

PUBLIC PROCUREMENT OVERSIGHT AUTHORITY

Transforming Procurement

FINAL REPORT

**MINISTRY OF HEALTH
PROCUREMENT REVIEW**

8 October 2008



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ACRONYMS

| | |
|--------|---|
| AIE | Authority to Incur Expenditure |
| AO | Accounting Officer |
| CPAR | Country Procurement Assessment Review |
| DCDC | Department of Communicable Diseases Control |
| DMS | Director of Medical Services |
| FY | Financial Year |
| GOK | Government of Kenya |
| HQTS | Headquarters |
| IA | Internal Auditor |
| ICB | International Competitive Bidding |
| IFMIS | Integrated Financial Management Information Systems |
| IPR | Independent Procurement Review |
| JDM | Joint Design Mission |
| KACA | Kenya Anti Corruption Agency |
| KEMSA | Kenya Medical Supply Agency |
| KEPI | Kenya Expanded Program of Immunization |
| LPO | Local Purchase Order |
| LSO | Local Service Order |
| MCA | Millennium Challenge Accountant |
| MD | Minor Deviations |
| MDD | Moderate Deviations |
| MDDD | Major Deviations |
| MOH | Ministry of Health |
| MTC | Ministerial Tender Committee |
| NASCOP | National Aids/Sexually Transmitted Diseases Control Program |
| NCB | National Competitive Bidding |
| NPHL | National Public Health Laboratory Services |
| PC | Procurement Committee |
| PE | Procuring Entity |
| PIN | Personal Identification Number |
| PO | Procurement Officer |
| PPDA | Public Procurement and Disposal Act |
| PPDR | Public Procurement and Disposal Regulations |
| PPOA | Public Procurement Oversight Authority |
| PR | Procurement Review |
| PS | Permanent Secretary |
| PU | Procurement Unit |
| RFP | Request for Proposal |
| RRI | Rapid Results Initiative |
| SP | Satisfactory Performance |
| SPPO | Senior Principal Procurement Officer |
| TP | Threshold Programme |
| USAID | United States Agency for International Development |
| VAT | Value Added Tax |

EXECUTIVE SUMMARY

This report presents the results of the procurement review of the Ministry of Health before it was split into two ministries namely Ministry of Medical Services and Ministry of Public Health and Sanitation.

The findings and recommendations, which now cut across the two ministries, have been discussed with representatives of both ministries and they have accepted the findings and recommendations in the report.

The objective of the procurement review was to carry out review of the status of MOH's procurement contracting, and implementation processes and systems, in order to determine the level of compliance with the new procurement law, regulations, circulars, and directives issued by the Public Procurement Oversight Authority. Specifically, we assessed whether MOH maintains an appropriate system of internal control over contracting and procurement functions including oversight of the procurement activities of component agencies located in Nairobi.

Our review was limited to compliance with the law, regulations, internal controls, and institutional framework as they relate to procurement functions.

In calendar year (FY) 2007, MOH incurred approximately Ksh 5 billion for procurement of goods, works, and services and disposal amounting to Ksh 3.5million. The procurement methods used are mainly open tender Ksh 3.5billion (71%), restricted tender Ksh 1.3 billion (27%), request for quotations Ksh 97million, and direct procurement Ksh 48million. The level of effort for the request for quotations is a matter of concern as 63% of the number of procurements are on this method which represents less than 2% of the total value. The Act provides the opportunity for framework contracts which if implemented could offer the flexibility to better match the needs with the resources available. There is need to consider alternative methods by consolidating the requirements to save time.

PPOA previously recognized that problems existed in the MOH during the Independent Procurement Review 2005 (IPR), Rapid Results Initiative (RRI) assessment exercise carried out in 2007.and the Joint Design Mission 2007(JDM). We evaluated the implementation of some of the findings and recommendations of these reports. The team observed that the Ministry is not implementing the recommendations of prior reviews, studies, and assessments.

The indistinct role of KEMSA in the ministry's supply chain management has been raised many times in these prior reports. The relationship is unclear and confusing. There is need to specify the roles, and responsibilities of the two entities in the supply chain process particularly budgeting processes, and delivery controls. MOH capacity for oversight of KEMSA is weak in the areas of delivery controls of procurements made by the MOH creating an enormous gap in the internal control coordination. This raises doubts whether the ministry receives what it ordered, whether deliveries are made within timeframe agreed and whether the performance bonds are being properly released.

The Ministry does not file any reports with PPOA as stipulated in the Act and related the regulations.

Budgeting is an important aspect of procurement management and the way IFMIS is designed and implemented has a major impact on the efficiency and effectiveness of the procurement functions. Full implementation of IFMIS is necessary to help improve financial management through improved data accuracy, timeliness, and access to financial information. Currently the procurement processes are being initiated without specific approved budget lines. The procurement decisions have no reference to the budget framework including the MTC decisions. Procurement planning must be made part of the budgeting process as well as the procurement cycle to provide a basis for direct linkage between budget execution and expenditure control.

The internal Audit unit needs to be strengthened to ensure effective checks on compliance of the procurement transactions.

Procurement record keeping is poor and hampers the work of procurement reviews and quality of audits. Contracts management is weak and needs to be strengthened as poorly supervised contracts could lead to financial losses.

Finally, non-compliance cases go unchecked and are repeated with impunity. The procuring entity staff involved in the procurement functions should exercise due diligence and avoid blatant neglect of the law and regulations.

The team recommends that MOH develop and implement:(1) procedures to ensure that parties involved in the procurement process, including the standard and specific committees, comply with the provisions of the law and regulations; (2) develop the record keeping and documentation systems for the procurement processes; (3) plan to expand the IFMIS to ensure it can capture and distribute updated information on all the procurement components.

1 INTRODUCTION

The Government of Kenya (GOK) and USAID/Kenya signed the Kenya Millennium Challenge Account Threshold Program (MCA-TP) agreement on March 23, 2007. The \$12.7 million Program addresses public procurement reform, with a particular emphasis on the healthcare sector.

The Program consists of three components:

- a) Component 1: Reforming the Public Procurement System.
- b) Component 2: Improving Healthcare Procurement and Delivery.
- c) Component 3: Civil Society Monitoring of Procurement Reform and Healthcare Procurement and Delivery.

For Component 1 of the MCA-TP, ARD, Inc. was selected to provide technical assistance and training to support the Public Procurement Oversight Authority (PPOA) to reform the public procurement process in Kenya. One of the tasks of the project is to assist PPOA carry out comprehensive procurement reviews (audits) to determine level of compliance with the laws in six high spending procuring entities namely Ministries of Health (treating MOH and KEMSA as separate entities). Others include Education, Energy, Roads and Public Works and Office of the President. In assessing compliance, “procurement reviews” have been used in place of “audits”, to distinguish these activities from those of the Kenya National Audit Office.

The Ministry of Health and the Kenya Medical Supplies Agency (KEMSA), which for the purposes of this project will be considered as separate procuring entities, are the first GOK entities for Component 1 activities to be reviewed.

1.1 Mandate of PPOA

The PPOA’s procurement review function is derived from Section 49.1(a) of the Act, which states that the Director-General or anyone authorized by him may inspect at any reasonable time the records and accounts of a procuring entity and the procuring entity and contractor shall cooperate and assist whoever does such an inspection.

1.2 Specific Review Objectives

The objective of the procurement review was to review the status of MOH’s procurement contracting, and implementation processes and systems, in order to determine the level of compliance with the new procurement law, regulations, circulars, and directives issued by the Public Procurement Oversight Authority.

The specific objectives of this procurement review were:

- a. To verify whether the procurement and contracting procedures, processes and documentation followed by MOH, in order to determine whether they were carried out in accordance with Public Procurement Act and the associated Regulations;

- b. To establish MOH adherence to the generally accepted principles of economy and efficiency; equal opportunities; transparency; integrity and fairness; and promotion of local industry;
- c. To determine technical compliance, physical completion and price competitiveness of each contract in the selected representative sample;
- d. To review the capacity of MOH to handle procurement efficiently; comment on the quality of procurement and contracting; and identify reasons for delays, if any;
- e. To establish whether adequate systems are in place for procurement planning, implementation and monitoring and whether reliable documentation is maintained as required by the regulations;
- f. To establish whether remedial actions made in the previous reviews have been carried out successfully;
- g. To make recommendations for improvement in an action plan which will be followed up within 6 months to establish whether these improvements have been implemented;
- h. To assist in clarification of areas where MOH may have misunderstood the requirements of the legislation;
- i. To determine challenges faced by the MOH in the implementation of the Act.

1.3 Scope of the Review

The procurement review covered procurement activities carried out by the MOH under the PPDA during the 1 January-31 December 2007 period. The procurement areas covered included:

- a. Procurement of KEPI vaccines.
- b. Procurement of essential medical equipment and supplies.
- c. The procurement of national non-pharmaceutical medical equipment and supplies, (an annualized centralized procurement procedure that is applied to a list of items judged by the Ministry to be required nationally).
- d. Small value items procured at the headquarters and different outlets of the MOH.
- e. Exceptions to competition on procurement where the MOH waived the approved procurement procedures in crises.
- f. Institutional structure and capacity.

The review team also visited the KEMSA warehouses to verify level of physical completion, quality of works, standard of materials used, etc, and comment accordingly

1.4 Review Methodology

The review procedures performed included selecting samples of the open tenders, restricted tenders, direct procurement, and request for quotations.

1.4.1 Key documents

Key documents related to the terms of reference were reviewed. The information collected in the matrix (Appendix 2) was analyzed to provide an overall picture of the level of compliance in the various stages of the procurement process. The overall risk rating for the procurements handled by MOH over the review period was assessed using the criteria in paragraph 1.7 below. Other background documents used by the team included but not limited to the following: PPDA 2005, PPDR 2006, Interim Procurement Review Manual, Independent Procurement Review Report (IPR), Rapid Results Initiative (RRI) 2007 report, Country Procurement Assessment Report (CPAR) 1997; Joint Design Mission to the Health Sector Report (JDM) 2007, MOH Schedules of Duties 2003, Report on Records Management in MOH, among others. It is also important to note that the MOH staff had undergone sensitization training organised by PPOA on the implementation of the Act and Regulations prior to the commencement of the Act.

1.4.2 Interviews and Discussions

Direct discussions/interviews with relevant staff/officials of MOH directly involved in the procurement process.

Through interviews and discussions with officials, the review team recorded general and specific information with regards to the procurement/disposal process, procedures and existing capacity at the MOH.

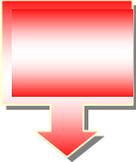
1.4.3 Sampling

The review team selected samples in accordance with the Interim Procurement Review Manual.

The team selected an estimated compliance level of 80% and the probability of non-conformity to be 83.% (see sampling criteria in section 7). The high level of estimated compliance level was based on the understanding that the procuring entity had undergone sensitization training and had been reviewed by PPOA last year under RRI. Other previous studies and reviews in the Ministry included CPAR 1997, IPR 2005, and JDM 2007.

1.4.4 Rating Criteria

The reviewed procurements were categorized according to the procurement/disposal deviation rating criteria outlined in the interim procurement manual and TOR. The method was discussed with the Head of Procurement Unit and consisted of four categories namely:

| | |
|--|--|
| <p>Major deviation (DDD)</p>  | <p>Cases of procurements where fundamental requirements of the PP&D Act and Regulations were not followed. Such procurements are considered to have major deviation, which could cause material financial loss, flaws in the law and/or regulation or the entity's reputation.</p> <ul style="list-style-type: none"> • Poor record keeping • Ensuring that prior recommendations of prior reviews, studies, assessments and examination reports are implemented • Commencing procurement procedure without approved budget • Lack of procurement plans • Lack of procedure manual • Lack of sector procurement manual • Weak internal auditing systems • Lack of training policy • Lack of standard committees • Lack of preferential treatment • Weak contract management and internal control systems • Ensuring that reports, which are required to be submitted to the PPOA, are indeed submitted. • Signing a contract without commencement date and without approved MTC minutes <p>Such cases warrant immediate intervention by the Accounting Officer.</p> |
| <p>Moderate Deviation (DD)</p>  | <p>Procurements that were considered to have weaknesses which, although less likely to lead to material financial loss or to risk damaging the regulatory system or the entity's reputation, warrant timely management action using the existing management framework to ensure a formal and effective system of management controls is put in place. Where procurement procedures were considered to have significant omissions or deviations, including:</p> <ul style="list-style-type: none"> • MTC members not having adequate knowledge of the procurement laws and regulations • Adjudication of cases which violates the provisions of the Act and regulations • Adjudication of cases without procurement plans, procurement requisition and prior approvals of procurement methods. • Receiving the quarterly reports of the Procurement Committee. • Deciding on procurement method without proper justification and not considering alternative methods • Deciding on cases of where evaluation period exceeds the stipulated period |

| | |
|---|---|
| | These weaknesses warrant immediate attention of the senior management e.g.: heads of user departments, administration, and chairperson of MTC. |
| Minor deviation (D)  | <p>Procurements with weaknesses where resolution within the normal management framework is considered desirable to improve efficiency or to ensure that the business matches current market best practice. Deviations from laid down detailed procedures would normally be graded “low” if there is sufficient evidence of management action to put in place and monitor compliance with detailed procedures. These weaknesses warrant immediate attention of the procurement unit or user department.</p> <ul style="list-style-type: none"> • No appointment letters for the members of the standard committees. • Clarification of open tender advertisement • Poor record keeping in PU • Developing annual and framework contracts for commonly used items e.g. printing services, office supplies and stationery • Surpassing maximum threshold for request for quotations method • Summary of overdue accounts for procurements • Developing training schedule for the PU personnel |
| Satisfactory Reviews (SF)  | Where procurement practices and procedures met the requirements of the law and regulations and were considered to meet standards of good practice. |

1.5 Limitation of scope

Our scope was limited by the following:

- i. Lack or incompleteness of records, data and documentation relating to the procurement processes selected;
- ii. Because of the general disorganized storage and absence of a reliable records control system, document location and retrieval in the PU is difficult;
- iii. Inability to verify the authenticity of most of the documents sampled;
- iv. Lack of documented internal control manuals relating to initiation, certification and approvals at various levels.

2 ORGANIZATION OF MINISTRY OF HEALTH

2.1 Mandate

The Ministry of Health (MOH) is a line Ministry charged with the responsibility of the management of the country's health sector and its mandate includes:

Determining the country's health policy framework;

Defining the health system, structure, and strategy needed to deliver the health services in an efficient, equitable, and sustainable manner;

Setting out the expected service standards for activities to be delivered at the different levels of the health system;

Laying down the minimum human resources and infrastructure needed to ensure that the different levels of the system are able to offer the expected service standards; and

Establishing the process of supervision and monitoring for adherence to the standards.

2.2 Vision of MOH

An efficient and high quality healthcare system that is accessible, equitable and affordable for every Kenyan.

2.3 Mission of MOH

To promise and participate in the provision of integrated, high quality promotive, preventative, curative and rehabilitative healthcare services throughout to all Kenyans.

2.4 Administration

The Accounting Officer for MOH is responsible for ensuring that the Public Procurement Act and Regulations are adhered to. In this respect his duties include (PPDA Section.27):

- a. Establishing all standing committees as stipulated in the Act including Tender Committee, Procurement Committee, Disposal Committee and Inspection and Receipt Committee;
- b. Establishing a Procurement Unit staffed to an appropriate level with procurement professionals;
- c. Signing contracts for procurement activities on behalf of the procuring entity for contracts entered into in accordance with the terms and conditions of the award;
- d. Ensuring annual procurement plans are prepared; and
- e. Ensuring that the procuring entity properly documents procurement proceedings and manages records in accordance with the regulations.

The Ministry comprises two main departments namely Administration and Medical Services headed by the Director Administration and the Director Medical Services respectively.

The Administration Department of the Ministry consists of six sections namely Administration, Finance, Accounts, Procurement, Human Resources and Economics and Planning. The Director of Administration is the chairperson of the MTC, approves expenditure for procurement before going to MTC for commitment, and is the AIE holder for administration. In addition, there are Internal Auditor and Legal officers in the organization. The internal auditor verifies purchase orders for compliance with the financial regulations. It was not clarified if the Internal Auditor verifies purchase orders for compliance with the PPD Act. It was not immediately established if the two officers vet, or verify contracts. The review team was not provided with any internal audit report for the period. The Auditor General is currently auditing year FY2005-2006. The period under review has not yet been audited.

The technical services department is headed by the Director of Medical Services. The office of the Director of Medical Services was created by an Act of Parliament. The functions of the Director as stipulated in the Act include to:

- a. Prevent and guard against introduction of infectious diseases in Kenya from outside;
- b. Promote the public health and prevention, limitation or suppression of infectious, communicable or preventable diseases within Kenya;
- c. Advise and direct local authorities with regard to matters affecting public health;
- d. Promote or carry out researches and investigations in connection with prevention or treatment of human diseases; and
- e. Prepare and publish reports and statistical or other information relative to the public health

The Director is the head of all user divisions and AIE holders. He is also the authority to declare emergency requirements and certifies purchasing requests.

The Kenya Medical Supplies Agency (KEMSA) is an agency under the Ministry of Health, responsible for the receipt, warehousing and distribution of medical equipment and supplies procured by MOH, for all hospitals and clinics across the country. KEMSA operates as a separate department within the Ministry of Health headed by a Chief Executive Officer who reports to the Permanent Secretary.

2.5 Procurement Unit

The Procurement Unit is established in accordance with the PPDA. The Senior Principal Procurement Officer is responsible for day to day management of the Procurement Unit and is the Secretary to the MTC. He is accountable to Accounting Officer for efficient and effective management of the procurement unit.

The present holder has been acting in the position for the past fourteen months.

The scope of the work of the Procurement Unit includes but is not limited to:-

- a. The organization of procurement and procedures to ensure compliance;
- b. Record keeping of procurement documents;
- c. Staffing and professionalism of procurement personnel;
- d. Development of annual consolidated procurement plan and its adherence;
- e. Inventory management system and warehouses for the MOH;
- f. Contracts Management from inception to completion; and
- g. Any other issues within the purview of the Act and the Regulations.

The Procurement Unit has two sections namely – the procurement and tender secretariat. The former handles all the requests for quotations while the latter handles open and restricted tenders. In addition, the PU is in charge of six outpost procurement offices covering NASCOP, Malarial Control, NPHL, KEPI, and Government Chemist. These units handle the requests for quotations for their designated units but report to the Head of the Procurement Unit at the headquarters.

2.6 Key Performance Indicators in MOH

2.6.1 Methods of Procurement Reviewed for period 2007

During the review period, MOH used various methods of procurement namely open tender, request for quotations, restricted tenders, special tenders direct procurement and request for proposals.

2.6.2 Approved Gross Expenditure (Ksh)

| Expenditure | 2006-2007 | 2007-2008 |
|-------------|-------------------|-------------------|
| Recurrent | 22,256,427,888.00 | 22,745,033,500.00 |
| Development | 6,870,139,370.00 | 14,102,899,000.00 |

Source – Government Expenditure Estimates 2006-2007, 2007-2008

2.6.3 Total Number and value of procurement methods in 2007

| Type of procurement method | Number | Value(Ksh) |
|----------------------------|--------|----------------|
| Open tenders | 18 | 3,539,103,560 |
| Restricted tender | 74 | 1,317,369,4101 |
| Request for quotations | 167 | 97,126,005 |
| Direct Procurement | 5 | 48,362,677 |
| TOTAL | 264 | 5,001,961,653 |

2.6.4 Request for Quotation Analysis

| Categories | Total Value(Ksh) |
|------------|------------------|
| Chemicals | 1,100,000 |

| | |
|--|---------------|
| Office Supplies & Stationery | 17,651,339.00 |
| Printing services | 16,886,400.00 |
| Medical supplies | 10,557,950.00 |
| Communication /Computer accessories & Data | 12,977,440.00 |
| Vehicle Repairs | 3,686,000.00 |
| Uniforms | 1,320,600.00 |
| Office Furniture/Furnishing | 15,307,937.00 |
| Conference/workshops | 1,100,000.00 |
| Cleaning/Maintenance materials | 9,624,339.00 |
| sundry | 6,914,000.00 |
| Total | 97,126,005.00 |

2.6.5 Distribution of the procurements in the sample under review

| Procurement Method | No | Out of Total | Sampled Value | Out of Total Value |
|-----------------------------|----|--------------|------------------|--------------------|
| Open tenders | 9 | 18 | 1,548,631,168.00 | 3,539,103,560.00 |
| Restricted tender/selective | 2 | 74 | 252,564,600.00 | 1,317,3694,101.00 |
| Request for quotations | 35 | 167 | 74,724,148.00 | 97,126,005.00 |
| Direct procurement | 3 | 5 | 5,565,255.00 | 48,362,677.00 |
| TOTAL | 49 | 264 | 1,881,485,171 | 5,001,961,653.00 |

2.6.6 MOH top ten suppliers for the year 2007

| | Supplier | Amount | Percentage of total value of procurements |
|----|---|---------------|---|
| 1 | Megascope Healthcare (K) Ltd | 1,110,501,484 | 22.2 |
| 2 | Angelica Medical Supplies Ltd | 415,832,920 | 8.3 |
| 3 | Total Hospital Solutions | 262,583,853 | 5.2 |
| 4 | Asterisk Ltd | 176,643,195 | 3.5 |
| 5 | Unilife Medical Systems Ltd | 170,850,521 | 3.4 |
| 6 | G North & Sons | 169,168,740 | 3.3 |
| 7 | Sciencescope Ltd | 145,484,282 | 2.9 |
| 8 | North West Medicals | 105,299,696 | 2.1 |
| 9 | Faram East Africa Ltd | 102,400,331 | 2.0 |
| 10 | Philips Pharmaceuticals | 101,348,554 | 2.0 |
| | Total value of procurements awarded to top 10 suppliers | 2,760,113,576 | 55.2 |

Figure 1: Total value by method of procurement



Figure 2: Percentage of value by method of procurement

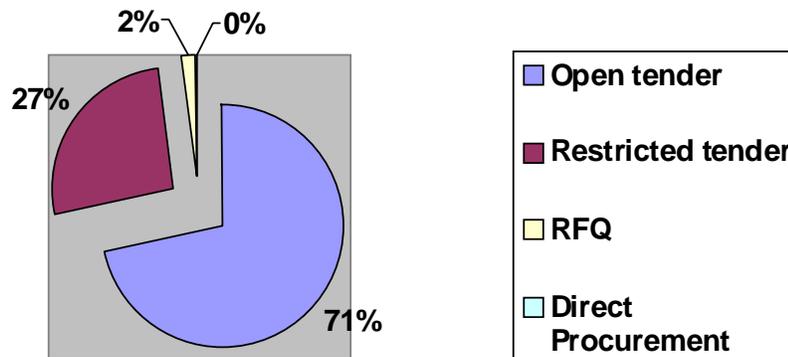


Figure 3: No. of transactions by methods of procurement



Figure 4: Percentage of transaction by method of procurements

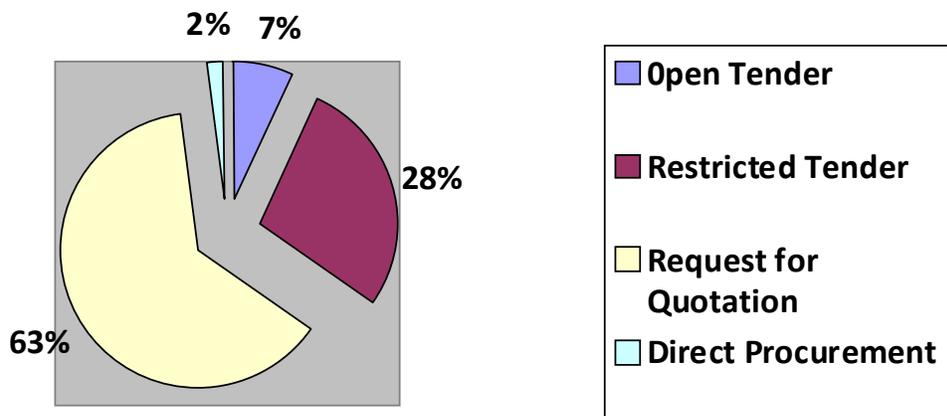


Figure 5: Value of sampled procurements by method of procurement



Figure 6: No of transactions by methods of procurement in sample

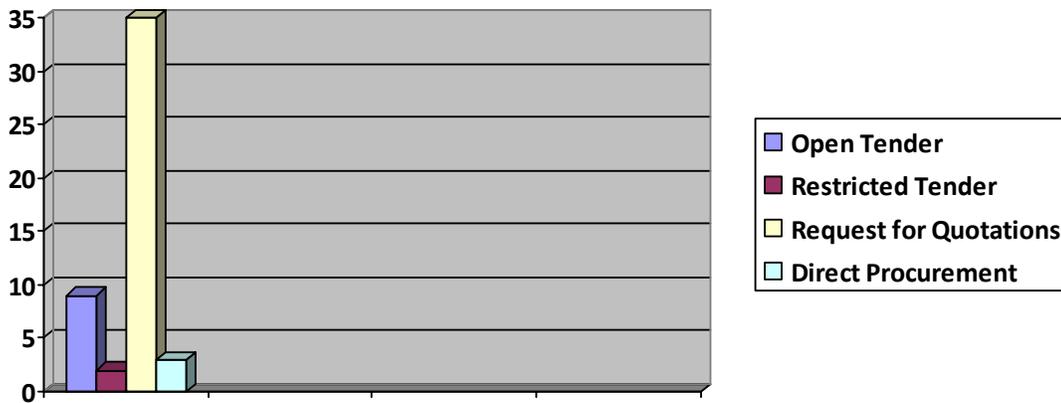
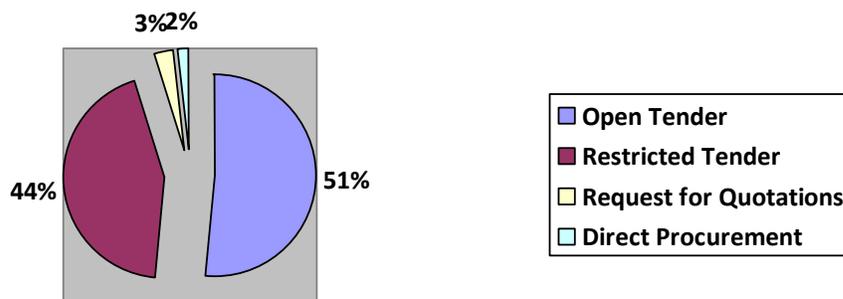


Figure 7: Percentage of value by method of procurement (sampled procurements)



3 SUMMARY OF GENERAL FINDINGS, OBSERVATIONS AND RECOMMENDATIONS

3.1 General findings and Observations

During the period under review, MOH undertook 264 procurements of total value of Ksh 5,001,961,652.31 and one disposal amounting to Kshs 3,515,275. In order to provide an overall reflection of better picture of the compliance level, the team selected 49 procurements of total value Ksh 1,881,485,171.39, together with the one case of disposal.

3.1.1 Legal Aspects and Institutional Framework

The PPDA 2005 and PPDR 2006 are by and large operational in MOH. However, the team have reservations whether the persons involved the functions relating to procurement understand thoroughly the provisions of the Act and Regulations. Some members from procurement and user departments have now undergone sensitization training by MCA-TP team. The review team did not find the procurement policies and procedures, sectoral manuals circulars, directives, and handbooks available, accessible, and regularly updated for the staff who would want to refer to them. Although the Procurement Unit is established, many of the staff in the PU does not have formal appointments to their positions. Several positions are filled with acting personnel including the head of PU, which has not been filled substantively for nearly two years, as the substantive post holders have been absent following interdiction. The team also noted observed the high turnover of personnel. Most of the PU personnel do not remain in the unit for more than two years, making it impossible for any significant change to be made. The PU is adequately provided with computers and other tools but has inadequate office space and no registry.

The review team did not find any training policy or work plan in place to ensure continued development of skills and professionalism.

3.1.2 Budgets and Expenditure

Budget rules, regulations, and financial procedures that support timely procurement, contract execution, and payment are deficient. In all the cases reviewed, the team found deficiency in linkage with budgets in the procurement processes and there was no proof that these procurements were initiated within existing budget appropriations. Presently there is an Integrated Financial Information System (IFMIS) on trial and only the accounting phase is operational. The financial system is not yet operational hence there is no interface between budgetary and operational functions.

The review team was not able determine whether any donor funds had been used for procurements, as the initiators are not identifying the sources of funds on the documents.

3.1.3 Procurement Plans

There are no consolidated annual procurement plans prepared by PU for all tenders, contracts and/or LPOs reviewed. The user departments have prepared departmental procurement plans and forwarded them periodically to the AO but not in conformity with the timeframe as set out in the Act and not directly linked to any specific budget line. These departmental plans are useful as a planning or monitoring tool.

3.1.4 Separation of Powers

The review team did not find any updated schedules of duties in the Ministry outlining separation of functions. It is therefore difficult to determine where there is clear separation of powers for those undertaking initiation, processing, and receipt. The team however, observed separation of functions of user departments, procurement unit, standard and specific committees, and the Accounting Officer. It was noticed that the managers and officials are not fully informed about the requirements in the new procurement law and regulations; as such, most of their decisions do not comply with the Act.

3.1.5 Standard Committees

For all standing committees, there were no letters of appointment except for the chairperson of MTC; hence, there is no way of authenticating the names given. There was no evidence that external observers had been invited for the tender committee adjudication of any tender over Ksh 50 million, as required by the Act. There is no standard template for submission and reporting for cases submitted to the committees. The committees are not provided with pertinent information to enable them make informed decision in accordance with the law. The MTC have not demanded any quarterly reports from the Procurement Committee.

3.1.6 Procurement Requisitions

There are no official standard procurement requisition forms (PPDR, third schedule No 9) used for initiation for procurements reviewed. Internal memos from the user departments addressed to the PU initiate all purchase requests. For the large procurements under the threshold matrix, the memos go through AO. The AO simply endorses approval on the memos, which do not show any schedules of duties. There is no evidence of separation of responsibilities for initiating, certifying, and approving authorities. There is no budget line indicated on the memos to show source, allocation, and availability of funds in the budget for particular procurement, or authority to incur expenditure for the purchases requested. This leads to cancellations of tendering processes midstream due to lack of funds.

3.1.7 Solicitation Documents

Request for Quotations form S10, Tender Documents, Evaluation Criteria, Bid Security Form; Performance Security Forms were found to be operational as stipulated in the PPDR and following the PPOA systems.

3.1.8 Award of Contract

The team observed that several contracts were awarded before the MTC minutes had been signed and that all contracts reviewed had no commencement dates. Some local contracts were awarded in US\$, which may create problems on account of adverse fluctuation of currency. Not all the performance bonds for contracts reviewed were provided. Although the Act is silent, the standard currency should be used for all bidders and for national tenders the local currency should be used to avoid unnecessary losses occasioned by fluctuations of currency.

3.1.9 Contract Management

The team observed that:

- a. There is no contract register;
- b. All contracts awarded bear one contract number similar to the tender number;
- c. No dedicated procurement file containing all correspondences and documents pertaining to each contract has been opened;
- d. Records of advance, progress and milestone payments, and taxes for contracts were not made available to the review team;
- e. Contracts over Ksh 5million are not advised to PPOA as required by the PPDA;
- f. Terminated contracts are forwarded to PPOA; and
- g. There is no inspection and acceptance committee in place; hence there are neither inspection reports nor certificate of completion for both MOH HQTS and KEMSA.

3.1.10 Procurement in Crisis Situation

In a crisis an attempt is generally made to give priority to “curative operations” to mitigate risk to health or life, through emergency intervention. In such situations, MOH needs to take prompt action for immediate results, necessitating deviations from the normal procurement procedure under the threshold. This calls for choice of the fastest procurement method in most cases as provided for in the PPDA. It is the review team’s opinion that it can be open to abuse by user departments delaying actions until the emergency arises, so that PU is compelled to use direct procurement or restricted bidding. To avoid misuse, the Director of Medical Services should sign all emergency requisitions.

3.1.11 Reports submitted to PPOA.

There were no reports of procurements above Ksh 6 million having been submitted to PPOA during the period under review as required by the regulations.

3.1.12 Poor Record keeping Data and Documentation

The system of filing and record keeping is extremely weak. None of the reviewed tenders/request for quotations for the year had complete information pertinent to the tender in question. A lot of data needed for verification purposes were either missing or incomplete. Apparently, this area has been observed in all previous reviews but no corrective action taken by management

The PE complies with the requirements of section 45 (1), and 45 (2a-h) of the Public Procurement and Disposal Act in that all the documents stipulated in the Act are kept. The biggest weakness is that they are not properly organized but are fragmented and scattered in a number of different offices and files, and therefore access and retrieval is difficult. This weakness stems from the fact that control and care for records has not been assigned to anybody. The practice in the Ministry and most particularly in the Procurement Unit is for officers to keep official documents and papers in unofficial files, personal folders and in their drawers. Official documents and papers must be maintained in official files whose existence is documented and registered. This weakness therefore means that the PE is not compliant with the section 45 (6) of the Public Procurement and Disposal Act that requires an entity to maintain a proper filing system with clear links between procurement and expenditure files. An elaboration of the major weaknesses of management of procurement records in MOH is provided in the following paragraphs.

3.1.13 Fragmentation and scattering of procurement records

Section 45 of the Public Procurement and Disposal Act requires procuring entities to maintain records for each procurement activity.

Section 34 (3) of the Public Procurement and Disposal Act requires procuring entities to maintain an individual file for each procurement activity. Such a file should be complete and comprehensive and should cover the entire procurement cycle. The Ministry of Health records keeping system falls far short of this requirement in that documents pertaining to a single procurement activity are kept in different offices and in many instances, several different files. Specifically, the following weaknesses were observed with regard to maintenance of procurement files:

A tender file will have the bid documents, but the initial memo for purchase is maintained in another file and in a different office;

Tender evaluation forms and reports are maintained in a different file;

Contract agreement documents are kept in the office of the Principal Procurement Officer. A contracts register is not available;

Minutes of the Tender Committee are kept by the Ministerial Tender Committee secretariat;

Documents pertaining to receipt of goods and services such as goods received vouchers, invoices and delivery notes are kept by the stores section; and

Records pertaining to payment for goods and services, such as payment vouchers, are kept by the accounts section.

The result of this fragmentation and scattering of procurement records is that it is very difficult to retrieve a needed document. Secondly, the non-maintenance of complete records means it is very difficult to conduct any meaningful procurement audit and review.

3.1.14 Tender files

The PU maintains tender files that are not complete with all required documents. Initial memo for purchase is maintained in a different file while LPOS/LSOs are maintained in another. Documents pertaining to receipt of goods, payment for goods and service records are maintained by the Stores and Accounts Section.

It is important to ensure that a complete file is maintained for each procurement activity. The file should contain all the relevant documents starting with the initial memo for purchase, documents for the tendering process, evidence of receipt and payment for goods. As far as possible, these should be original documents, or where not possible, certified copies of the originals. Evidence for payment of goods should be in form of a certified copy of the payment voucher, together with the payment cheque number.

The papers in the file should be maintained in the correct order. The papers should be filed in the order of transactions or activity they document. This should be in chronological order. Placing documents in this order establishes the context within which decisions were taken and confirms the sequence of those transactions. To safeguard the completeness and integrity of the files it is important to serialize (folio number) the documents within it. The individual tender and quotation files will be physically maintained according to tender or quotation reference number order and in accordance with the financial year.

Centralized co-ordination of records keeping will remove the need for officers to maintain official documents in personal filing systems as was quite evident in many instances in the Ministry of Health Procurement Unit.

3.1.15 General correspondence files on procurement matters

Some policy and general correspondence files on procurement matters are kept in the main registry, while confidential ones are kept in the secret registry. In both registries an official file scheme (file index) is available, though both are in need of review and updating. Procurement files kept in the two registries are scattered within a file index and in their physical storage. It would be important for the file schemes in both the secret and main registry to be revised and to have one class to be called Procurement under which all policy and general correspondence procurement files would be maintained, serially numbered and referenced according to the file scheme in use. They will then be physically stored together in secure and lockable cabinets.

3.1.16 Tender Committee Minutes

There is no standard submission form for all MTC cases submitted for adjudication. There was no evidence of MTC approvals on draft tender documents, draft tender notices (invitation for bids) or other approvals related to procurement procedures as required by the PPDA and the PPDR including choice of procurement method.

There is no evidence that the MTC carried out checks to ensure

- That funds are available before awarding the contract;
- That market prices not exceeded; or
- That the procurement method was initially approved by MTC.

The MTC secretariat prepares the agenda, and maintains the minute's files. The internal organization of the minutes file is that minutes are numbered serially and according to the numbered sessions of MTC meetings in a financial year. The files are kept in a steel cabinet, and in no particular order. Other minutes' files are kept on wall shelves. The officers said they could not tell where the minutes' files for earlier years were kept as they moved in to the office recently.

The same scattering and dispersed storage of other procurement records is evident in the maintenance of MTC minutes.

MTC minutes' files are important, and should be securely maintained. The file containing confirmed minutes, signed by the tender committee chairman and the secretary, and approved by the accounting officer should be considered the most definitive and authoritative. These files should therefore be securely maintained.

The MTC has not reviewed any quarterly reports from the procurement committees.

3.1.17 Pre-qualification of Suppliers

There is an approved suppliers list in place developed during the period under review. The users expressed their concerns on the quality of materials and equipment procured from some of these suppliers. Before accepting a particular supplier, PU in conjunction with the user department should conduct a supplier evaluation to ascertain the quality of production. There is also need to strengthen supplier performance evaluation to assess whether suppliers' performance meets the expectation or does not meet the expectation in terms of quality of goods and services.

3.1.18 Misuse of request for quotation method

It was observed that some tenders were broken up with intention to benefit from the quotation method. This widespread in the category of printing, office supplies and stationery, whereby several quotations are raised within a short period. There are several quotations are above the maximum threshold allowed.

3.1.19 Application of preferential treatment

Neither “Threshold of Preference” nor Exclusive Preference” of local firms was applied in any of the procurements carried out by the Ministry during the review period.

3.1.20 Handling of complaints

The Ministry does not keep a complaints/protest log.

3.2 Recommendations

- i. The Ministry should upgrade their record keeping and where possible the record keeping system should be computerised.
- ii. The procurement unit must keep procurement records as stipulated in the Act.
- iii. The Ministry through the accounting Officer, should be advised on the need to improve their budgeting and procurement record keeping. Therefore, training to all procurement officers on records and data management is essential.
- iv. The Ministry should increase sensitization training to all staff responsible for key stages of the functions relating to procurement both at the level of headquarter branches, and component agencies.
- v. The Ministry ought to develop a sector procurement procedures manual for personnel involved in procurement process.
- vi. The position and role of KEMSA in the process needs to be clarified so that all those involved in the chain understand their roles and what is expected of them.
- vii. Formalise the appointment of all staff in the procurement unit.
- viii. Develop a training policy for continued development of skills and professionalism in the area of supply chain management.
- ix. The integrated financial management system should expand to link up with procurement management to boost monitoring.
- x. The Ministry should prepare annual consolidated procurement plans for all procurements. Train all PU staff on how to prepare procurement plans using templates approved by PPOA.
- xi. The Ministry to use standard procurement requisitions to initiate all procurements.
- xii. The Ministry to update the Schedules of duties handbook to reflect staff changes.
- xiii. The inspection and acceptance committee should be established right away for both headquarter and component agencies and prepare inspection reports.
- xiv. The secretary should develop standard template for MTC submissions and reporting with comprehensive pertinent information to guide the members in making informed decisions conforming to the Act and regulations.
- xv. Procurement Committee to submit quarterly reports to the MTC.

- xvi. MTC should invite external observers to attend all meetings for adjudication of cases over Ksh 50million.
- xvii. The Ministry should ensure that all contracts are executed after the MTC minutes are approved.
- xviii. When advertising open tenders, the Ministry should clarify whether the tenders are national or international bids and adhere to the respective terms of each method.
- xix. All drafts of the tenders being advertised should be submitted to the MTC for approval.
- xx. A specific contract manager for each contract should be designated to ensure continuous monitoring and documentation of all stages.
- xxi. The internal auditors should undertake sensitization training on the PPDA and PPDR so they incorporate compliance checks in the procurement process.
- xxii. The internal auditor provides timely information on non-compliance to enable management action.
- xxiii. The Ministry should apply preferential treatments where necessary.
- xxiv. The Ministry should establish and maintain complaint logs for providing necessary information internally as well as to all interested stakeholders.
- xxv. An official should be assigned the duty of co-ordinating management of procurement records.

4 SUMMARY OF GENERAL RATING IN MINISTRY OF HEALTH

| AREA | DDD | DD | D |
|--|--------|----|---|
| Ensuring that all requirements of the law and regulations are mainstreamed in the entity | X | | |
| Mainstreaming Procurement functions within Financial Management System. | X | | |
| Development of sensitization training for all those involved in the procurement functions both at headquarter level and branches | X | | |
| No Procurement files opened for all the 49 cases reviewed | X | | |
| No Procurement Plans for all the cases of the 49 cases reviewed | X | | |
| Establishment of inspection and acceptance committees at the HQ and KEMSA. | X | | |
| Appointment letters for the members of all committees | | | X |
| Instituting Procurement requisitions for all procurements | X | | |
| Preference Schemes not available for all the cases reviewed over the entire review period | | X | |
| None of the reports required to be sent to PPOA were sent for all cases reviewed during the review period. | X | | |
| Lack of Internal Audit Reports | X | | |
| Poor recordkeeping and data storage. The records for all the 49 cases reviewed were fragmented and scattered making it very difficult to retrieve. | X | | |
| National Competitive Bidding not clearly spelt out | | | X |
| Evaluation period exceeds 30 days in tenders reviewed | | X | |
| International Competitive Bidding not clearly spelt out in advertisements for all open tenders although the foreign firms are considered. | | | X |
| External observers for MTC for large contracts over Ksh 50 million not seen for all tenders reviewed. | | X | |
| Terminated tenders are not advised to PPOA | X | | |
| Contract Award <ul style="list-style-type: none"> • Written contract • Contract commencement date lacking • Contract over Ksh 5million to be advised to PPOA for advertising in the website | X X | | |
| Summary of overdue payments with interest charged | | | X |
| Misuse of the request for quotation method | | | X |
| Method and justification approved by MTC for repeat and proprietary services for the cases reviewed | | X | |
| Framework contracts for commonly used items | | X | |

5 ACTION PLAN AND FOLLOW-UP REVIEW

| TASK | By | PPOA/ARD Review date |
|--|-------------------|-------------------------|
| The Ministry should upgrade their record keeping and where possible the record keeping system should be computerised. | AO | April 2009 |
| The procurement unit must keep procurement records as stipulated in the Act. An official should be assigned the duty of co-ordinating management of procurement records | PU | April 2009 |
| Training to all procurement officers on records and data management is inevitable | DA/PU | April 2009 |
| The Ministry increase sensitization training to all those staff responsible for key stages of the functions relating to procurement both at the level of headquarter, component agencies and branches. | DA/PU | April 2009 |
| Develop the sectoral procurement manual for contracts and purchase orders to regulate procurement processes and reports | SPPO/PPOA/ ARD | April 2009 |
| The position and role of KEMSA in the process needs to be clarified so that all those involved in the chain understand their roles and what is expected of them | AO | April 2009 |
| Formalise the appointment of all staff in the procurement unit | DA/PU | April 2009 |
| Develop a training policy for continued development of skills and professionalism in the area of supply chain management. | PU | April 2009 |
| The integrated financial management system should expand to link up with procurement management to boost monitoring. | AO/DA | April 2009 |
| The Ministry should prepare annual consolidated procurement plans for all procurements. Train all PU staff on how to prepare procurement plans using templates approved by PPOA | AO/PU | April 2009 |
| The Ministry to use standard procurement requisitions to initiate all procurements | AO/DA/DMS/ MTC | April 2009 |
| The Ministry to update the Schedules of duties handbook to reflect staff changes | AO/DA | April 2009 |
| The inspection and acceptance committee should be established right away for both headquarter and component agencies and prepare inspection reports | AO/PU | April 2009 |
| The secretary should develop standard template for MTC submissions and reporting with comprehensive pertinent information to guide the members in making informed decisions conforming to the Act and regulations. | SPPO | April 2009 |

| | | |
|--|---------------|------------|
| Procurement Committee to submit quarterly reports to the MTC. | SPPO | April 2009 |
| MTC should invite external observers to attend all meetings for adjudication of cases over Ksh 50million. | SPPO/MTC | April 2009 |
| The Ministry should ensure that all contracts are executed after the MTC minutes are approved. | AO | April 2009 |
| When advertising open tenders, the Ministry should clarify where the tenders are national or international bids and adhere to the respective terms of each method | PU/MTC | April 2009 |
| All drafts of the tenders being advertised should be submitted to the MTC for approval. | MTC | April 2009 |
| A specific contract manager for each contract should be chosen to ensure continuous monitoring and documentation of all stages | DMS/PU/MTC | April 2009 |
| The internal auditors undertake sensitization training on the PPDA and PPDR so they incorporate compliance checks in the procurement process. The internal auditor provides timely information on non-compliance to enable management action | DA/IA | April 2009 |
| The Ministry should apply preferential treatments where necessary. | AO/PU/MTC | April 2009 |
| The Ministry should establish and maintain complaint logs for providing necessary information internally as well as to all interested stakeholders | AO/PU | April 2009 |
| Include commencement dates in all new contracts at time of award | AO | April 2009 |
| Open contract control registers | SPPO | April 2009 |
| Open procurement files for all active contracts and build up with relevant documentation | SPPO | April 2009 |
| Organize training for the senior management staff and heads of user departments on the compliance, documentation and records | SPPO/PPOA/ARD | April 2009 |
| Set in motion the LPO/LSO registers | SPPO | April 2009 |
| Assign specific numbers to the contracts separate from tender numbers | SPPO | April 2009 |
| Make use of standard procurement requisitions forms to initiate procurements process | SPPO/USERS | April 2009 |
| Endorse budget line on all procurement documents for cross reference to the budgets | SPPO/USERS | April 2009 |
| Introduce mandatory use of approved standard bidding documents in all procurement processes. | SPPO | April 2009 |
| Ensure that all procurement contracts must be in Procurement Plan | SPPO/AO | April 2009 |
| Review all IPR RRI ,JDM findings and monitor the external reports to ensure that corrective measures are being defined and undertaken to respond to the | AO/DA/SPPO | April 2009 |

| | | |
|---|----------|------------|
| findings | | |
| Head of departments to prepare their annual plans and submit to AO within 30 days before close of financial year | DA/USERS | April 2009 |
| Integrate the procurement plan with budgetary framework by moving to phase two of IFMIS. | SPPO/DA | April 2009 |
| The Ministry to establish the Inspection and Acceptance Committee to verify the authenticity, of goods being delivered and prepare completion reports | SPPO/AO | April 2009 |
| The Ministry should ensure that contracts are executed within the stipulated timeframe. | SPPO | April 2009 |
| Submit all reports for procurements over Ksh 5 million to PPOA as required by the regulations. | SPPO | April 2009 |

6 CONCLUSION

We have carried out procurement reviews in procurement functions and procedures to verify whether they conform to the Public Procurement and Disposal Act 2005 and the related regulations. We have also assessed whether the functions comply with generally accepted good practices. We have identified deviations in general areas and procurement stages and attached ratings to them. The major challenge in the Ministry is in the area of recordkeeping, data and documentation controls. Retrieving records for review purposes was very difficult, time consuming and even for the files made available, some records pertaining to fulfilment of the procurement process were incomplete, limiting the review scope. It was noted that some of the documents not in operation are yet to be prescribed by PPOA. The area needs the urgent attention of the senior management. Poor recordkeeping compromises validity, authenticity, and quality of the information coming from the Ministry.

The role of KEMSA in the Supply Chain Management processes needs to be addressed. At this time KEMSA, mainly operates as a procurement agent for ministry and a store management unit. It acts as the receiving entity of the medical supplies procured by MOH. The latter is not involved in the receipt and quality checks for supplies they have procured.

The office of the internal auditor needs to be strengthened to verify, examine, and determine that individual transactions comply with the Act and regulations.

We did commence our review against the background of other comparable past reviews. We found that the recommendations of the previous reviews have not been implemented. It is important to note that most of the findings and recommendations we have made had been made before, but not implemented by the entity.

We have included an action plan for follow-up in our recommendations to ensure that the corrective measures are carried out in order to improve compliance, efficiency, and effectiveness in procurement management.

We are pleased that the Ministry of Health management welcomed the review exercise as a mechanism to identify and address any pending shortcomings and weaknesses. They noted that the period being reviewed was a transitional period for all staffs were on a learning curve, so that any failure to follow procedures was due to lack of capacity. The management also pointed out that when the Act and Regulations was introduced, MOH could not immediately implement the laws because the management needed time to harmonise the systems to accept the new law. However, we congratulate MOH on the proportion of their spend covered by open tendering – this is above the target seen in many developed countries (60% by value) and we encourage the management to continue this practice.

Although the MOH has taken a number of reasonable steps to comply with the provisions of the procurement law, still a number of outstanding issues need to be addressed. The issues raised are important and warrant immediate attention by the procuring entity and the intervention of the PPOA to avert further non-conformity.

7 EXPLANATORY NOTES

7.1 Terms of Reference for the Review

Introduction

The main purpose of the procurement review in the ministry of health is:

Supporting PPOA to conduct reviews of the procurement practices of Ministry of Health as part of the MCA Threshold Project which is offering support for reforming the Public procurement systems.

Assisting the PPOA to conduct reviews and produce review reports that include specific recommendations to improve compliance as necessary, and suggested follow-up action as appropriate.

Undertaking diagnostic assessment and preparation of work plan to assess Ministry of health's institutional framework on procurement policy, capacity, and procedures and prepare recommendation on areas that requires improvement.

7.2 Sampling

The review team determined the estimated compliance level they would be looking for at 80% and the probability of non-conformity to be 83. %. The number of contracts selected for review in order that a realistic review report included all areas and categories of procurement functions. With random selection of eight there is a high probability of finding one sample which does not comply can be found from the table below. This sampling table is adapted from international standard EN45503.

| Number of samples | Estimated initial compliance with Public Procurement and Disposal Act 2005 | | | | | | | | | |
|-------------------|--|-------|-------|-------|-------|-------|-------|-------|-------|-----|
| | 10 | 20 | 30 | 40 | 50 | 60 | 70 | 80 | 90 | 100 |
| | Probability of finding a sample which does not comply with PPDA 2005 % | | | | | | | | | |
| 3 | 99.90 | 99.20 | 97.30 | 93.60 | 87.50 | 78.40 | 65.70 | 48.80 | 27.10 | 0 |
| 4 | 99.99 | 99.84 | 99.19 | 97.44 | 93.75 | 87.04 | 75.99 | 59.04 | 34.39 | 0 |
| 5 | 100 | 99.97 | 99.76 | 98.98 | 96.88 | 92.22 | 83.19 | 67.23 | 40.95 | 0 |
| 6 | 100 | 99.99 | 99.93 | 99.59 | 98.44 | 95.33 | 88.24 | 73.79 | 46.86 | 0 |
| 7 | 100 | 100 | 99.98 | 99.84 | 99.22 | 97.20 | 91.76 | 79.03 | 52.17 | 0 |
| 8 | 100 | 100 | 99.99 | 99.93 | 99.61 | 98.32 | 94.24 | 83.22 | 56.95 | 0 |
| 9 | 100 | 100 | 100 | 99.97 | 99.80 | 98.99 | 95.96 | 86.58 | 61.26 | 0 |
| 10 | 100 | 100 | 100 | 99.99 | 99.90 | 99.40 | 97.18 | 89.26 | 65.13 | 0 |

This high estimated was taken because the institution has had two reviews namely:-

1. Independent Procurement Review; and
2. Rapid Response Review.

The percentage could be increased depending on the following:

- a. Number of transactions/project activities during the period under review;
- b. The magnitude and complexity of the procurement activities, and
- c. Its history on fiduciary/performance compliance.

7.3 Review Report

At the completion of the review, and prior to completing the final report, the team will present the preliminary findings in the form of a Draft Review Report to the Director General PPOA who will share same with the Accounting Officer MOH, for comments and response to various issues raised. The final report will be prepared after the receiving the responses from the MOH and will focus on the findings and recommendations and action plan.

The ARD/PPOA will be responsible for the follow-up of the implementation of the substantiating the review findings.

The report is presented in the following format:-

- a. Table of Contents
- b. Acronyms
- c. Executive summary
- d. Objectives and Terms of Reference; scope; approach and review sample
- e. Summary of general findings and recommendations
- f. Outline of the review
- g. Summary of specific findings
- h. Specific issues
- i. Procurement issues including Special Procurements and Contracts and general issues; and
- j. Recommendations (if any) for improvements
- k. Agreed action plan
- l. Annexes.

7.4 Time Schedule

| | Planning phase | START | FINISH | DAYS |
|----|---|--------------|---------------|-------------|
| 1. | Identify the PEs for review | MCC Project | | |
| 2. | PPOA Issue Engagement letter to Ministry of Health on the selection of review | 21 January | | |
| | Examination phase | | | |

| | | | | |
|-----|---|-------------|-------------|----|
| 3. | Entry meeting MOH | 6 February | 6 February | 1 |
| 4. | Create initial sample list i.e. from reports, provided lists form PE, PPOA or any other information | 7 February | 11 February | 3 |
| 5. | Examination of procurement action files for MOH | 12 February | 10 March | 20 |
| 6. | Draft report to MOH | 11 March | 17 March | 5 |
| 7. | MOH response | 18 March | 3April | 10 |
| 8. | Exit meeting | 8 April | 8 April | 1 |
| | Reporting phase | | | |
| 9. | Draft report to Director General | 9 April | 15 April | 5 |
| 10. | Final report to Director General | 16 April | 22 April | 5 |
| 11. | Submit recommendations & corrective action to entity and publicize report | 30 April | 30 April | 1 |
| | Follow –up phase | | | |
| 12. | Follow up on action plan & recommendations | 2 May | 31 July | 64 |
| 13. | Agreed Immediate action PPOA takes | TBA | | |
| | Follow up on action plan | TBA | | |

The review shall be completed and final report presented to the PPOA within 50 days from the date of commencement of the assignment.

7.5 Data, Documents, Services and Facilities

The documents and information checklist has already been given to the Accounting Officer in the engagement letter. Much of this information will be in the procuring entity's procurement files, etc., and the team should be prepared to review and inspect this information in the offices of the procuring entities. The review team would work in close co-ordination with the staff of the procuring entity during the reviews.

7.6 Team Composition

The review team members who carried out the fieldwork and drafted the report were:

James Okello Team Leader ARD INC
 Joseph Kimani.....PPOA
 Jennifer Boit.....ARD INC.

The report was reviewed by Nigel Shipman and Jeff Woodhams of ARD, Inc.

7.7 List of Procurement areas

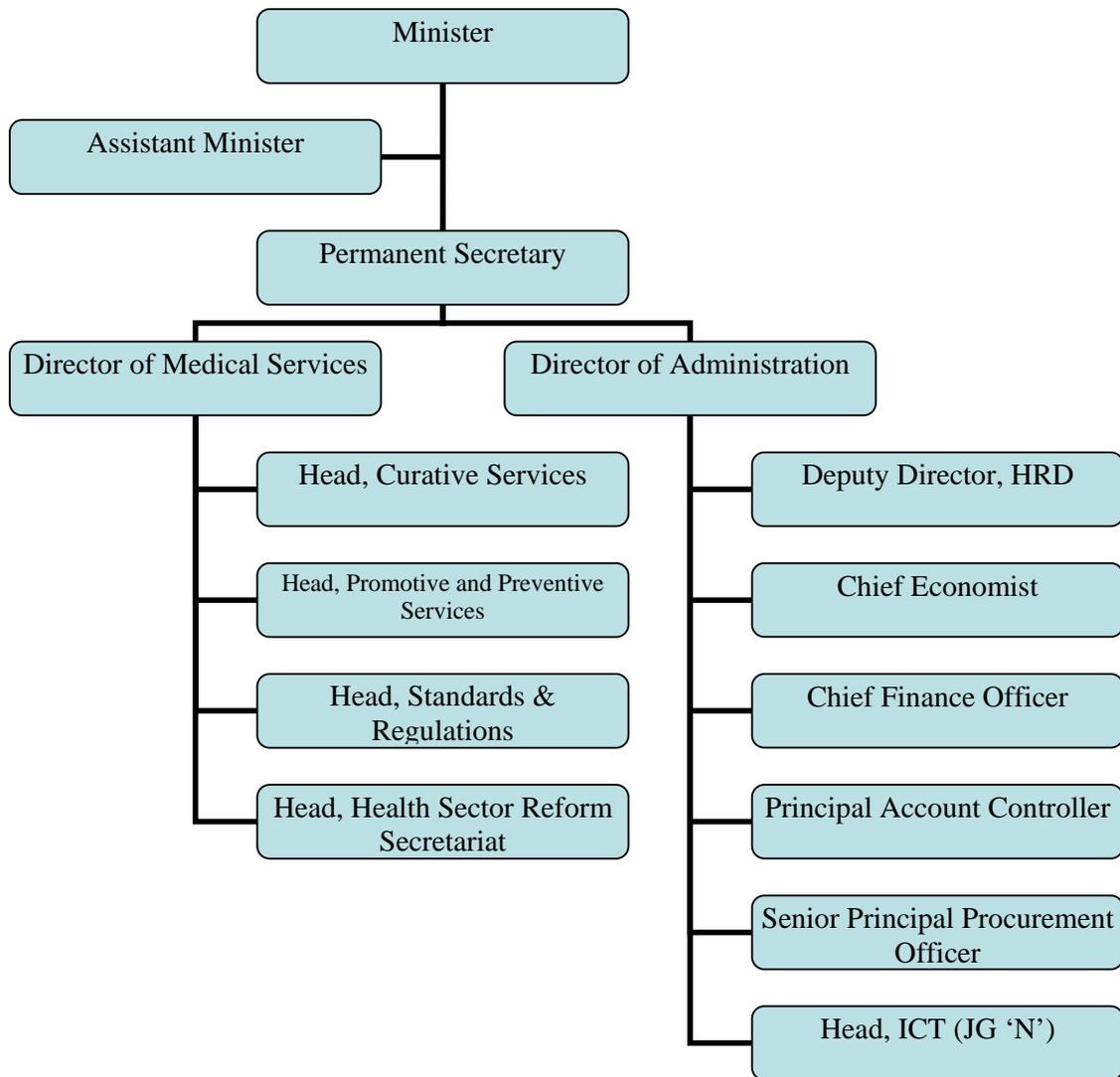
The following is a list of areas and categories that were covered in the

| Procurement areas |
|---|
| Procurement of drugs and medical supplies is done through annual tender process |
| The procurement of national items, an annualized centralized procurement procedure that is applied to a list of items judged by the ministry to be required nationally. |
| Procurement through the Supplies Branch, for widely used consumables which are justified upon value for money based upon the benefits of economies of scale |
| Small value items procured at the headquarters and different outlets of the MOH |
| Exceptions to competition on procurement where the procurement procedures were waived and procurement in crisis situations |
| Institutional capacity and framework |

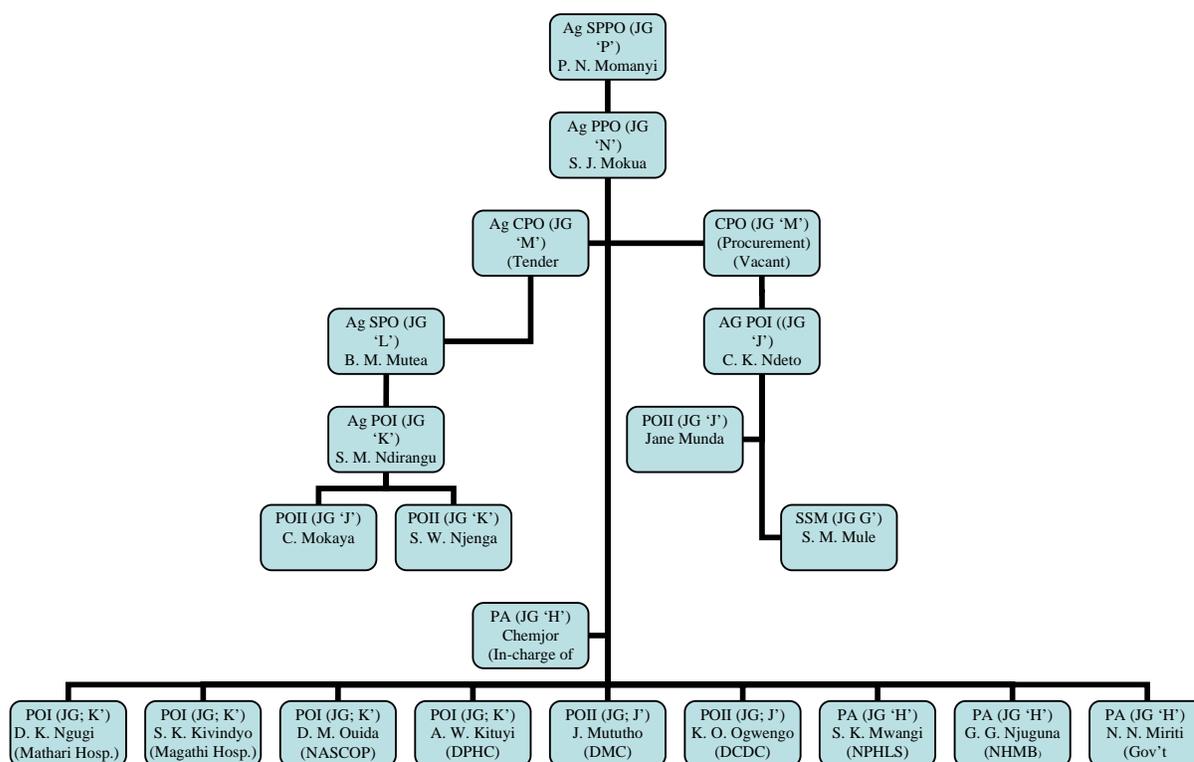
7.8 Persons Met during the Review

| Name | Title | Role |
|--------------------|---------------------------|-------------------------------------|
| Dr H. O. Nyangito | Accounting officer | Overall in charge for MOH |
| P. N. Momanyi | Ag. SPPO | Head of PU |
| Mary Ngari | Chairperson MTC | Chairing and guiding MTC |
| Sebastian J. Mokua | Chief Procurement Officer | Deputy Head of PU |
| Dr James Nyikal | Director Medical Services | Head of user departments |
| Mr Mwereza | Internal Auditor | Verification of procurement process |
| Robert Chemjor | Procurement Assistant | Financial data Entry |
| Charles Ndeto | Procurement Officer | Procurement |
| Samuel M. Ndirangu | Procurement Officer II | MTC Secretariat |
| Ms Lornah | Storekeeper KEMSA | Receipt of goods |

7.9 Organisation Structure of MOH



7.10 Organisation Structure of Procurement Unit



7.11 Standing and Specific Committees in MOH

| Name | Nature | MOH /Status |
|---------------------------|----------|----------------------------|
| Ministerial Tender | Standing | In place |
| Procurement Committee | Standing | In place |
| Tender Opening | Specific | Complying with regulations |
| Evaluation Preliminary | Specific | Complying with regulations |
| Evaluation technical | Specific | Complying with regulations |
| Evaluation Financial | Specific | Complying with regulations |
| Inspection and acceptance | Standing | Not in place |
| Disposal | Standing | In place |

7.12 Overall Procurements during YR 2007

Open Tender

| S/N O. | CONTRACT | AMOUNT |
|-----------|---|-------------------------|
| 1 | MOH/01/2006-2007 - MEDICAL EQUIPMENT | 922,960,800.36 |
| 2 | MOH/02/2006-2007 - X-RAY ITEMS | 92,840,970.24 |
| 3 | MOH/03/2006-2007 - DISPOSAL | |
| 4 | MOH/04/2006-2007 - NON - PHARMACEUTICAL SUPPLIES | 485,309,737.35 |
| 5 | MOH/05/2006-2007 - VACCINES, CHEMICALS & GLASSWARE | 22,964,394.50 |
| | MOH/06/2006-2007 - MOTOR BOATS (DISCONTINUED) | |
| 7 | MOH/07/2006-2007 -MOTOR CYCLES AND BICYCLES | 25,316,400.00 |
| 8 | MOH/01/2007-2008 - PRE - QUALIFICATIONS | |
| 9 | MOH/02/2007-2008 - STATIONERY & COMPUTER CONSUMABLES (TERM CONTRACT TENDER - NOT YET CONCLUDED) | |
| 10 | MOH/03/2007-2008 - X-RAYS ITEMS | 127,801,981.05 |
| 11 | MOH/04/2007-2008 - PRINTING OF KEPI IMMUNIZATION SERVICES MONITORING TOOLS | 5,141,380.00 |
| 12 | MOH/05/2007-2008 - SECURITY (NON - RESPONSIVE) | |
| 13 | MOH/06/2007-2008 - KEPI COLD CHAIN EQUIPMENT | 190,852,736.88 |
| 14 | MOH/07/2007-2008 - MOTOR BOATS | TERMINATED |
| 15 | MOH/08/2007-2008 - MEDICAL EQUIPMENT | 668,472,558.50 |
| 16 | MOH/09/2007-2008 - NON - PHARMACETICAL SUPPLIES | 649,151,820.67 |
| 17 | MOH/10/2007-2008 - IMMUNIZATION ITEMS | 193,190,580.00 |
| 18 | MOH/11/2007-2008 - LINEN ITEMS | 155,100,200.16 |
| | TOTAL | 3,539,103,559.71 |

Restricted tenders

| S/NO. | CONTRACT | AMOUNT |
|--------------|---|----------------|
| 1 | MOH/HQS/106/2006-2007 FOR SUPPLY AND DELIVERY OF NON-PHARMACEUTICALS | 151,018,000.00 |
| 2 | MOH/HQS/125/2006-07 FOR SUPPLY AND DELIVERY OF X-RAY UNIT (FOR NYAMACHE HC) | 10,800,000.00 |
| 3 | MOH/HQS/137/2006-2007 X-RAY UNIT (FOR NYAMACHE HC) | 12,600,000.00 |
| 4 | MOH/HQS/131/2006-2007 – (Public Health) | 51,462,500.00 |
| 5 | MOH/HQS/134/2006-2007 – (Malaria control) | 15,000,000.00 |
| 6 | MOH/HQS/132/2006-2007 – (Malaria control) | 13,362,500.00 |
| 7 | MOH/HQS/138/2006-2007 – (DCDC) | 3,578,244.00 |
| 8 | MOH/HQS/148/2006-2007 – (HIV test kits) | 50,112,796.60 |
| 9 | MOH/HQS/163/2006-2007 – (IAAF) | 9,804,000.00 |
| 10 | DPHC/098/2006-2007 – (Cold chain) | 1,376,700.00 |
| 11 | MOH/HQS/150/2006-2007 – (NBTC) | 17,242,750.00 |
| 12 | MOH/HQS/161/2006-2007 FOR SUPPLY OF CHLORINE TABLETS (DCDC) | 3,780,000.00 |
| 13 | MOH/HQS/179/2006-2007 – FOOD SUPPLEMENTS (GLOBAL FUND) | 5,953,060.00 |
| 14 | MOH/HQS/139/2006-2007 – (DCDC) | 5,440,000.00 |
| 15 | MOH/HQS/221/2006-2007 – BEDS (CHAO) | 2,520,000.00 |
| 16 | MOH/22/2006-2007 – (DCDC) | 2,650,000.00 |
| 17 | MOH/HQS/031/2007-2008 – IRON (DCDC) | 157,850,500.00 |
| 18 | MOH/18/2007-2008 – PURCHASE OF NON-PHARMACEUTICAL SUPPLIES (DCDC) | 16,900,000.00 |
| 19 | MOH/HQS/051/2007-2008 – HIV TEST KITS (NASCO) | 130,921,121.00 |
| 20 | MOH/HQS/062 /2007-2008 – CONDOM DISPENSER (KEPI) | 7,000,000.00 |
| 21 | MOH/HQS/100 /2007-2008 FOR SUPPLY OF NON-PHARMACEUTICAL SUPPLIES | 121,564,600.00 |
| 22 | MOH/HQS/073/2007-2008 – PURCHASE OF NON-PHARMACEUTICAL SUPPLIES | 19,350,000.00 |
| 23 | MOH/HQS/067/2007/2008 – CHLORINE TABLETS | 2,940,000.00 |
| 24 | MOH/HQS/011/2007/08 FOR SUPPLY OF TRIPPLE BLOOD BAGS (NPHLS) | 19,250,000.00 |
| 25 | MOH/HQS/082/2007/08 FOR SUPPLY OF NON-PHARMACEUTICALS – (DCDC) | 84,551,400.00 |
| 26 | TENDER NO. W.P. ITEM NO.: NB710 JOB NO. 5637Z FOR SUPPLY, INSTALLATION, TESTING AND COMMISSIONING OF STANDBY 300KVA 3 PHASE GENERATOR | 10,412,924.00 |
| 27 | MOH/HQS/165/2006-2007 – (Printing of slides) | 1,784,000.00 |
| 28 | RT/172/2006-07 – IEC MATERIALS (Malaria control) | 6,800,000.00 |

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|----|---|---------------|
| 29 | MOH/HQS/201/2006-2007 – PRINTING OF INTEGRATED REGISTERS (KEPI) | 13,777,500.00 |
| 30 | MOH/HQS/198/2006-2007 – PRINTING (DCDC) | 5,345,000.00 |
| 31 | MOH/HQS/003/2007-2008 – PRINTING OF IEC MATERIALS (NLTP) | 6,950,000.00 |
| 32 | DPHC/008/2007-2008 – (KEPI PRINTING), | 2,800,000.00 |
| 33 | MOH/HQS/047/2007-2008 – PRINTING (DCDC) | 4,550,000.00 |
| 34 | MOH/HQS/149/2006-2007 Laryngoscopes | 19,850,000.00 |
| 35 | MOH/HQS/151/2006-2007 Blood Bags | 19,450,000.00 |
| 36 | MOH/HQS/153/2006-2007 Non-Pharmaceuticals' | 2,500,000.00 |
| 37 | MOH/HQS/160/2006-2007 HIV LAB | 19,990,000.00 |
| 38 | MOH/HQS/172/2006-2007 IEC Materials | 4,750,000.00 |
| 39 | MOH/HQS/176/2006-2007 Protective Gear | 6,500,000.00 |
| 40 | MOH/HQS/177/2006-2007 Printing | 6,800,000.00 |
| 41 | MOH/HQS/190/2006-2007 Computers | 3,500,000.00 |
| 42 | MOH/HQS/219/2006-2007 Printers | 2,500,000.00 |
| 43 | MOH/HQS/221/2006-2007 Beds | 1,500,000.00 |
| 44 | MOH/HQS/223/2006-2007 Dental Items | 2,500,000.00 |
| 45 | MOH/HQS/001/2007-2008 LABORATORY ITEMS | 5,719,500.00 |
| 46 | MOH/HQS/002/2007/2008 LITHOGRAPHIC PAPER AND CHEMICALS FOR VARIOUS TYPES OF MEDICAL FORMS | 3,400,000.00 |
| 47 | MOH/HQS/004/2007-2008 PRINTING | 2,100,000.00 |
| 48 | MOH/HQS/011/2007-2008 Blood Bags | 4,500,000.00 |
| 49 | MOH/HQS/015/2007-2008 Purchase of protective Equipment | 570,000.00 |
| 50 | MOH/HQS/016/2007-2008 Purchase of cholera treatment kits | 2,200,000.00 |
| 51 | MOH/HQS/017/2007-2008 Purchase of Laboratory supplies & Equipment | 4,550,000.00 |
| 52 | MOH/HQS/019/2007-2008 Purchase of non-pharmaceutical Supplies | 1,675,000.00 |
| 53 | MOH/HQS/023/2007-2008 Office Equipment | 1,175,100.00 |
| 54 | MOH/HQS/038/2007-2008 Consultancy Services for MMU | 4,008,275.00 |
| 55 | MOH/040/2007-2008 Non-pharmaceutical supplies | 1,904,000.00 |
| 56 | MOH/HQS/048/2007-2008 Purchasing of Detergents | 12,500,000.00 |
| 57 | MOH/HQS/049/2007-2008 Malaria | 19,800,000.00 |
| 58 | MOH/HQS/050/2007-2008 Not indicated | 898,840.00 |
| 59 | MOH/HQS/051/2007-2008 HIV Kits | 39,739,400.00 |

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|----|---|------------------|
| 60 | MOH/HQS/061/2007-2008 IEC Materials | 1,590,000.00 |
| 61 | MOH/HQS/065/2007-2008 Printing of IDSR Tools | 6,120,000.00 |
| 62 | MOH/HQS/066/2007-2008 Chlorine Tablets | 4,500,000.00 |
| 63 | MOH/HQS/068/2007-2008 Printing of IDSR Tools | 6,500,000.00 |
| 64 | MOH/ HQS/075/2007-2008 Purchase of Formative disinfectants & detergents | 4,655,000.00 |
| 65 | MOH/HQS/086/2007-2008 Ant-viral | 19,800,000.00 |
| 66 | MOH/HQS/087/2007-2008 Beds | 19,200,000.00 |
| 67 | MOH/HQS/095/2007-2008 Non-pharmaceutical supplies | 19,900,000.00 |
| 68 | MOH/HQS/098/2007-2008 Vaccines | 1,376,700.00 |
| 69 | MOH/HQS/104/2007-2008 Emergency procurement of cholera drugs | 19,450,000.00 |
| 70 | MOH/HQS/106/2007-2008 Non-Pharmaceutical Supplies | 19,800,000.00 |
| 71 | MOH/HQS/108/2007-2008 Emergency supply of procurement Lamdacy Halothrin 10% | 7,500,000.00 |
| 72 | M MOH/HQS/110/2007-2008 Purchase of disinfectant and Formative / | 2,250,000.00 |
| 73 | MOH/HQS/115/2007-2008 LOCAL AREA NETWORK CONNECTIVITY (ICT) | 19,200,000.00 |
| 74 | MOH/HQS/152/20062007 Beds | 1,500,000.00 |
| | Total | 1,317,369,410.60 |

Direct procurement

| S/No. | Bidder Name | Item Description | Total Price |
|-------|------------------------------|---------------------------------------|---------------|
| 1 | M/S DLA Scientific | LABORATORY ITEMS | 720,000.00 |
| 2 | M/S F & S Scientific Ltd. | " | 1,786,400.00 |
| 3 | M/S NAIROBINET (K) LIMITED | UPGRADING OF EXISTING BANDWIDTH | 2,929,595.00 |
| 4 | M/S D.T. DOBIE & CO. LIMITED | MICROBUS AMBULANCE PETROL (DUTY FREE) | 12,934,626.00 |
| 5 | M/S D.T. DOBIE & CO. LIMITED | NISSAN DOUBLE CABIN (4x4 WHEEL DRIVE) | 29,272,056.00 |
| 6 | M/S JUMUIA GUEST HOUSE | CONFERENCE FACILITY | 849,260.00 |
| | | Total | 48,491,937.00 |

Request for quotations

| | | |
|-----------------------|------------------------------------|--------------|
| MOH/HQS/147/2006-2007 | Chemicals | 1,100,000.00 |
| MOH/HQS/154/2006-2007 | Installation of telephone software | 450,000.00 |
| MOH/HQS/154/2006-2007 | Office Flowers | 380,000.00 |

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|-----------------------|-----------------------------|--------------|
| MOH/HQS/155/2006-2007 | Laptops | CANCELLED |
| MOH/HQS/156/2006-2007 | Repair of G.K.A272D | 290,000.00 |
| MOH/HQS/158/2006-2007 | STATIONERY | 125,000.00 |
| MOH/HQS/162/2006-2007 | Purchase of Uniforms | 659,000.00 |
| MOH/HQS/164/2006-2007 | Stationery | 250,000.00 |
| MOH/HQS/167/2006-2007 | Stationery | 261,000.00 |
| MOH/HQS/168/2006-2007 | Printers | 780,000.00 |
| MOH/HQS/169/2006-2007 | Furniture | 432,000.00 |
| MOH/HQS/170/2006-2007 | Fax Machine | 390,000.00 |
| MOH/HQS/171/2006-2007 | Repair of Fax Machines | 290,000.00 |
| MOH/HQS/172/2006-2007 | Printing | 4,750,000.00 |
| MOH/HQS/173/2006-2007 | Stationery | 166,770.00 |
| MOH/HQS/174/2006-2007 | Equipment | 453,000.00 |
| MOH/HQS/175/2006-2007 | Furniture | 397,700.00 |
| MOH/HQS/177/2006-2007 | Printing | 2,050,000.00 |
| " | " | 4,750,000.00 |
| MOH/HQS/178/2006-2007 | X-ray | 499,950.00 |
| MOH/HQS/180/2006-2007 | Staff ID cards | 320,000.00 |
| MOH/HQS/181/2006-2007 | Support Therapy | 920,000.00 |
| MOH/HQS/182/2006-2007 | Printing | 1,479,400.00 |
| MOH/HQS/183/2006-2007 | Printers | 991,000.00 |
| MOH/HQS/184/2006-2007 | Furniture | 350,000.00 |
| MOH/HQS/185/2006-2007 | Curtains | 310,000.00 |
| MOH/HQS/186/2006-2007 | Printing | 490,000.00 |
| MOH/HQS/188/2006-2007 | Purchase of Tyres | 475,000.00 |
| MOH/HQS/189/2006-2007 | Furniture | 375,000.00 |
| MOH/HQS/191/2006/2007 | Office furniture and carpet | 2,040,220.00 |
| MOH/HQS/192/2006-2007 | Printing | 492,000.00 |
| MOH/HQS/193/2006-2007 | Furniture | 190,000.00 |
| MOH/HQS/194/2006-2007 | Printers | 920,000.00 |
| MOH/HQS/195/2006-2007 | Stationery | 420,000.00 |
| MOH/HQS/196/2006-2007 | Stationery | 194,500.00 |
| MOH/HQS/197/2006-2007 | Furniture | 434,450.00 |
| MOH/HQS/199/2006-2007 | Stationery | 720,000.00 |
| MOH/HQS/200/2006-2007 | Furniture | 320,000.00 |
| MOH/HQS/202/2006-2007 | Stationery | 350,000.00 |
| MOH/HQS/203/2006-2007 | Stationery | 250,000.00 |
| MOH/HQS/204/2006-2007 | Detergents | 1,156,000.00 |
| MOH/HQS/205/2006-2007 | Repair of GK 105G | 295,000.00 |
| MOH/HQS/206/2006-2007 | Furniture | 1,200,000.00 |
| MOH/HQS/207/2006-2007 | Computers | 390,000.00 |
| MOH/HQS/208/2006-2007 | stationery | 420,000.00 |

| | | |
|-----------------------|---|--------------|
| MOH/HQS/209/2006-2007 | Sundry | 527,000.00 |
| MOH/HQS/210/2006-2007 | | CANCELLED |
| MOH/HQS/211/2006-2007 | | CANCELLED |
| MOH/HQS/212/2006-2007 | Furniture | CANCELLED |
| MOH/HQS/213/2006-2007 | | CANCELLED |
| MOH/HQS/214/2006-2007 | | CANCELLED |
| MOH/HQS/215/2006-2007 | | CANCELLED |
| MOH/HQS/216/2006-2007 | Refer to Quotation No 231 | 455,000.00 |
| MOH/HQS/220/2006-2007 | Repair of PABX | 250,000.00 |
| MOH/HQS/222/2006-2007 | PABX Handsets | 290,000.00 |
| MOH/HQS/223/2006-2007 | Dental Items | 2,500,000.00 |
| MOH/HQS/224/2006-2007 | Computers | 539,000.00 |
| MOH/HQS/225/2006-2007 | Various items | 261,000.00 |
| MOH/HQS/226/2006-2007 | Computers | 297,000.00 |
| MOH/HQS/227/2006-2007 | Stationery | 100,090.00 |
| MOH/HQS/228/2006-2007 | Repair of PABX | 90,240.00 |
| MOH/HQS/229/2006-2007 | Curtains | 315,000.00 |
| MOH/HQS/230/2006-2007 | Curtains | 209,467.00 |
| MOH/HQS/232/2006-2007 | Electricals | 176,325.00 |
| MOH/HQS/233/2006-2007 | Electricals | 68,060.00 |
| MOH/HQS/234/2006-2007 | Electricals | 159,000.00 |
| MOH/HQS/235/2006-2007 | Electricals | 1,453,500.00 |
| MOH/HQS/236/2006-2007 | REPAIR | 270,000.00 |
| MOH/HQS/237/2006-2007 | Carpets fixing | 375,000.00 |
| MOH/HQS/238/2006-2007 | Repair of vehicle | 342,000.00 |
| MOH/HQS/239/2006-2007 | Curtains | 243,000.00 |
| MOH/HQS/240/2006-2007 | Furniture | 349,000.00 |
| MOH/HQS/241/2006-2007 | Electricals | 542,000.00 |
| MOH/HQS/242/2006-2007 | stationeries | 193,000.00 |
| MOH/HQS/243/2006-2007 | stationeries | 243,000.00 |
| MOH/HQS/244/2006-2007 | tyres | 724,000.00 |
| MOH/HQS/245/2006-2007 | stationery | 412,000.00 |
| MOH/HQS/246/2006-2007 | equipment | 289,000.00 |
| MOH/HQS/247/2006-2007 | furniture | 852,000.00 |
| MOH/HQS/248/2006-2007 | cleaning materials | 333,500.00 |
| MOH/HQS/249/2006-2007 | printing | 433,000.00 |
| MOH/HQS/250/2006-2007 | conference facilities | 1,100,000.00 |
| MOH/HQS/251/2006-2007 | stationery | 230,000.00 |
| MOH/HQS/002/2007/2008 | lithographic paper and chemicals for various types of medical forms | 632,000.00 |
| MOH/HQS/005/2007-2008 | bags | 735,000.00 |
| MOH/HQS/007/2007-2008 | purchase of x-ray equipment | |
| MOH/HQS/008/2007/2008 | computer items (antivirus and ups) | 162,000.00 |
| MOH/HQS/09/2007-2008 | furniture items | 1,508,800.00 |
| ' | furniture | 495,000.00 |
| MOH/HQS/010/2007-2008 | printing | 597,600.00 |

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|-----------------------|---|--------------|
| MOH/HQS/012/2007/2008 | office equipment, | 193,000.00 |
| „ | office equipment, | 65,500.00 |
| MOH/HQS/013/2007/2008 | stationery & computer consumables | 348,600.00 |
| ' | stationery & computer consumables | 207,050.00 |
| MOH/HQS/014/2007/2008 | renovation of 1st floor waiting room | 685,154.00 |
| MOH/HQS/018/2007-2008 | purchase of non-pharmaceutical supplies | 542,000.00 |
| MOH/HQS/020/2007/2008 | stationery | 615,100.00 |
| „ | stationery | 201,700.00 |
| MOH/HQS/021/2007/2008 | stationery | 1,219,000.00 |
| MOH/HQS/022/2007/2008 | stationery | 505,700.00 |
| ' | stationery | 245,000.00 |
| ' | stationery | 18,400.00 |
| MOH/HQS/024/2007/2008 | cleaning items | 856,800.00 |
| MOH/HQS/025/2007-2008 | cleaning items | 311,000.00 |
| MOH/HQS/026/2007-2008 | stationery | 230,000.00 |
| ' | stationery | 418,081.00 |
| MOH/HQS/027/2007-2008 | carpeting | 379,080.00 |
| MOH/028/2007-2008 | computer | 350,000.00 |
| MOH/029/2007-2008 | | cancelled |
| MOH/HQS/030/2007-2008 | multi-purpose soap | 415,000.00 |
| MOH/HQS/032/2007-2008 | furniture | 452,000.00 |
| MOH/HQS/033/2007-2008 | curtains | 520,000.00 |
| MOH/HQS/034/2007-2008 | computers | 395,000.00 |
| MOH/HQS/035/2007-2008 | office materials | 322,000.00 |
| MOH/HQS0/36/2007-2008 | office stationery | 220,000.00 |
| MOH/HQS/037/2007-2008 | furniture | 311,120.00 |
| MOH/HQS/039/2007-2008 | supply of flowers | 798,000.00 |
| MOH/041/2007-2008 | furniture | cancelled |
| MOH/HQS/042/2007-2008 | Idsr tools | 430,000.00 |
| MOH/HQS/043/2007-2008 | stationery | 495,000.00 |
| MOH/HQS/044/2007/2008 | stationery & extension cable, | 490,000.00 |
| MOH/HQS/045/2007-2008 | computer consumable & stationery | 324,980.00 |
| MOH/HQS/045/2007-2008 | stationery | 190,000.00 |
| MOH/HQS/046/2007-2008 | computer | 255,000.00 |
| MOH/HQS/052/2007/2008 | computer | 255,000.00 |
| MOH/HQS/053/2007/2008 | uniform | 40,900.00 |
| ' | „ | 700.00 |
| MOH/HQS/054/2007-2008 | computer | 620,000.00 |
| MOH/HQS/055/2007-2008 | computer equipment | 978,000.00 |
| MOH/HQS/056/2007-2008 | computer | 794,200.00 |
| MOH/HQS/057/2007-2008 | paints | 1,837,500.00 |
| MOH/HQS/058/2007-2008 | stationery | 350,000.00 |
| MOH/HQS/059/2007/2008 | occupational therapy items | 1,395,000.00 |
| ' | ' | 2,551,000.00 |
| ' | ' | 985,000.00 |
| MOH/HQS/059/2007/2008 | curtains | 455,000.00 |

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|-----------------------|-----------------------------------|----------------------|
| MOH/HQS/060/2007/2008 | stationery | 1,014,100.00 |
| MOH/HQS/060/2007-2008 | air conditioners | 728,000.00 |
| MOH/HQS/063/2007-2008 | computer items | 322,000.00 |
| MOH/HQS/064/2007-2008 | computer | 101,000.00 |
| MOH/HQS/069/2007-2008 | purchase of stationery | 478,000.00 |
| MOH/HQS/070/2007/2008 | carpet, under felt and straps | 422,100.00 |
| MOH/HQS/070/2007/2008 | purchase of computer antivirus | 1,700,000.00 |
| MOH/HQS/071/2007/2008 | stationery & computer consumables | cancelled |
| MOH/HQS/072/2007/2008 | not indicated | cancelled |
| MOH/HQS/079/2007-2008 | furniture | 255,000.00 |
| MOH/HQS/088/2007-2008 | stationery | 372,000.00 |
| MOH/HQS/089/2007-2008 | curtains | 220,000.00 |
| MOH/HQS/089/2007-2008 | curtains | 190,000.00 |
| MOH/HQS/090/2007-2008 | computers | 750,000.00 |
| MOH/HQS/091/2007/2008 | stationery | 448,000.00 |
| MOH/HQS/092/2007/2008 | stationery toners & computer | 985,500.00 |
| MOH/HQS/093/2007/2008 | stationery | 154,918.00 |
| MOH/HQS/093/2007/2008 | stationery | 154,000.00 |
| MOH/HQS/094/2007/2008 | stationery | 492,000.00 |
| " | " | 336,000.00 |
| MOH/HQS/096/2007/2008 | printing | 394,400.00 |
| MOH/HQS/097/2007/2008 | printing | 250,000.00 |
| MOH/HQS/099/2007/2008 | stationery | 280,000.00 |
| MOH/HQS/102/2007-2008 | supply of tyres | 890,000.00 |
| MOH/HQS/103/2007/2008 | stationery | 440,350.00 |
| MOH/HQS/104/2007-2008 | printing material | 1,200,000.00 |
| MOH/HQS/105/2007-2008 | | 4,500,000.00 |
| MOH/HQS/107/2007/2008 | office furniture | 379,000.00 |
| MOH/HQS/108/2007-2008 | | 650,000.00 |
| MOH/HQS/109/2007-2008 | repair of GK.A045 B Nissan patrol | 250,000.00 |
| MOH/HQS/111/2007-2008 | supply of tyres (assorted) | 420,000.00 |
| MOH/HQS/112/2007-2008 | " | 550,000.00 |
| " | " | 232,000.00 |
| MOH/HQS/112/2007-2008 | fixing of doors frames | 632,500.00 |
| MOH/HQS/116/2007-2008 | printer | 165,000.00 |
| MOH/HQS/117/2007-2008 | computers | |
| MOH/HQS/118/2007-2008 | furniture | 150,000.00 |
| MOH/HQS/119/2007-2008 | uniform | 620,000.00 |
| | TOTAL | 97,126,005.00 |

7.13 Specific Findings for Institutional and Legal Framework

| AREA | FINDINGS | MOH RESPONSE |
|---|--|--------------|
| Legal Aspects. | <p>The PPDA 2005 and PPDR 2006 are by and large operational in MOH procurement functions and procedures. However, the review team did not find established procurement policies and procedures documents available, accessible and regularly updated (PPDA 26.1):</p> <ul style="list-style-type: none"> • PPDA and PPDR • Financial Regulations and Rules • Updated Schedule of Duties • Applicable Administrative instruments • Internal Control Framework • Sectoral Procurement handbook or manuals • Handbook of financial management • Medium-term budgetary expenditure framework <p>Such manuals are meant to strengthen financial management procedures that should be observed at various levels of procurement management. The procurement manuals for health sector would be intended to articulate the principles and practices to be observed by Sector procuring entities in the procurement of goods, services and works. They would also ensure linkages between procurement and the financial functions.</p> | |
| Organisation and Structure of Procurement Unit. | <p>The procurement unit is in place with a total staff of sixteen officers. The review team was given a description of various positions but not the names of substantive holders of these positions.</p> <p>The procurement staffs interviewed do not have specific job descriptions, responsibilities and</p> | |

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| | <p>accountability hence the roles and delegation of responsibilities in PU is obscure.</p> <p>In the absence of the foregoing we were not able to establish the adequacy of personnel, and/or procurement management skills consistent with responsibilities.</p> <p>The unit has very high turnover of staff as illustrated in Appendix 8. It was observed that since 2004 there have been sixteen transfers of staff with the average period of stay of two years. The senior staff had left duty under interdiction leaving no room for handovers. The management highlighted this high turnover as a major challenge in the procurement management as it compromises planning, efficiency and consistency.</p> | |
| Management Process | In the absence of an internal updated handbook outlining schedules of duties since 2003, it was not possible to verify the persons authorized to originate, certify, and approve various stages of the procurement process from inception to completion. | |
| Budgets and Accounting | The financial, procurement and accounting framework systems are not in tandem as the computerized system Integrated Financial Management Information System (IFMIS) is still in trial phase and is only handling accounting and payments but not financial systems (PPDA Section 26.6) | |
| Procurement Plans | <p>There are no consolidated annual procurement plans prepared by PU for all procurements reviewed (PPDA Section 26.3a).</p> <p>The user departments have prepared departmental procurement plans and forwarded them periodically to the AO but not in adherence with the timeframe (PPDR Section 20.4). The departmental procurement plans were not directly linked to any budget hence cannot be useful as a planning or monitoring tool. The team did not see any standard format of procurement plans approved by PPOA. (PPDR Section 21.3).</p> | |
| Requisitions | There is no official procurement requisition forms used for initiation of procurement processes for all procurements (PPDR Section 22.1). All purchase requests are initiated by internal memos from the user departments. The AO only endorses approval on the memos. These memos do not show any schedules of duties. (PPDR Section 22.3) | |

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|------------------------------|---|--|
| | <p>There is no separation of responsibilities for initiating, certifying and approving authorities. There is no budget line indicated on the memos to show source, allocation and availability of funds in the budget for particular procurement, or authority to incur expenditure for the purchases being requested. This leads to cancellations of tendering processes midstream due to lack of funds. The specifications, statement of works and terms of references are outlined in the annexes attached to the memos.</p> | |
| Pre-qualification procedures | <p>The team saw the pre-qualified list of suppliers. However the team did not see any assessment of contractors for large and complex purchases for capability and suitability.</p> | |
| Solicitation Documents | <p>The following templates and forms were found to be operational as stipulated in the PPDR and following the PPOA formats:</p> <ul style="list-style-type: none"> • Request for Quotations • Tender documents • Tender opening documents • Evaluation documents • Bid Security Form • Performance Security Form • Confidential Business questionnaire • Price comparisons schedules | |
| Tender Documents | <p>All the tender documents reviewed were initiated by the users departments and passed to procurement unit to process. The tender documents reviewed conform to the standard ones approved by PPOA. The following deficiencies were noted:</p> <p>The bidding documents do not specify whether it is an NCB or ICB.</p> <p>The contracts are awarded before the MTC minutes are signed.</p> <p>Most tender evaluations have gone beyond the maximum of 30 days from opening (PPDR 46).</p> | |

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| | <p>The Contracts have no commencement dates.</p> <p>Some local contracts are awarded in US\$.</p> <p>Not all the security and performance bonds for contracts reviewed were provided to the team.</p> <p>The preference schemes clause is not considered when bidding.(PPDA Section 39)</p> | |
| <p>Standing and Specific Committees</p> | <p>All the standing and specific committees were found to be operational except Inspection and Acceptance committee</p> <p>The team reviewed extensively the MTC records and found the following vital documentation incomplete:</p> <p>No standard MTC submission form containing the minimum information necessary to render a reasonable assessment.</p> <p>Financial Rules including budget lines, sources and availability of funds indicated on the requests.</p> <p>Copy of the bid documents; published advertisements seeking offers and all offers obtained.</p> <p>Standard request for waiver of a specific recommended method of procurement.</p> <p>Standard Form for MTC Recommendation and Minutes.</p> <p>The contracts/LPOs recommended for awards by the MTC are being awarded before the MTC Minutes are signed.</p> <p>MTC minutes are taking a long time (a times as long as several months) before they are signed.</p> <p>The MTC have not reviewed the quarterly reports of the procurement committee.</p> <p>Records showing that that the MTC has ensured that the procuring entities does not pay in excess of prevailing market prices</p> <p>There is no record of any invitation of outside observers for tenders over Ksh50million.</p> | |
| <p>Evaluation</p> | <p>The team did not see any procedures put in place to determine security confidentiality and prevention</p> | |

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| | of collusion during evaluation. (PPDR Section 44) | |
| Award of Contract | <p>The contract agreement itself specifies the items for which the supplier is contracted and the amount. The supplier's bid is attached, as are the technical specifications of the initial tender. Furthermore, the General and Special Conditions of Contract and the Letter of Acceptance are annexed.</p> <p>The following deficiencies were observed</p> <ul style="list-style-type: none"> • There are no contracts register maintained in an up to date manner at the MOH. • The contract document is not assigned a contract number but bears the tender number which remain the same even if the there are more than one supplier. • The budget line is not specified in any of the contract documents. • LPOs are issued for the all of the items on one contract. This is because contracts documents are not considered accounting documents and as such are not used for data entry in IFMIS. As the contract does not have a contract number, there is no direct/referenced link between the LPO and the contract. The only way to identify which LPO refers to which contract is by the company name and the tender reference number indicated on the LPO. If the tender reference number is not indicated on the LPO it is very difficult to attribute it to any one contract without specific knowledge of the items listed on the LPO. • Since contract no is not listed in the purchase order register making it very difficult for the KEMSA receiving stores to collate the various documents from PU. • The contracts over Ksh 5 million were not advised to PPOA. • The contracts are awarded before the MTC minutes are signed. • The Contracts are not dated at the time of award. • Some local contracts are awarded in US\$. • Not all the performance bonds for contracts reviewed were provided raising doubts as to their existence. | |
| Procurement in Crisis | In a crisis situation an attempt is generally made to give to provide priority to ‘curative operations’ to | |

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| Situation | recover from risk to health or life, through emergency intervention. In such situations MOH need to take quick action and immediate results, deviations from the normal procurement procedure under the threshold. This calls for a direct procurement method in most cases as provided for in the PPDA. The system can be abused if not checked. | |
| Contracts Management | <p>There are no contract managers assigned to specific procurement contracts. The role of the MTC secretariat stops at the time contract is signed by AO. There was no evidence of nomination of specific persons from user departments to liaise with the PU and KEMSA on matters relating to a specific contract.</p> <p>The review team did not see evidence of post contract monitoring mechanism in place. The following information were found to be lacking in areas of contract management:</p> <ul style="list-style-type: none"> • Relevant PPOA Contract Management Policies adapted to MOH. • Claims and dispute resolution mechanism. • Advance payments and Letters of Credit register. • Progress payments for works. • Milestone payments for consultancies. • Taxes credit and refunds. • Performance and security bonds register. • Supplier Performance Evaluation reports. • Return of samples or taking into charge the samples not taken back by the suppliers. • | |
| Application of preferential treatment | Neither “Threshold of Preference” nor Exclusive Preference” of local firms was applied in any of the procurements carried out by the Ministry. | |
| Handling of complaints | The Ministry does not keep a complaints/protest log. | |
| Termination of the | Terminated tenders are not advised to PPOA. There are reasons given to each bidder within 14 days | |

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| <p>procurement proceedings</p> | <p>and no written report to PPOA.</p> | |
| <p>Record keeping, data and documentation</p> | <p>This is the most wanting area in the whole procurement management and procedures in MOH(PPDA Section 45).</p> <ul style="list-style-type: none"> • There are no established norms for safekeeping of records, documents and contract management. • The procurement documentation were poorly filed and maintained in an indiscriminate state. • The system of filing is very weak. None of the tenders reviewed for the year 2007 had complete information pertinent to the tender process • There are no registers for all the Contracts reviewed. • There is no purchase order register and the order movement register is not serialized, therefore the information contained therein cannot be relied on. <p>The order movement register that we received started from February 2007 up to November 2007. This will certainly affect the validity of all of the values, numbers categories and even the procurement methods reviewed.</p> <p>The filing of minutes, letters of offer, contracts and bid documents for the period under review was not consistent.</p> <p>The procurement files documents submitted to the reviewers were incomplete.</p> <p>The contracts have no dedicated files and do not have the supporting documents filed together with them.</p> <p>Not all bid documents and the performance bond files were made available to the reviewers. It was thus impossible to verify whether all had been submitted in the first place and whether the amounts and validity periods conformed to the requirements.</p> <p>There are no clear links of documentation between procurement and expenditure files.</p> | |

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| | <p>There are no operating manuals to guide the practitioners on the detailed instructions, systems and control measures in the procurement process.</p> <p>No claims and dispute resolution records were provided to us.</p> <p>There is no sequential standard numbering of procurement documentations for accurate tracking and monitoring of procurements.</p> | |
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7.14 Specific Deviations in Reviewed Tenders

| Item | Bid Ref | Findings | MOH Response |
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| 1 | MOH/01/2006-2007 | <ul style="list-style-type: none"> • No procurement file • No procurement plan • No Procurement Requisition • No distinction whether it is a NCB or ICB bid. • Not advised in newspaper with circulation outside Kenya although foreign companies considered in award. • Preferential threshold not considered. • Evaluation period exceeds thirty days • No observers from outside invited for MTC discussion • No advise to PPOA • Not all Performance Bonds seen • No commencement dates in the contracts • Some of the purchase orders/receipt documents seen • | |
| 2 | MOH/02/2006-2007 | <ul style="list-style-type: none"> • No procurement file • No procurement plan • No Procurement Requisition • No distinction where it is a NCB or ICB bid. • Not advised in newspaper with circulation outside Kenya although foreign | |

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| | | <p>companies considered in award</p> <ul style="list-style-type: none"> • Preferential threshold not considered. • Evaluation period exceeds thirty days • No observers from outside invited for MTC discussion • No advise to PPOA • Not all Performance Bonds seen • No commencement dates in the contracts • Some of the purchase orders/receipt documents seen | |
| 3 | MOH/04/2006-2007 | <ul style="list-style-type: none"> • No procurement file. • No procurement plan. • No Procurement Requisition. • No distinction whether it is a NCB or ICB bid. • Not advised in newspaper with circulation outside Kenya although foreign companies considered in award. • Preferential threshold not considered. • Evaluation period exceeds thirty days. • No observers from outside invited for MTC discussion. • No advice to PPOA. • Not all Performance Bonds seen. • No commencement dates in the contracts. • Some of the purchase orders/receipt documents seen. | |

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| 4 | MOH/05/2006-2007 | <ul style="list-style-type: none"> • No procurement file. • No procurement plan. • No Procurement Requisition. • No distinction whether it is a NCB or ICB bid. • Preferential threshold not considered. • Evaluation period exceeds thirty days. • No advice to PPOA. • Not all Performance Bonds seen. • No commencement dates in the contracts. • Some of the purchase orders/receipt documents seen. • | |
| 5 | MOH/06/2006-2007 | Terminated due to lack of funds but not advised to PPOA. | |
| 6 | MOH/07/2006-2007 | <ul style="list-style-type: none"> • No procurement file. • No procurement plan. • No Procurement Requisition. • Preferential threshold not considered. • Evaluation period exceeds thirty days. • Not all Performance Bonds seen. • No commencement dates in the contracts. | |
| 7 | MOH/04/2007-2008 | <ul style="list-style-type: none"> • No procurement file. • No procurement plan. • No Procurement Requisition. | |

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| | | <ul style="list-style-type: none"> • Preferential threshold not considered. • Evaluation period exceeds thirty days. • Not all Performance Bonds seen. • No commencement dates in the contracts. • Some of the purchase orders/receipt documents seen. | |
| 8 | MOH/08/2007-2008 | <ul style="list-style-type: none"> • No procurement file. • No procurement plan. • No Procurement Requisition. • No distinction whether it is a NCB or ICB bid. • Not advised in newspaper with circulation outside Kenya although foreign companies considered in award. • Preferential threshold not considered. • Evaluation period exceeds thirty days. • No observers from outside invited for MTC discussion. • No advice to PPOA. • Not all Performance Bonds seen. • No commencement dates in the contracts. • Some of the purchase orders / receipt documents seen. | |
| 9 | MOH/HQS/057/07/08 | RFQ method is used despite the amount being more than the prescribed maximum value of Kshs 1 million, Section 88 (b). | |
| 10 | MOH/HQS/147/06/07 | RFQ method is used despite the amount being more than the prescribed maximum value of Kshs 1 million, Section 88 (b). | |
| 11 | MOH/HQS/182/06/07 | RFQ method is used despite the amount being more than the prescribed maximum value of Kshs 1 million, Section 88 (b). | |

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| 12 | MOH/HQS/191/06/07 | RFQ method is used despite the amount being more than the prescribed maximum value of Kshs 1 million, Section 88 (b). | |
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7.15 Staff Turnover in the MOH Procurement Unit

1. Ngetich, POI, April, 2004 – April, 2005
2. Zechariah Bolo Awino, SPPO, February, 2004 – May, 2006
3. Mary M. Awino, CPO, April, 2004 – May, 2006
4. J. M. Kaminza, CPO, April, 2004 – May, 2006
5. Andrew O. Nyambeche, SPO, April, 2004 – June, 2007 (Transfer)
6. Michealindah M. Kaburu, PPO, August, 2006 – January, 2008 (Transfer)
7. Julius T. Muraguri, POI, May, 2004 – February, 2008 (Joined KWS)
8. Kelly A.O. Onyango, CPO, January, 2007 – January, 2008 (Transfer)
9. Kevin K. Kieti CPO, June, 2007 – January, 2008 (Transfer)
10. Edward Amira Mbagaya cPO, April, 2004 – January, 2008 (Transfer)
11. Hesbon M. Kisero, POI, May, 2004 – January, 2008 (Transfer)
12. Mary Kerubo Onchiri, POI, May, 2004 – January, 2008 (Transfer)
13. Richard Oteyo, POII, January, 2006 – January, 2008 (Transfer)
14. Judith Muthoni Nyaga, POII, May, 2004 – January, 2008 (Transfer)
15. Henry Mugambi Mutugi, POII, May, 2004 – January, 2008 (Transfer)
16. Grace Wairimu Kimani, POII, May, 2004 – January, 2008 (Transfer)