

## **EXECUTIVE SUMMARY**

This report presents the results of the procurement review of Ministry of Local Government (MOLG) undertaken by Wachira Irungu & Associates under Third Party Providers, which was carried out during the period April 2013 to June 2013. The main objective of the exercise was to review the status of the PE's procurement, contracting and implementation processes and systems, with a view of establishing MOLG'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 MOLG.

The period covered by this review was period 1<sup>st</sup> July 2011 to 30<sup>th</sup> 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 MOLG during the review period.

The scope of the review encompassed the key performance indicators of MOLG'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 then included an examination of the files and documents pertaining to MOLG'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, 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 after a 3-month period from the date of the final report.

### **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 the MOLG:

1. MOLG's Procurement Unit has been established in line with Section 26(4) of the PPDA;

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3. The PU is staffed with qualified key personnel in line with Section 26(7), (8) and (9). The key procurement staff are graduates and holders of Diplomas and Certificates in Procurement from recognized institutions;
4. 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;
5. Minutes of the Tender, Procurement and Evaluation Committees are maintained as appropriate;
6. The Procurement Committee carries its functions in accordance with Regulations 14 of the PPDR and Chapter 4.4 of the PPDGM;
7. The Review team noted with satisfaction that none of the appointed members of the evaluation committee served as members of the TC;
8. The evaluation committees have prepared reports analyzing the tenders received and final ratings assigned to each tender and submitted the reports to the TC;
9. In most cases MOLG uses technical specifications that are objective and conform with the requirements of the PPDA and PPDR;
10. MOLG has in place a procurement plan in accordance with section 26 (3) (a) of the Act and Regulation 20(1);
11. There was a standing list of prequalified and registered suppliers for the period under review;
12. A secure facility for the receipt of tenders has been provided by MOLG and is strategically located near the main entrance. There is also a confidential registry for bulky tender documents;
13. Procurements reviewed were not split to evade the appropriate procurement method;
14. MOLG has taken all reasonable steps to bring the invitations to Open Tender to the attention of those who wish to submit tenders;
15. Written contracts are entered into between the PE and the successful bidders.

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

The Review Team however noted the following areas with deviations or weaknesses that need immediate attention of Accounting Officer and the management:

1. The PE did not have in place a Disposal Plan. There was also no evidence that the Disposal Committee first met within 14 days of its appointment and subsequently at least once in every quarter pursuant to section 128 (2) of PPDA and Regulation 92 (3);
2. The system of filing and record keeping is not satisfactory and thus document location, retrieval, and traceability was not easy. The Ministry has also maintained separate files for ONT. However, there are no separate files for other forms of procurement such as RFQ and DP;
3. The PE did not file any reports with PPOA as stipulated in the PPDA 2005 and PPDR 2006;
4. Apart from ONT, there was no formal contract agreement between the bidder and the Ministry in procuring goods and services;

5. There was no evidence that the PE compared prices for goods with the PPOA Market Price Index or used the Market Pricing Booklet. Goods and services were procured based on lowest bidder regardless of the reasonableness of price;
6. There was no evidence that the TC reviews the selection of the Procurement as stipulated by the Act and Regulations. The TC also does not review the quarterly reports on quotations that have been awarded by the PC in accordance with Regulation 10 (n);
7. The PC did not prepare minutes of all its meetings as required by Regulations 15 (7);
8. There were very few inspection certificates for office supplies procured under RFQ and LVP procurement methods;
9. Noted a number of instances in respect of RFQs and LVPs where the expenditure was more than the prescribed maximum value as set out in the First Schedule (PPDR) and Regulation 59 (1);
10. Although the PE had a standard requisition form in place, it was however not being used consistently by user departments to initiate procurement proceedings. Instead, the procurement transactions were initiated by internal memos;
11. The PE does not have a documented system and procedures for handling bid complaints;
12. Although there exists an Internal Audit Department with the Ministry, there was no audit regarding the procurement process carried out during the period under review.

The detailed results of the review, and recommended action, are documented in this report. Key findings and recommendations as they relate to each of the areas considered in this review are provided in Chapter 3 of the report.

The areas considered in the report are felt to be critical to the future success of the compliance effort. Although the Ministry has made great efforts to comply with the Public Procurement and Disposal Act 2005 and the Public Procurement and Disposal Regulations 2006, circulars, guidelines and other directives issued by PPOA, there are various anomalies that need to be addressed which have been included in the report.

### **Key Review Recommendations**

MOLG 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 weaknesses are addressed and proper documentation of administrative and policy guidelines are instituted;
2. MOLG 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 PPRMPPM;
4. MOLG should enhance its procurement and disposal planning, including individual procurement and disposal plans;
5. MOLG should undertake comprehensive contract and inventory management in line with the PPDA, PPDR and PPDGM.

6. MOLG should always initiate all its procurement proceedings using the official purchase requisition in accordance with Regulation 22 (1);
7. MOLG should always submit to PPOA all the mandatory reports as required by PPOA Circular No. 4/2009 of 24th June,2009;
8. Internal Audit Department should treat procurement process as high-risk area for audit purposes and should be included in its yearly work plan.
9. The PE should ensure that all goods purchased are reasonably priced by comparing the prices offered by the suppliers with the PPOA Market Price Index and the Market Pricing Booklet.

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 in the content of the various manuals that have been issued to support the implementation of the PPDA and PPDR. In addition, MOLG 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 MOLG 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 proceedings to evaluate the level of compliance with the Public Procurement and Disposal Act, associated regulations and directives issued by PPOA. In so doing, the team considered the implications and the significance of individual ratings of the Key performance indicators. As indicated in the report, some instances of non-compliance are of greater significance than others. This factor has been considered in determining the final compliance level.

The team's overall assessment of the compliance level for MOLG is calculated to be 76% with relevant PPDA and the regulations and guidelines in respect of the sampled procurement transactions for the period reviewed. This is above the minimum acceptance level of compliance of 60% set out in the performance Monitoring Plan for the present project. Thus the overall performance of MOLG in procurement and disposal is satisfactory, however, the weaknesses noted need to be addressed.

Finally, the team wishes to take this opportunity to thank MOLG staff for their co-operation and assistance during this review.