



PUBLIC PROCUREMENT OVERSIGHT AUTHORITY
Transforming Procurement

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PPOA CIRCULAR NO. 3/2008

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To: All Accounting Officers
All CEOs, State Corporations
All Vice Chancellors, Public Universities
All Managers, Co-operative Societies
All Clerks, Local Authorities
All Principals, Public Colleges/ Schools
All Chairpersons, CDF Committees

**RE: GUIDELINES ON MANDATORY REPORTING
REQUIREMENTS OF PROCUREMENT ACTIVITIES**

As you are aware, reforms in public procurement heralded a new era with the gazettment and subsequent operationalization date of the Public Procurement and Disposal Act, 2005 on 1st January 2007. Among other institutions, the Act established the Public Procurement Oversight Authority (PPOA) and mandated it with the duty to oversee public procurement in Kenya.

To ensure PPOA undertakes its mandate effectively, the Act envisioned the need for procuring entities to submit several reports so as to give PPOA an indication of how public entities are carrying out their procurement function.

The Act has also provided for the Authority to publish information on contracts awarded by procuring entities in addition to other information it may deem appropriate. Treasury had earlier issued a circular requiring procuring entities to submit a quarterly report for all contracts awarded for more than Kshs. 5,000,000/=.

Whereas these reports are required under the Act, the level of compliance with these requirements has been quite low. From the foregoing, it has become apparent that some procuring entities are either not aware of the reporting requirements or, if aware, are choosing to act in disregard of their statutory obligations. This circular is therefore to bring to the attention of all public entities the following mandatory reporting obligations to PPOA: -

1. Termination of procurement proceedings - Sec. 36 (7).
2. Direct procurement of a value exceeding Kshs. 500,000/- - Reg. 62 (3).
3. Disposal to employees - Sec. 131 and Reg. 93 (2).
4. Contract awards (for contracts valued at Kshs. 5,000,000/= and above) - Sec. 46 (1).

Please find a copy of the specific requirements, guidelines and the prescribed format for each report attached. These can also be accessed and downloaded from our website www.ppoa.go.ke. To ensure ease of submitting reports, entities can scan the filled documents and send them electronically to reports@ppoa.go.ke.


ROBERT R. HUNJA
INTERIM DIRECTOR-GENERAL

CONTRACT REPORTING REQUIREMENTS FOR PROCURING ENTITIES

As you are all aware, the Public Procurement and Disposal Act, 2005 came into force on 1st January 2007 vide legal notice No. 171 and the Regulations were gazetted vide legal notice No. 174 of 29th December 2006 and are now operational. In accordance with the Act and Regulations, procuring entities are required to submit several reports to the Public Procurement Oversight Authority (PPOA).

Procuring Entity's should report to PPOA in the following four instances: -

1. Termination of procurement proceedings.
2. Direct procurement of a value exceeding Kshs. 500,000/=.
3. Disposal to employees.
4. Contract awards (for contracts valued at Kshs. 5,000,000/= and above).

Whereas the content for some of the reports is contained in the Act and Regulations, this is not so for others. Arising from that, for each of the four instances where PE's should report, PPOA has identified the content, format and duration within which each report should be submitted to ensure uniformity in reporting as follows: -

1. Sec 36(7) - Termination of procurement proceedings.

The report shall be submitted to PPOA within 14 days of the termination of procurement proceedings and shall contain the following details;

- (a) Tender number.
- (b) Title of the tender.
- (c) Chronology of events including the dates from the time of requisition to the time of termination. This should include those who bought the tender documents, those that were opened, preliminary evaluation results, and any other minutes of those procurement proceedings.
- (d) Reason for termination and supporting documentation, e.g. tender committee minutes of the meeting that terminated the tender.

Check list for reporting termination of procurement	
Name of procuring entity	
Tender No.	
Title	
Chronology of events of the procurement (up to the step preceding termination backed up by enough documentation)	
Reasons for termination	
*Attach copy of signed procurement plan as evidence that the procurement was planned for	
*Attach minutes that allowed for the termination and copies of termination letters sent to bidders/participants	

2. Reg 62 (3) – report any direct procurement of a value exceeding Kshs. 500,000/- to the Authority within 14 days.

The report shall be made up of the following contents;

- (a) Tender number.
- (b) Title of the tender.
- (c) Value of the tender.
- (d) Reasons for direct procurement.
- (e) Proof that the conditions for the use of that procurement procedure were met as stipulated by the Act and Regulations (tender committee minutes that approved the use of direct procurement).
- (f) Negotiation report if any.

Check list for reporting direct procurement above Kshs. 500,000/=	
Name of procuring entity	
Tender No.	
Title	
Value of the tender (Kshs.) (more than Kshs. 500,000/=)	
Reasons for direct procurement	
*Attach tender committee minutes to show that conditions for use of procedure have been fulfilled	

3. Reg 93(2) – report disposal to employees within 14 days of the disposal.

- (a) The report must clearly demonstrate that the conditions to be met for disposal to employees have been met. This should include the recommendation of the disposal committee and the Accounting officer's approval.
- (b) The report should include details of the item being disposed, year of purchase and the reason why it was recommended for disposal (whether unserviceable, surplus or obsolete).

Check list for reporting disposal to employees						
Name of procuring entity						
Tender/Lot No.						
Title:						
	Name and description of items disposed to employees	Year of purchase	Value of items at time of purchase	Recommended disposal value (Reserve Price)	Actual Disposal Value	Reasons for disposal
1.						
2.						
3.						
4.						
etc.						
*Attach disposal committee minutes						
* Attach proof that conditions for disposing to employees have been met (must be in line with supporting documentation)						

4. Contracts awarded by PE's – circular.

Section 46(1) of the Act provides that the Authority shall publish notices of the contracts awarded by procuring entities together with such other information as may be prescribed.

It is envisaged that PPOA will come up with a simple and user friendly electronic method for filing and posting contract awards. However, as we progress to the envisioned scenario, procuring entities are required to submit the following details of contracts awarded quarterly within 14 days of the next quarter by way of reports:

- a) Tender/Contract Number – should be serialized and have some semblance to the tender number.
- b) Tender particulars – the comprehensive description and title of the tender proceedings.
- c) Status – may vary from preparation, pre-qualification or expressions of interest, tendering, evaluation, award, execution and completion.
- d) Procurement method - method used to source for the supplier/contractor e.g. national or international tender (open or restricted), direct e.t.c.
- e) Invitation date – date pre-qualification or request for expression of interest was published.
- f) Closing/opening date – the date the submissions for pre-qualification or request for expression of interest close and are opened.
- g) Notification of applicants – the date applicants are notified of the results.
- h) Approval for contract award – the date the tender committee approves award.
- i) The name of the contractor/supplier who was awarded the contract.
- j) Date the contract is signed between the procuring entity and the contractor/supplier.
- k) Contract amount – the value of the contract in Kenya Shillings.

- l) Progress status – the progress achieved expressed as a percentage.
- m) Contract completion date – date the contractor hands over the completed project or supplier delivers the final consignment.
- n) The procurement report must be prepared by the head of the procurement unit and confirmed and signed by the accounting officer/head of procuring entity.

Publication of contracts awarded will enhance transparency in a great way and keep Kenyans updated on the Governments' achievements and the progress of public procurement reforms.

The format will be modified in the near future to be able to show contracts to which preferences and reservations have been applied, contracts awarded to SME's or the youth and such other details that can help the Government apply its procurement as a social economic tool to aid Kenyans in improving their livelihoods.

The revised format will be as shown in the table below: -

PROCUREMENT REPORT FORMAT

Procuring Entity:

Prepared by:

Date of Report:

Designation:

Reporting Quarter:

S/NO	TENDER/ CONTRACT NO.	TENDER PARTICULARS	STATUS	PROCUREMENT METHOD	PRE-QUALIFICATION/ REQUEST FOR EXPRESSION OF INTEREST			INVITATION FOR TENDERS/ PROPOSALS AND APPROVAL FOR AWARD				CONTRACT EXECUTION					
					Invitation Date	Closing/ Opening Date	Notifications of Applicants	Invitation Date	Closing/ Opening Date	Approval for Contract Award	Notification Date	Contractor/ Consultant	Date Contract Signed	Contract Amount x '000	Progress Status (%)	Envisaged Contract Completion Date	
1		Fumigation Services	Pre- qualification	National Tender													
2		Supply of Vehicles	Tendering	International Tender													
3		Rehabilitation of Buildings	Execution	National Tender (Restricted)													

Confirmed and signed by: _____

Accounting Officer/Head of Procuring Entity

Examples