

# **PUBLIC PROCUREMENT REGULATORY AUTHORITY**



## **KENYA TRADE NETWORK AGENCY (KENTRADE)**

### **PROCUREMENT REVIEW REPORT**

**JUNE, 2016**

## **REVIEW REPORT IN SUMMARY**

The report presents the findings of the procurement review of KenTrade undertaken by THE Public Procurement Regulatory Authority from 11<sup>th</sup> January, 2016 to 10<sup>th</sup> February, 2016. The objective of the review was to examine the status of KenTrade's contracting and implementation processes and systems in order to determine the PE's level of compliance with the public procurement and disposal Act 2005 and the accompanying Regulations, Circulars, Directives issued by PPOA and the generally internationally acceptable principles and good practices.

### **Scope and objective of the review**

The review covered performance of procurement activities for the period 2013-2014 and 2014-2015 and specifically individual procurement numbers identified by the PPOA.

The scope of the review encompassed key performance indicators of KenTrade procurement and also disposal processes from planning to completion as detailed in the objectives listed in chapter 1 paragraph 1:3 of the report which include:

1. To verify whether the procurement and contracting procedures, processes and documentation followed by KenTrade were in accordance with the Act and the associated Regulations;
2. To establish KenTrade's adherence to the generally accepted principles of economy and efficiency, equal opportunities, transparency, integrity and fairness and promotion of local industry;
3. To determine technical compliance, physical completion and price competitiveness of each contract in the selected representative sample;
4. To review the capacity of KenTrade to handle procurement efficiently; comment on the quality of procurement and contracting, and identify reasons for delays, if any;
5. To establish whether adequate systems are in place for procurement planning, implementation and monitoring and whether reliable documentation is maintained as required by the law;
6. To make recommendations for improvement in an action plan which will be followed up within a specified time frame to establish whether these improvements have been implemented;
7. To determine the extent to which KenTrade has obtained value for money in executing its procurement functions;
8. To assist in clarification of areas where KenTrade may have misunderstood the requirements of the legislation; and
9. To determine the challenges faced by KenTrade in the implementation of the Act.

### **Field work and strategy for review**

The fieldwork undertaken involved going through the files and documents pertaining to the PES procurement activities and processes as requested by the reviewer and provided by the head of the procurement unit who is the procurement manager and was the contact person for the assignment. Where appropriate this was supplemented by discussions with the various persons involved in Procurement.

This report presents the findings of the procurement review and highlights the key findings and observations and recommendations as indicated below:

### **a). Positive findings**

1. A file was available for every procurement reviewed.
2. Evaluation report placed in the procurement file for all cases.
3. The records of the tender evaluation committees are always placed in the procurement file and also well prepared.
4. Copies of the tender documents issued to the bidders are placed in the relevant procurement tender files.
5. In some cases acknowledgement of notification of contract award letters by the winning bidders and the contract agreements signed are placed in the procurement tender files (e.g. No. 37 chapter 4).
6. Letters appointing the tender opening and tender evaluation (processing) committee placed in the procurement file.
7. In some cases copies of LPOS used after the contract award are placed in the procurement file (No. 49 chapter 4).
8. Copies of the inspection and acceptance reports placed in the procurement file (No. 49 and 46 chapter 4).
9. Copies of delivery notes and invoices placed in the procurement files (49 chapter 4).
10. Memos to the CEO on all contracts awarded by the tender committee are placed in the procurement file for approval. This was found to be a good practice.

### **b). Negative findings**

1. Quotations received and opened but not numbered.
2. Quotations opening report listing those received by the number allocated and name of bidder missing in majority of the cases.
3. In many cases the record of communication of contract award, order placed or contract agreement is not placed in the procurement file.
4. Minutes of the CTC or the CPC as the case may be not placed in the relevant procurement files.
5. The procurement files are not marked with folio numbers and the documents therein are not filed in the proper order of dates.
6. The tender advertisement notices not placed in the files in some cases.
7. Letter appointing the tender opening and tender evaluation committee not placed in the files in some cases.
8. After the contract award, notification of contract award is normally sent out to the winning bidder but other bidders are not notified of the contract award in some cases. They are only informed where they are required to collect back their financial proposals.
9. Procurement conclusion not clear and the procurement file left hanging (No. 38 chapter 4).
10. Failure to place the notification of contract award to the winning bidder and the letters on the contract award to the other bidder after the award of the contract by the tender committee (e.g. No. 47 chapter 4).
11. Failure to open contract files for the purpose of implementation and management of the contracts after the contract awards.
12. Failure to record clearly the procurement object but only the contract price in the contract awards (e.g. No. 17 chapter 4).

### **c). Organisation of the PE for the purpose of carrying out the procurement function**

The organisation of the PE for the purpose of carrying out public procurement was found in order including the following;

- The PU,
- The CPC.
- The CTC,
- The IAC,
- Appointment of TOC,
- Appointment of TEC and
- DC.

The procurement unit is staffed with only two staff as shown in chapter two. The officers have not been trained on public procurement

Considering the above, the performance of the procurement proceedings by KenTrade is properly set and conducted. What is required is to address the weaknesses noted and implement the recommendations made to ensure complete compliance with the PPDA, PPDR, the regulations and other procurement manuals, including the instructions issued by the PPOA.

To ensure that the proposed improvement in the procurement system is improved, the following are also to be noted.

Detailed findings and also recommendations are provided in the specific findings in Chapter Four of this report.

The performance of the PE regarding the procurement is assessed in details in Chapter Five of this report. The various aspect of procurement system are considered as the performance indicators and given scores against a possible maximum score. The overall score of the total performance is 361 against a total possible score of 477. This gives a score of 75.68%. This is considered satisfactory. Focus should, however, be on addressing the identified weaknesses while maintaining the good performance.

### **d) Preparation of procurement agreements and management of the same**

After the procurement contract award by the CTC, the preparation of the procurement agreement and management of the contract is a problem which should be addressed as reported in chapter three and four. This will enhance proper utilisation of procurement funds and achievement of value for money.

### **Recommendations made to facilitate improvement of the procurement system**

1. The procurement items in the annual procurement plan should be numbered for ease of reference.
2. The choice of procurement method at the time of the preparation of the procurement plan should be considered carefully especially RFP and Direct Procurement.

3. After the approval of the procurement plan each procurement must be initiated by completion of a procurement requisition which must be placed in the relevant procurement file after approval.
4. The staff in the user department should be trained to ensure that, they can effectively participate in public procurement activities especially in the preparation of procurement specifications, opening of tenders, RFQ and evaluation of the same.
5. The records in the procurement file should be improved as recommended in Chapter Four of this report.
6. After the contract award by the tender committee and approval of the same by the CEO, a contract file should be opened for the purpose of performance, Management and Conclusion of the contract.
7. For every major procurement contract, a contract manager or a team should be appointed by the CEO to ensure the effective implementation of the contract and management of the contract file.
8. The procurement unit should be strengthened for empowerment to perform its function considering the level and workload of its activities.

## **Conclusion**

The major challenges that were found in KenTrade were in the areas of procurement records management and contract management as detailed in Chapter Four of this report.

The report includes an action plan, which as discussed and agreed with the PE, 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.

Overall, KenTrade has demonstrated a satisfactory level of compliance at 76.3% (against the minimum threshold of 60%) with the relevant Act, the Regulations and guidelines in respect to the sampled procurement transactions. The procuring entity should endeavour to improve its performance so that the PE will become fully compliant. This effort should include organising training on various aspects of procurement law and regulations as pointed out in the report.