



PUBLIC PROCUREMENT OVERSIGHT AUTHORITY
Transforming Procurement

NATIONAL HOUSING CORPORATION

PROCUREMENT REVIEW REPORT

DECEMBER, 2015

REVIEW REPORT IN SUMMARY

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

The overall objective of this procurement review was to review the status of NHC'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:

- That NHC 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%.
- That NHC to have established adequate systems and procedures for implementation of (i) above.
- That NHC to have adequate capacity in terms of numbers and training for the implementation of (i) above.
- That NHC 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:

- Establishment of the various procurement committees as per regulation 7 of the PPDR;
- The functions of the TC and PC as set in PPDR 10 and 14 respectively are complied with in most respects;
- Preparation of the Annual Corporate Procurement Plan was in place in accordance with Section 20 and 21 of PPDR;
- Prequalification of suppliers was done and a prequalification list developed in accordance with regulation 23;
- Where tender advertisements have been issued, they indicate the closing date, time and invitation to attend bid opening;
- Notification of contract awards above Kshs 5,000,000 was done to PPOA in accordance with PPOA Circular 4/2009 of 24th June;
- Notification of termination of tenders to suppliers who had applied is adequately done; and,
- Direct procurements were adequately reported to PPOA.

Areas of Non Compliance

- The capacity of procurement staff is not adequate to ensure full compliance with the Act, Regulations, circulars and other directives issued by PPOA;

- Failure by the procuring entity to use the Standard Purchase Requisition forms in initiation of procurements contrary to Section 22 of PPDR;
- Failure by the procuring entity to come up with departmental and individual procurement plans contrary to Section 20 (4) of the PPDR and Chapter 6.5 of PPDGM & Section 22 (5) of PPDR respectively;
- Failure to appoint Tender Opening Committees contrary to section 60 (1) of the PPDA and Section 16 (1) of PPDR respectively;
- Incomplete procurement records in the procurement files;
- PU's failure in some instances to advertise for tender opportunities for a minimum period of 21 days contrary to Section 40 of the PPDR;
- Failure by the TC to approve alternative procurement methods where these were used, contrary to section 78 of the PPDA and Chapter 8.3;
- Failure by the TC to review quarterly reports on quotations that have been awarded by the procurement committee as per section 10 (2) (n) of the PPDR, 2006;
- Failure by IAC to perform their function as set out in Section 17 (3) & 17(4) of the PPDR and Chapter 10.3 of the PPDGM; and,
- NHC requesting for quotations from firms not in the list of prequalified suppliers contrary to Regulation 25 (3).

Summary of Recommendations

- The capacity of procurement staff should be enhanced to ensure complete compliance with the Act, Regulations, circulars and other directives issued by PPOA; NHC should ensure that the staff executing procurement function are procurement professional as defined in Section 2 of the Act, 2015.
- NHC should introduce Standard Purchase Requisition forms in initiation of procurements in accordance with Section 22 of PPDR; and ensure all procurement are initiated as provided in Section 73 of the Act, 2015.
- NHC should align the filing system and records management to conform to the provisions of Regulation 34(3) of the PPDR; chapter 9 of the PPDGM and Section 68 of the Act, 2015.
- The AO should appoint the members of Tender Opening Committee in accordance with Section 78 of the Act, 2015;
- The use of various procurement methods should be incorporated in the procurement plan as provided by Section 53 (1) of the Act, 2015. The approval of procurement plan will also mean the procurement method provided in the plan has also been approved and the use of alternative procurement methods should only be used pursuant to provision of Section 91 (2) of the Act, 2015,
- NHC should allow bidders' adequate timeline for preparing and submitting tenders as required by Section 97 of the Act, 2015.
- IAC should perform their function as set out in Section 48 (3) & 48(4) of the Act.

Compliance Rating

The compliance rating is provided in details in chapter 5 of the report. The compliance level of the NHC procurement proceedings was rated at **52%**.

Conclusion

The major challenges we found in the National Housing Corporation were in the areas roles and responsibilities are not carried out in accordance segregation of duties and responsibilities as per section 26 of the PPDA and the threshold matrix in the PPDR. Procurement proceedings were carried without regard for the roles for different groups as appears in regulation 7 up to 16 of the PPDR.

The major deficiencies were found in the tasks carried out by the TC, and the evaluation committee and user. The TC carried out the role of initiating procurements by approving tender advertisements often without reference to the users or budget holder. This we have already made the observation that it resulted in much termination of tenders on grounds of lack of funds, wrong specifications, which could have been avoided with appropriate initiation as per PPDR 22. In addition procurements were executed without regard to what should come before what in the procurement cycle as set out in the PPDGM chapter 1.5 and often started with advertisement. Most of the other shortcomings highlighted in this report appeared to stem from this.

The TC also appeared to exceed its role during adjudication of tenders perform tasks that the evaluation committees should perform and give in their evaluation report. The review team observed that the user department did not play any role in initiating ONT, RT and DP proceedings as required under regulation 9 of the PPDR but played the role well in initiating RFQs.

We have included 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.

The National Housing Corporation senior management welcomed the review exercise as a mechanism to identify and address any shortcomings and weaknesses in the PE's compliance with Act and associated regulations. The management committed to undertake remedial actions within the timeframe set out in the action plan.