

PUBLIC PROCUREMENT REGULATORY AUTHORITY



COUNTY GOVERNMENT OF NAIROBI

PROCUREMENT REVIEW REPORT

JUNE, 2016

REVIEW REPORT IN SUMMARY

This report details the findings and recommendations of the procurement review of the County Government Nairobi (County Government) that was carried out by the Public Procurement Regulatory Authority (the Authority) from 24th May to 6th June, 2016. The main objective of the exercise was to review the status of the County Government's procurement, contracting and implementation processes and systems with a view of determining the level of compliance with the Public Procurement and Disposal Act, 2005 (the Act) and its attendant Regulations, circulars and directives issued by the Authority and generally accepted principles of good practice. Consideration was also given to the relationship between procurement and overall service objectives of the County Government.

The review considered performance of procurement functions for the period 1st July, 2014 to 30th June, 2015. The scope of the review covered County Government's procurement and disposal cycle from planning to completion, using twenty seven (27) key performance indicators. The review also intended to consider disposal proceedings undertaken by the County Government during the review period. However, it was noted that the County Government did not conduct disposals during the review period. The procedures performed during the review included discussions with the key persons involved in the functions related to procurement, examination of the files and documents pertaining to the County Government's procurement systems and processes, examination of open tender method and alternative procurement procedures such as restricted tenders, direct procurement and selected samples of request for quotations. The team also intended to review the implementation of the findings and recommendations of the internal audit reports carried out during the review period and any other audit/assessment that were undertaken during the same period.

The team used a sample of thirty (30) procurement proceedings to evaluate the level of compliance with the Act, the Regulations and directives issued by Authority. In so doing, careful considerations were given to implications and the significance of individual ratings of the key performance indicators. It is imperative to note that some instances of non-compliance have greater significance than others. This factor has been considered in determination of the final compliance level.

The overall assessment of the compliance level for County Government is 53.72% with reference to the Act, the Regulations and guidelines in respect of the sampled procurement transactions for the period under review. This is below the minimum acceptable compliance level of 60% as set out in the Performance Monitoring Plan for the project carried out by ARD, Inc as part of the Reforming the Public Procurement System Phase II project. This is an indication that the overall performance of County Government in procurement and disposal is not satisfactory and has weaknesses that need to be addressed.

The report is divided into seven (7) chapters. Chapter one is the introduction to the report while chapter two looks at the organisation of the County Government. The key general findings and recommendations as they relate to each of the areas considered in the review are provided in Chapter 3. The specific findings on the actual procurement proceedings examined are exemplified in Chapter 4. The compliance rating and scoring results are highlighted in Chapter 5 while an action plan for implementation of the recommendations is provided in Chapter 6 of the report. The Authority will review the implementation of the recommendations in the action plan.

A summary of the areas that County Government performed satisfactorily with the Act, its attendant Regulations and the directive issued by the Authority included:

- (i) The County Secretary had established the following institutions:
 - Tender Committee in accordance with Section 26(4) of the PPDA and Regulation 7(1) (a) of the Public Procurement and Disposal (Amendment) Regulations, 2013(CG R).
 - Procurement Unit in accordance with Section 26(4) of the Act and Regulation 8(1) of the PPDR.
 - Procurement Committee in accordance with Section 26(4) of the PPDA and Regulation 13(1) and (3) of the PPDR.
- (ii) The Entity had a Procurement Plan for the FY under review.
- (iii) The County Secretary had been appointing tender opening and tender processing committee in accordance with the Procurement Law.
- (iv) Advertisement of tenders was done in accordance with Sections 54 and 55 of the PPDA and Regulations 36 and 40 of the PPDR.

The following were the key weaknesses that were noted during the review:

- (i) Procurement Plan was not consolidated in accordance with Regulation 22(5) of the PPDR
- (ii) The composition of the Disposal Committee did not conform to Regulation 92(1) of the PPDR. Further, the Committee had not been active as no records were availed to demonstrate that it met regularly as required by Procurement Law.
- (iii) Procurement Records were not maintained in accordance with Regulation 34(3) of the PPDR and the Public Procurement Records Management Procedures Manual. All procurement file for the sampled procurements were incomplete.
- (iv) Failure to submit reports on procurement activities to the Authority in accordance with Section 46 of the PPDA and PPOA Circular No.4/2009 of 24th June, 2009.
- (v) Failure to submit report on procurement awarded to enterprises owned by youth, women and persons with disability pursuant to Regulation 7(2) of the Public Procurement and Disposal (Preference and Reservations)(Amendment) Regulations, 2013 and PPOA Circular No.1/2014 of 29th January, 2014.

- (vi) Some of the evaluations and awards of the tenders were not done within the prescribed time. Failure to adhere to evaluation criteria.
- (vii) Notification of award to the unsuccessful bidders did not include the reason(s) the tenders were unsuccessful.
- (viii) Contract management and administration system weak.

The overall compliance level of the County Government is calculated to be 53.72% with reference to the Act, the Regulations and guidelines in respect of the sampled procurement transactions for the period under review. It is recommend that all the weaknesses noted in the report should be addressed in line with the **Public Procurement and Asset Disposal Act, 2015**

The major challenges we found in the Nairobi County Government were in the areas of record keeping due to incomplete procurement files and retrieval of documents such as contract documents and payment vouchers that were not under the custody of the Procurement Unit. Other documents such as complete summary of all procurements were not availed.

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.