Act No. 15 of 2013. The accompanying PPP Regulations were subsequently gazetted in 2014. This law has supported the development of important PPP projects such as those mentioned above. Over the years since it was enacted and through its application, the Act has however been assessed to be inadequate in certain respects. This has contributed to the roll out of far few projects than had been expected. The Act does not for instance capture County Governments in the PPP process. It also does not provide for certain timelines in key stages of PPP procurement, which has contributed to significant delays being experienced in the PPP project development process. Is with this background that a new PPP Bill 2021 has been drafted and is proposed to replace the PPP Act of 2013.

## What are some of the proposed new introductions in this Bill?

- Establishment of a Directorate of Public Private Partnerships.** This new Directorate is to be the lead institution charged with the implementation of PPP projects and will be housed under the National Treasury. The Directorate is to among other functions be responsible for the originating, guiding and co-ordinating the selection, ranking and prioritisation of public private partnerships; overseeing project appraisal activities and leading contracting authorities in project structuring. A Director to head this new institution was appointed in February this year, an indication that the preparatory work for enactment of the new PPP Bill is already well under way. Under the current 2013 Act, matters PPP are handled by a PPP Unit which is also housed at the Treasury. Its scope and responsibilities are quite limited and the Directorate with a much broader mandate and more powers will be better empowered to co-ordinate PPPs projects.
- Introduction of Direct Procurement as a PPP procurement method.** The term 'direct procurement' is typically associated with procurement of goods, works and services under the Public Procurement and Asset Disposal Act 2015. The rationale for this new proposed method is to cater for certain situations such as where the private party possesses the intellectual property rights to the key approaches or technologies required for the project. Where direct engagement of a private party would significantly lower the cost of the delivering the works or services is another

**“a long-term contract between a private party and a government entity, for providing a public asset or service, in which the private party bears significant risk and management responsibility, and remuneration is linked to performance”.**

*Definition of a PPP*



**Nairobi Expressway under construction; a PPP with China Road and Bridge Corporation (CRBC)**

among other scenarios where direct procurement is proposed to be used. Direct procurement in any context usually raises questions with regard to transparency of the process and attendant questions on whether value for money will be achieved. It will be interesting to see how and where this method will be used if the PPP Bill is enacted.

- **PPPs by County Governments.** The 2013 Act did not capture the participation of County Governments in the PPP framework. With counties seeking to grow and many private parties having expressed interest in partnering directly with them, this introduction may be quite beneficial in facilitating development at the County level. It is important to note that even though County Governments may enter into PPPs under this Bill, they would nonetheless be required to liaise with the PPP Directorate and obtain written approval from the PPP Committee.
- **Local Content.** Owing to the complexity and capital intense nature of PPP projects, it has typically been the case in Kenya and indeed most less developed countries that the private parties

in PPP projects are, more often than not, foreign companies. This has often raised questions about the place of local content in PPP projects. The PPP Bill proposes that parties to a project agreement are to give priority to services provided in Kenya and supplies manufactured in Kenya. Mechanisms for technology transfer are also required to be put in place. For effective implementation and operationalisation, guidelines, standards and practice notes on the application of local content are to be issued once the Bill is enacted.

There is much more to be said and analysed on the PPP Bill and these are just some highlights to provide an overview on the changes envisaged to take place in Kenya's PPP legal landscape.

*Louise Mathu is an Advocate of the High Court of Kenya with over 10 years' experience working in Energy and Finance across private and public sectors in Kenya, She is Lead Consultant at Gennis Consulting, a firm which provides bespoke transaction advisory, research and capacity building services in Energy & Extractives, Projects & Infrastructure, Public Private Partnerships (PPPs), Climate Change, E-mobility and Sustainability. Louise is also a policy and regulatory specialist who is highly adept at undertaking stakeholder engagement*

# Nevertheless, 25k is too low

By: Winnie Mogusu, ACEK Future Leader



## ‘Why are they paid more than us?’

If you want to know who ‘they’ and ‘us’ refer to, then continue reading. A heated discussion was triggered recently after the 2021 KCSE results were announced. None of the best-performing students wanted to pursue engineering. They all opted to join medical school. One twitter user tweeted “An (graduate) engineer in Kenya is paid roughly Ksh. 30,000 and will not reach Ksh. 80,000 for the next five years or so. An intern in medicine is paid Ksh. 120,000 or more.

Many engineering graduates will end up dropping the career and venture into business. “Engineering doesn’t pay!”. This is, unfortunately, the reality. I know three close friends who studied Mechanical engineering. One is a banker; the second one is designing websites while the third one is selling cars! I am persuaded that there are hundreds if not thousands of such cases.

The young engineers in ACEK –FL share the same opinion and had a lot to say about this phenomenon. “A medical intern will be doing actual work immediately they graduate while an engineering graduate can barely draw lines on AutoCAD upon graduation,” one future leader said. He suggested that engineering students ought to be made more ‘valuable’ while in school so that they hit the ground running after graduation. Too much time is lost in training them on-the-job after school. It is a lot of work which could be avoided if the 5 years spent in school incorporated the actual engineering work. One of the ways that would aid in achieving this is creation of policies that will attract the industry’s players into the academia. Currently, “*there’s little space for research or innovation due to little engineering know-how.*”

A good number of the future leaders (FLs) owed their expertise to their seniors who had made deliberate efforts to guide them in the engineering field. These mentors ensured that progress was made and in the right direction. However, some FLs felt that their employers threw them in the deep end where they were expected to deliver on assignments with no guidance whatsoever.

One other future leader opined that if a graduate engineer can barely do any engineering assignments and requires training on the basics, then

the problem lies with the individual. His observation was that the curriculum allowed for attachment in third, fourth and fifth years of study, in which students were exposed to practical work.” On-the-job training is important in any company but it must not go beyond a few months,” was his conclusion. An FL who was actively and intentionally mentoring younger graduate engineers supported this. He revealed that most of the graduates that had gone through his training are usually 30% exposed to the real work. It was therefore not fair to pay such graduates Ksh. 25,000 for two years straight!

Young engineers feel that they deserve a good pay as much as the doctors. This is because they both worked hard in high school and excelled. They both spent 5 years in university for Bachelor’s degree. They are both solving pertinent issues in the society; without the engineer, the doctor will have no hospital and tools to use. “Poor remuneration will kill engineering because no one will want to become an engineer and suffer in life. How many of us would want their children to pursue engineering?” My dear reader, think about this important question posed by yet another FL. It is therefore our hope that the salary matter will be resolved once and for all. This way, none will drop the Engineering career.

**“An (graduate) engineer in Kenya is paid roughly Ksh. 30,000 and will not reach Ksh. 80,000 for the next five years or so. An intern in medicine is paid Ksh. 120,000 or more.”**

Winnie Mogusu,  
ACEK Future Leader

## THE EVENTS CALENDAR 2021

|   |  |
|---|--|
| 16 <sup>th</sup> June                   | <b>Project Finance – PPP and other Infrastructure Financing Models</b> |
| 22 <sup>nd</sup> -23 <sup>rd</sup> July | <b>FIDIC Training Mod 1</b>  |
| 26 <sup>th</sup> -27 <sup>th</sup> July | <b>FIDIC Training Mod 4</b>  |
| 12 <sup>th</sup> -14 <sup>th</sup> Sept | <b>FIDIC Annual Conference</b>   |
| 25 <sup>th</sup> 26 <sup>th</sup> Nov   | <b>FIDIC Training Mod 2</b>  |
| 29 <sup>th</sup> -30 <sup>th</sup> Nov  | <b>FIDIC Training Mod 3</b>  |
| 09 <sup>th</sup> December               | <b>ACEK Annual Dinner</b>  |

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### UPCOMING ACEK ACTIVITIES (JUNE)

1. Project Finance – PPP and other Infrastructure Financing Models

*For More Information Please Contact;*  
**The ACEK Secretariat**  
**Tel: 0717191593**  
**Email: [acek@acek.co.ke](mailto:acek@acek.co.ke)**

# New ACEK Council Members



**Eng. Henry A. Ndugah**  
*Chairman*



**Eng. Solomon M. Kitema**  
*Hon. Treasurer*



**Eng. Patrick S. Wambulwa**  
*Hon. Secretary*



**Eng. Gurmeet K. Bambrah**  
*Member*



**Dr. Eng. Siphila Mumenya**  
*Member*



**Eng. Jane Mutulili**  
*Member*



**Prof. Eng. Lawrence Gumbe**  
*Member*



**Eng. Matu Mwangi**  
*Member*



**Eng. Gabriel Jabongo**  
*Member*



**Eng. Tom Opiyo**  
*Member*



**Aluora Kenneth**  
*Member*



**Eng. Lillian Ogombo**  
*CEO*

## ACEK COMMITTEES

### EXECUTIVE COMMITTEE (EC)

Eng. Henry A Ndugah - Chairman  
Eng. Patrick S. Wambulwa- Hon. Secretary  
Eng. Solomon M Kitema- Hon. Treasurer

### ADVOCACY (POLICY, STANDARDS AND ETHICS COMMITTEE)-PSE

Eng. Gurmeet Bambrah - Chair

### CAPACITY BUILDING & TRAINING COMMITTEE (CBT)

Eng. Jane W. Mutulili – Chair

### MEMBERSHIP & HUMAN RESOURCE COMMITTEE (MHR)

Eng. Gabriel Jabongo - Chair

### RESEARCH & PUBLICATION COMMITTEE (RPC)

Dr. Eng. Siphila Mumenya - Chair

## BECOME A MEMBER



ACEK offers numerous benefits and keep the membership on top of important, ever hanging issues and trends in the sector.

### 1. Advocacy

Close liaison with government and other industry bodies on contractual and legislative issues. Lobbying for better procurement laws.

### 2. Networking & Knowledge Sharing with other consulting engineers both locally and globally.

ACEK organizes a number of events throughout the year, both local and internationally being a member of FIDIC Africa and FIDIC.

### 3. Business Support to Members

Identification and Sharing of business

opportunities. Access to database of regional and international consulting firms.

### 4. Capacity Building

ACEK has well-coordinated local and international industry specific training. Members enjoy discounted training rates.

### 5. Becoming a member of both FIDIC and FIDIC Africa through ACEK

ACEK is a member of FIDIC and Africa. Members automatically become members of these international organizations through ACEK.

### 6. Public and Private Sector Support

The association acts as a public watchdog on engineering issues and acts as an interface between the public and consulting engineers.

## ELIGIBILITY REQUIREMENTS FOR MEMBERSHIP

- ACEK Members profess to possess the relevant qualifications, expertise and facilities to offer the highest quality of service in their engineering disciplines of expertise while adhering to the highest ethical and professional standards.
- To join ACEK, an Engineer must be registered with the Engineers Board of Kenya (EBK) in the category of Registered Consulting Engineer.
- Must be a corporate member of the Institution of Engineers of Kenya (IEK)
- Must be actively practicing engineering as a partner, director or sole principal in a firm registered as a legal entity under the Laws of Kenya.

**NORKUN** is an **ISO 9001:2015** certified engineering consultancy firm registered in Kenya and Rwanda. **NORKUN** provides full range of Electrical and Mechanical Engineering consultancy services to developers of various projects. The firm considers all types and magnitudes of projects very important. This means that all projects, regardless of their financial value are handled with great care and professionalism

Our Motto is *“NORKUN Ideates, Innovates & Resolves”*. In terms of integrity, our position is clear in that “where professional Ethics or integrity is compromised, **NORKUN** shall not be involved”. The staff handling of various projects individually and as a team has provided the firm with a rich background in all aspects of Electrical and Mechanical Engineering consultancy. **NORKUN** emphasizes on high professional standards and ability to respond quickly to clients’ needs within set periods.

## OUR WORKING APPROACH

The working approach adopted by the firm ensures that the Directors and project engineers personally attend to all matters relating to the projects under their care. All staff work in consultation with one another to ensure no gaps are left unattended.

In order to efficiently deliver the work on time and as scheduled, the firm does not only work with dedication but also efficiently. All projects are handled strictly on set out time schedules and as agreed with the clients.

## OUR PROJECTS

### SOME ONGOING PROJECTS

- ◇ GTC Complex [184m tall Office Tower, Hotel Tower, Commercials + 4 more towers] in Westlands, Nairobi.
- ◇ KEMSA Supply Chain Warehousing facility
- ◇ Project Bait’na - Bank Headquarters & office complex in Juba, South Sudan

### SOME COMPLETED PROJECTS

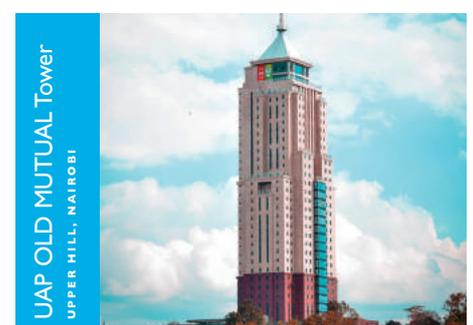
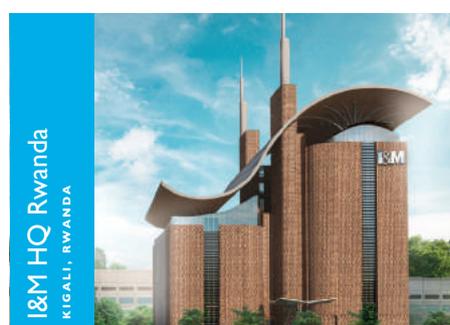
- ◇ I&M Headquarters interior fit out in Kigali.
- ◇ International School of Kenya new middle school and high school.
- ◇ Race Course Gardens apartments.

## ORGANIZATION STRUCTURE

The firm notably possesses a highly competent professional team that is thoroughly polished to carry out all requirements in Electrical and mechanical engineering consultancy. This enhances the firm’s competence on handling any size of project or complexity.

## LICENSING, CERTIFICATIONS, MEMBERSHIPS & ACCREDITATIONS

- ◇ Licensed by **EBK** to undertake electrical & mechanical consultancy services in Kenya
- ◇ Licensed by **IER** to undertake electrical & mechanical consultancy services in Rwanda
- ◇ Licensed *Class A* by **EPRA** to carry out comprehensive and Investment Grade Energy audit
- ◇ Licensed *Class AI* with **EPRA** to inspect facilities and issue a report for management’s actions
- ◇ CERTIFIED ENERGY MANAGERS by **AEE**
- ◇ MEMBERS OF **AEE** - Association of Energy Engineers (headquartered in Atlanta, Georgia)
- ◇ Corporate members of **KGBS** (Kenya Green Building Society)
- ◇ **ISO 9001:2015** Certified
- ◇ Accredited Tier Designers ATD by the prestigious **Global Uptime Institute**



# Available FIDIC Publications

**EPC/Turnkey Contract (Silver Book) 2<sup>nd</sup> Ed 2017**

**Plant and Design-Build Contract (Yellow Book) 2<sup>nd</sup> Ed 2017**

**Construction Contract (Red Book) 2<sup>nd</sup> Ed 2017**

**Design-Build-Operate Contract (Gold Book)**

1<sup>st</sup> Ed 2008

**Short Form of Contract (Green Book) 1<sup>st</sup> Ed**

1999

**Construction Contract MDB Harmonised Ed**

**(Pink book) Version 3: June 2010 Harmonised Red Book**

**FIDIC Golden Principles Free**

**Construction Subcontract 1<sup>st</sup> Ed 2011**

**Client-Consultant Agreement (White Book) 5<sup>th</sup>**

Ed 2017

**FIDIC Procurement Procedures Guide 1<sup>st</sup> Ed 2011**

**FIDIC Contracts (1999 editions) Guide 1<sup>st</sup> Ed 2000**

**Sub-Consultancy Agreement 2<sup>nd</sup> Ed 2017**

**DBO (2008 Gold Book) Contract Guide 1<sup>st</sup> Ed 2011**

**FIDIC Guide to Practice, The Business of a Professional Services Firm 2015 Edition**



## EDITORIAL TEAM

- I. Dr. Eng. Siphila Mumenya -  
Editor in Chief
- II. Eng. Tom O. Opiyo - Member
- III. Prof. Eng. Larry Gumbe - Member
- IV. ACEK Secretariat

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