



Public Procurement Code of Ethics for Procuring Entities

January 2011

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Public Procurement Code of Ethics

A. PREAMBLE

1. Public procurement in Kenya is governed by the Public Procurement and Disposal Act (PPD Act), its attendant Regulations (PPD Regulations), and instructions issued by the Public Procurement Oversight Authority (PPOA). Every procuring entity is responsible for planning and implementing its procurement. The PPOA is responsible for ensuring that the procurement procedures established under the Act are complied with.
2. This Code of Ethics is designed to help employees of procuring entities to comply with the Act and the Regulations and to adopt good practices and ethical standards. Employees who violate the law or engage in unethical business dealings may be subject to disciplinary proceedings.
3. This Code of Ethics has been issued by the PPOA pursuant to Section 139 of the Public Procurement and Disposal Act 2005 which provides that "All procurement and disposal shall be carried out in accordance with the codes of ethics that may from time to time be specified by the authority." Breach of the Code of Ethics may provide grounds for establishing an offence under Section 135 of the Act.
4. This Code of Ethics complements the PPD Act and the PPD Regulations. It does not replace any part of the Act or the Regulations.
5. The PPOA will undertake continuous training of the staff of procuring entities to eliminate malpractices which might arise due to ignorance of the public procurement system.
6. The PPOA will exercise oversight in the management of this Code of Ethics, including taking remedial measures where the Code of Ethics is breached.

B. APPLICABILITY

1. The Code of Ethics shall apply individually and collectively to employees of procuring entities.
2. The Code of Ethics shall be signed by all employees of the procuring entity who participate at any stage of public procurement proceedings.
3. A procuring entity shall make available to the PPOA on request a list of all signatories to the Code of Ethics.
4. The PPOA shall be subject to the Code of Ethics in its capacity as a procuring entity

C. GENERAL PRINCIPLES

1. Procuring entities shall not commence procurement proceedings without confirming that budgets will be available.

2. Procuring entities shall ensure the use of well prepared standard tender documents with complete information and give equal opportunity to all interested bidders.
3. When preparing tender documents or request for proposals, procuring entities should avoid inclusion of conditions which are unfair, discriminatory or unreasonable.
4. A procuring entity shall ensure that its procurement achieves value for money in terms of cost, quality, quantity and timeliness of the delivered works, goods or services.
5. Information given by procuring entities to those participating in public

- procurement should be true, accurate and fair and never designed to mislead.
6. Procuring entities shall ensure that all instructions to vendors are given in writing by authorized officers.
 7. Procuring entities shall not delay payments which are due to the contractors, suppliers, providers of services, consultants or others.
 8. Impunity, which is freedom from any risk of being punished for doing something wrong, shall not be tolerated.
 9. Public procurement activities shall be undertaken bearing in mind the requirement for meeting the closest public scrutiny.

D. ACCOUNTING OFFICERS/ HEADS OF PROCURING ENTITIES

1. Accounting officers and heads of procuring entities shall ensure availability of funds to meet the commitments under procurement contracts. They must ensure that procurement bills are paid in a timely manner and avoid accumulation of pending bills.
2. Heads of procuring entities and accounting officers, having appointed a tender committee, procurement committees, tender opening

- committees, evaluation committees, inspection and acceptance committees and disposal committees shall allow the committees to perform their assignments without undue influence or interference from their offices or any other quarters.
3. Accounting officers and heads of procuring entities shall be responsible for ensuring observance of the Code of Ethics by their employees.

E. EMPLOYEES OF PROCURING ENTITIES

1. All employees shall observe this Code of Ethics with commitment and shall appreciate its importance and the value and the necessity of integrity.
2. Employees of procuring entities shall maintain the highest standards of

- integrity and professionalism in their operations.
3. All employees shall comply both with the letter and spirit of the law applicable to the public procurement system.

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4. All employees shall reject any procurement practice which might be deemed improper.
5. Employees shall not solicit or accept bribes or be involved in corrupt or fraudulent practices.
6. All employees shall be accountable for their actions in the procurement process.
7. All employees shall not allow patronage or nepotism.
8. All employees shall prevent theft of state revenues and assets or diversions of the same.
9. Stores, equipment and assets bought or acquired by a procuring entity shall not be used for personal benefit.
10. All types of conflict of interest as described in Section 43 of the Act shall be avoided.
11. All employees in public procurement shall serve, support and cooperate with one another and also accord mutual respect and courtesy without compromising their independent and mutually distinct roles.
12. Information received from participants in public procurement shall not be disclosed to unauthorized persons and shall not be used for personal gain.
13. Business gifts other than items of very small value such as business diaries and calendars shall not be accepted.
14. Only modest hospitality within the policy of the procuring entity may be accepted. However, care must be taken that such hospitality is not deemed to influence the making of any business decisions.
15. Members of tender committees and procurement committees shall confirm availability of funds before award of any procurement contract.
16. Tender committee and procurement committee members shall not entertain or condone ratification of contract awards where the contract award decision has been taken outside the normal meeting of the committee.
17. No employee shall knowingly lie or mislead or shall obstruct or hinder another person carrying out a duty or function or exercising a power relating to procurement in accordance with the PPD Act.
18. No employee shall unduly influence or exert pressure on any member of a committee or any other employee of a procuring entity to take a particular action which favours or tends to favour a particular bidder.
19. No employee shall open any sealed bid, including such bids as may be submitted through an electronic system and any document required to be sealed, or divulge their contents prior to the appointed time for the public opening of the bid or documents.
20. Employees undertaking evaluation shall perform their work diligently and expeditiously, strictly applying the stated evaluation criteria, without discrimination.
21. All employees shall maintain confidentiality in the evaluation of tenders.
22. All employees shall respond promptly and courteously to all proper requests for information, complaints or enquiries.

23. Staff of the procuring entity shall avoid excessive socializing with members of the business community who participate in public procurement.
24. Employees who are members of professional organizations and institutes are required to uphold the code of ethics of their respective professions, provided these do not conflict with the public procurement law.
25. Employees shall observe other laws, regulations, rules and practices relating to health and safety standards as well as environmental protection. This will particularly apply in the preparation of procurement specifications and in the inspection and acceptance of the procurement object.

F. ADDITIONAL REQUIREMENTS ON PROCUREMENT OFFICERS

1. Staff of the procurement unit shall ensure integrity of the standing list of registered bidders and fairness and non discrimination in sharing the bidding opportunities.
2. Staff of the procurement unit shall not allow their activities to be unfairly influenced by unauthorized persons from any quarter.
3. Staff of the procurement unit shall ensure the security and safe custody of procurement information received or generated and shall not allow access to the information to persons who have no official reasons to know.
4. Staff of the procurement unit shall cooperate with the staff of other departments and also members of the business community in the conduct of their procurement activities.
5. Staff of the procurement unit shall accomplish their procurement activities in a timely manner, including provision of required procurement information and reports.
6. Staff of the procurement unit shall maintain the good image and reputation of their procuring entities.
7. The secretaries of the statutory committees shall accurately record the minutes of the committees and avoid distortions.
8. Staff of the procurement unit shall endeavour to protect their procuring entities from risks of stock outs, overstocking, overpricing and undeserving payments.

**From the American People and jointly sponsored by USAID/Kenya and
Public Procurement Oversight Authority**



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**To be signed by each person involved with procurement and retained by the
procuring entity**

My signature indicates that I have read and fully understood the contents of the Public Procurement Code of Ethics (January 2011) and my responsibilities under the Code.

Signed _____

Name _____

Position _____

Office address _____

Telephone _____

E-mail _____

Date _____