

## **EXECUTIVE SUMMARY**

This report contains the findings of a review of the procurement proceedings undertaken by MOIC for the period July 2011 to June 2012.

The overall objective of this procurement review was to review the status of MOIC's procurement, contracting, implementation processes, and systems to determine the level of compliance with the procurement law, regulations, circulars, and directives issued by PPOA.

The specific objectives of this procurement review are to examine and establish the degree of compliance to applicable procurement procedures and Public Procurement Disposal Act, 2005 and Regulations, 2006, Circulars and any of the directives issued by PPOA, and to propose recommendations for remedial measures against weaknesses identified, institutional arrangements, and/or irregularities in procurement practices, and capacity.

The review team expected:

- i) MOIC to have implemented the PPDA, 2005, the PPDR, 2006, all directives and instructions of the PPOA in its procurement and disposal with a compliance rating of not less than 60% MOIC to have established adequate systems and procedures for implementation of (i) above.
- ii) MOIC to have adequate capacity in terms of numbers and training for the implementation of (i) above.
- iii) MOIC to have established effective communication with the PPOA for guidance and professional as well as proficiency training.

### **Areas of Satisfactory Compliance**

The following were some of the areas of satisfactory compliance:-

1. Establishment of the various procurement committees as per Regulation 7 of the PPDR;
2. The functions of the TC and PC as set in PPDR 10 and 14 respectively are mostly complied with;
3. Preparation of the Consolidated Annual Procurement Plan was in place in accordance with Regulation 20 and 21 of PPDR;
4. Contracts are signed in accordance with the 1<sup>st</sup> Schedule of PPDR;
5. Prequalification of suppliers was done and a Prequalification list developed in accordance with regulation 23;
6. Where tender advertisements have been issued, they indicate the closing date, time and invitation to attend bid opening;
7. Notification of termination of tenders to suppliers who had applied is adequately done;

### **Non Compliance**

1. The capacity of procurement staff is not adequate to ensure complete compliance with the Act, Regulations, circulars and other directives issued by PPOA
2. Failure by the procuring entity to use the Standard Purchase Requisition forms in initiation of procurements contrary to Regulation 22 of PPDR
3. Failure by the procuring entity to come up with departmental and individual procurement plans for each individual procurement requirement contrary to Regulation 20 (4) of the PPDR and Chapter 6.5 of PPDGM & Regulation 22 (5) of PPDR respectively
4. Failure to review the method of procurement used to determine if its line with the provisions of the PPDA and PPDR.
5. Failure to maintain standing lists of registered suppliers from which to determine who to invite to submit quotes, notable among them, furniture, office equipment, office stationery, contrary to Regulation 8 (3) (a)
6. In some instances there was failure by the head of the procuring entity in appointing the Tender Opening Committees and Evaluation committees contrary to section 60 (1) of the PPDA 2005 and Regulation 16 (1) of PPDR respectively
7. In all the procurements sampled, there was failure by the PU to maintain comprehensive procurement records in the procurement files as required under Chapter 9 of the PPDGM
8. Failure to seek for the Tender Committees approval where the procurement method other than open tender was used contrary to section 78 of the PPDA 2005
9. Advertising proposals as open tenders in contravention to Section 78 of the PPDA 2005 and Regulation 55 (2) of the PPDR 2006
10. There were instances where the TC were modifying submissions contrary to Regulation 11(2) of the PPDR 2006
11. Failure by the TC to review quarterly reports on quotations that have been awarded by the procurement committee as per Regulation 10 (2) (n) of the PPDR, 2006
12. There was an instance where the Evaluation Committee applied an evaluation criteria that was not provided in the bid documents contrary to Regulation 16(5) and (7) of the PPDR 2006
13. Failure by IAC to perform their function as set out in Regulation 17 (3) & 17(4) of the PPDR and Chapter 10.3 of the PPDGM
14. Failure to prepare and sign contracts for direct procurements as per section 75(c) of the PPDA, 2005.
15. Failure to adequately report cases of Direct Procurement to PPOA.
16. Failure to notify PPOA of procurement above Kshs 5 million as directed in PPOA's circular 4/2009 of 24<sup>th</sup> June 2009.

### **Summary of Recommendations**

1. The capacity of procurement staff should be enhanced to ensure complete compliance with the Act, Regulations, circulars, and other directives issued by PPOA.
2. The entity should introduce Standard Purchase Requisition forms in initiation of procurements in accordance with Regulation 22 of PPDR.
3. The PE should ensure departmental and individual procurement plans for each individual procurement requirement are prepared in accordance with Regulation 20

- (4) of the PPDR and Chapter 6.5 of PPDGM & Regulation 22 (5) of PPDR respectively.
4. The entity should improve on the filing system and records management to conform to the provisions of Regulation 34(3) of the PPDR and chapter 9 of the PPDGM.
  5. The head of procuring entity should appoint the members of Tender Opening committee in accordance with Section 60 (1) of the PPDA 2005
  6. Notification to both Successful and Unsuccessful bidders should be sent on the same date in accordance with Section 67 (2) of the PPDA 2005
  7. The head of the procuring entity should appoint the Evaluation Committee members in accordance with Regulation 16 (1) of the PPDR 2006
  8. The Tender Committee should approve procurement method other than open tender in accordance with section 78 of the PPDA 2005 and Chapter 8.3 of the PPDGM on the process of engaging consultants
  9. The TC to approve the submissions in accordance with Regulation 11 of the PPDR 2006
  10. The TC should review quarterly reports on quotations that have been awarded by the Procurement Committee as per Regulation 10 (2) (n) of the PPDR, 2006
  11. The entity should invite request for quotation from the list of prequalified suppliers as per Regulation 25 (3);
  12. The entity should maintain standing lists for categories that they regularly purchase of RFQ method.
  13. The entity should prepare and sign contracts for direct procurements as per section 75(c) of the PPDA 2005

### **Compliance Rating**

The compliance rating is provided in details in Chapter 5 of the report. The compliance level of the PE procurement proceedings was rated at 49.15%.