

## **EXECUTIVE SUMMARY**

This report presents the results of the procurement review of Jomo Kenyatta University of Agriculture and Technology (JKUAT) undertaken by Wachira Irungu & Associates on behalf of the Public Procurement Oversight Authority under Third Party Providers, which was carried out during the period April 2012 to May 2012. The main objective of the exercise was to review the status of the PE's procurement, contracting and implementation processes and systems, in order to determine JKUAT's level of compliance with the PPDA and the PPDR, circulars and directives issued by PPOA, and generally accepted principles of good practice. Consideration was also given to the relationship between procurement and overall service objectives of JKUAT.

The period covered by this review was period 1<sup>st</sup> July 2011 to 30th June 2012, focusing on the performance of the procurement functions. The review procedures performed included the examination of selected samples of Open Tenders, Direct Procurement, RFP, RFQ and Framework Contracting. The review also considered the disposal proceedings undertaken by JKUAT during the review period.

The scope of the review encompassed the key performance indicators of JKUAT's procurement and disposal from planning to completion. The review projected the PE to have reached a satisfactory level of compliance (60% and above) with the requirements of the PPDA, PPDR and all directives issued by PPOA in their procurement, disposal and contracting.

In order to ensure that the review examined all the pertinent controls and procedures in line with the PPDA, PPDR, guidelines and the PE's implementation of the same, a thorough assessment of the control environment was first undertaken. The fieldwork that ensued included an examination of the files and documents pertaining to JKUAT's procurement systems and processes and, where appropriate, was supplemented by discussions with the key persons involved in the functions related to procurement. The work was then finalized in consultation with the AO, members of standing committees, Acting Head of PU and other persons involved in management and oversight of the procurement functions.

The team also reviewed the implementation of the findings and recommendations of past internal audit reports as well as the last report of the Controller and Auditor General.

The key general findings and recommendations as they relate to each of the areas considered in this review are provided in Chapter 3 of the report. Specific findings are reflected in Chapter 4 of the report. An action plan for implementation of the recommendations is provided in Chapter 6 at the end of this report. PPOA will review the implementation of the recommendations in the action plan at an appropriate time

### **Satisfactory Compliant Practices**

The review team noted the following satisfactorily compliant practices from the samples that were examined and from the general assessment of the procurement systems at JKUAT:

1. JKUAT's Procurement Unit has been established in line with Section 26(4) of the PPDA;
2. The PU is staffed with qualified key personnel in line with Section 26(7), (8) and (9). These key procurement staff hold Diplomas and Certificates in Procurement from recognized institutions and are members of Kenya Institute of Supplies Management (KISM);
3. All standing and specific committees have been established in line with Section 26(4), (5) PPDA and hold regular meetings in line with the PPDA and PPDR;
4. Minutes of the Tender, Procurement and Disposal Committees are maintained as appropriate;
5. The Procurement Committee partially carries its functions in accordance with Regulations 14 of the PPDR and Chapter 4.4 of the PPDGM;
6. The Review team noted with satisfaction that none of the appointed members of the evaluation committee served as members of the TC;
7. The evaluation committees have prepared reports analyzing the tenders received and final ratings assigned to each tender and submitted the reports to the TC;
8. In most cases JKUAT uses technical specifications that are objective and conform with the requirements of the PPDA and PPDR;
9. There was a standing list of prequalified and registered suppliers for the period under review;
10. A secure facility for the receipt of tenders has been provided by JKUAT and is located near the Administration Block;
11. Procurements reviewed were not split to evade the appropriate procurement method;
12. JKUAT does not have its own procurement manual, and currently uses the general procurement manual issued by PPOA. Consequently, there was no written system and procedures specific to the PE such as for handling bidders, enquiries and complaints.

### **Identified Areas of Non-compliance**

The Review Team noted the following areas where the PE was not in compliance with the PPDA, the PPDR, circulars and directives issued by PPOA, and generally accepted principles of good practice, that need to be addressed immediately by the PE:

The Review Team observed that the AO has attempted to carry out his responsibilities under Section 27(2) of the PPDA. However, there are still major gaps as indicated below:

1. The head of the PU and key staff with procurement responsibilities have not been adequately trained in the PPDGM and other Manuals;
2. JKUAT does not maintain a comprehensive and individual file for each procurement and disposal, that would contain all information, documents, and communications relating to that procurement or disposal proceeding. Such files would need to be marked with the relevant procurement or disposal reference number. This means that the PE's record management is therefore not in accordance with, Regulations 8(n) & 34 (3), Circular no. 1/2009 of PPOA and Chapter 7.9 of the PPDGM;

3. Although the bid bond securities are documented in the evaluation reports, there was no evidence that the bonds are maintained in a procurement files;
4. Although the PE has made some efforts at maximizing economy and efficiency and obtaining value for money in its procurements, JKUAT's choice of procurement method was found to be inappropriate as RFQs were used for purchases above the threshold of KES 1,000,000 for goods and KES 2,000,000 for works. High value goods and services were purchased through RFQs instead of ONT. In addition no 'individual procurement plans' were developed for 'significant procurement proceedings (i.e. those above the threshold of the RFQ);
5. The PU does not advise the PE on aggregation of procurement to promote economies of scale in accordance with Regulation 8(3)(x), nor does it co-ordinate internal monitoring and evaluation of the supply chain function in accordance with Regulation 8(3)(y);
6. The PU does not ensure that the PC produces quarterly reports for the TC's review, and as such the latter does not review the awards made by the PC in accordance with Regulation 10(2) (n);
7. The Procurement Committee was found to have deliberated on procurement proceedings that were above its threshold of Kshs.500,000 and hence not in accordance with Regulation 27 (2) and the First schedule of the Regulations;
8. The PU had not prepared the annual procurement plan for the period in accordance with Regulations 21 (b) & (g). In addition, there was no disposal plan for the period under review;
9. Initiation of procurement proceedings is sometimes undertaken by use of memos and not always through the use of an official procurement requisition in line with Regulation 22 (1);
10. It was observed that some evaluations by the evaluation committee took more than the prescribed maximum 30 days contrary to Regulation 46;
11. JKUAT did not notify PPOA of contracts over KES 5 million and of Direct Procurements over KES 500,000 during the financial year under review, in accordance with Section 46 of the PPDA 2005 and PPOA Circulars NO. 3/2008 and NO.4/2009.
12. Some weaknesses were identified in JKUAT's contract and inventory management systems;
13. The Review Team noted that JKUAT consistently procured food stuffs and dry food rations without sufficient funding and budgetary allocation, contrary Section 26 (6) of the PPDA;

## **Recommendations**

JKUAT should put in place remedial actions that will address all deviations identified in this report. Some of the key recommendations include:

1. The AO should ensure that all the identified weaknesses are addressed and proper documentation of administrative and policy guidelines are instituted;
2. JKUAT should develop a structured training strategy in best procurement practices as reflected in the PPDA, PPDR and PPDGM. Other PPOA manuals and circulars, for all key staff involved in procurement proceedings;
3. The PE should adopt proper records and filing management in line with the PPDA, PPDR, PPDGM and the PPRMPM;

4. JKUAT should enhance its procurement and disposal planning, including individual procurement and disposal plans;
5. JKUAT should endeavor to procure all high value goods and services (in excess of KShs. 1,000,000 for goods and KES 2,000,000 for works) through open or Restricted tenders;
6. JKUAT should always initiate all its of procurement proceedings using the official procurement requisition in accordance with Regulation 22 (1);
7. JKUAT should complete all evaluations within the prescribed 30 days period from the opening of the bids;
8. JKUAT should always notify PPOA of contracts over KES 5 million and of Direct Procurements over KES 500,000, in accordance with Section 46 of the PPDA 2005 and PPOA Circulars NO. 3/2008 and NO.4/2009.
9. JKUAT should undertake comprehensive contract and inventory management in line with the PPDA, PPDR and PPDGM.
10. In order to comply with Section 26 (6) of the PPDA, JKUAT should not commence any procurement proceedings prior to ensuring that it has sufficient funds and budgetary allocation to meet the obligations of the resulting contract or alternatively make use of framework contracting;

Taking into account the areas of deviation indicated above it is recommended that the PE take time and resources to liaise with the PPOA in the training of staff on the content of the various manuals that have been issued to support the implementation of the PPDA and PPDR. In addition, JKUAT should also ensure that all its procurement documents conform to the content of the manuals and circulars issued by PPOA, which are designed to expound the provisions of the PPDA and PPDR. Continuous consultation with the PPOA would also enable JKUAT to be updated on any other circulars, directives or guidelines that are being issued.

## **Conclusions**

As specified in the terms of reference, the Review Team used the sample of procurement and disposal proceedings to evaluate the level of compliance with the PPDA and PPDR. In so doing, the Review Team carefully considered the implications and the significance of individual ratings of the key performance indicators. The Review Team utilized Compliance Rating Indicators as reflected in the PPOA Procurement Review Manual that reflect reasonable and attainable standards of performance. It is apparent that some instances of non-compliance have greater significance than others. This factor has been considered in determining the final compliance level.

The Review Team's overall assessment of the compliance level for JKUAT has been computed to be 62.3% for the period reviewed with relevant PPDA, PPDR and guidelines in respect of sampled procurement transaction reviewed. This is slightly above the compliance target of 60% assumed by the Review Team in section 1.5 of this report. Therefore, the overall performance of JKUAT in procurement and disposal is satisfactory.

However, JKUAT is advised to address the identified weaknesses and gaps so as to achieve exemplary performance amongst the various PEs and ensure that it assists the institution in attaining the high ideals espoused in its service and other charters.

Finally, we would like to take this opportunity to thank JKUAT staff starting with the AO and the key staff involved in procurement for their co-operation and assistance during this review.