

PUBLIC PROCUREMENT REGULATORY AUTHORITY



COUNTY GOVERNMENT OF KISUMU

PROCUREMENT REVIEW REPORT

JULY, 2016

REVIEW REPORT IN SUMMARY

This report details the findings and recommendations of the procurement review of the County Government Kisumu (County Government) that was carried out by the Public Procurement Regulatory Authority (the Authority) from 20th June to 30th 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), 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 31st December, 2015. However, a few procurements outside this period were also considered. 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 used during the review included examination of the files and documents pertaining to the County Government's procurement systems and processes, discussions with the key persons involved in the functions related to procurement, examination of the procurement methods used such as open tender and alternative procurement methods such as restricted tenders, direct procurement and selected samples of request for quotations. The team also reviewed 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 sampled forty nine (49) 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 the County Government of Kisumu was **33.76%** with reference to the Act 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 of Kisumu in procurement and disposal is not satisfactory. There were notable weaknesses on record keeping and administration of procurement processes that need to be addressed urgently.

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 and the directive issued by the Authority included:

- (i) The County Government had established the following institutions:
 - Tender Committees in accordance with Section 26(4) of the PPDA, 2005 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, 2005 and Regulation 13(1) and (3) of the PPDR.
- (ii) The County Government had been appointing tender opening and tender processing committees in accordance with the Procurement Law.
- (iii) Advertisement of tenders were 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) The procurement Function was not handled by procurement professionals pursuant to Section 47(1) of the Public Procurement and Asset Disposal Act, 2015.
- (ii) The Procurement Unit was slow in providing procurement records as required by Section 49(1)(a), 101 and 102 Of the Act.
- (iv) The Entity had not prepared a consolidated annual Procurement Plan for the financial year under review.
- (iii) The Accounting Officer (AO) had not established a Disposal Committee as per requirements of Section 128 of the Act and to conform to Regulation 92(1) of the PPDR.
- (iv) Procurement Records were neither kept nor maintained well in accordance with Regulation 34(3) of the PPDR and the Public Procurement Records Management Procedures Manual. All procurement files for the sampled procurements were incomplete.
- (v) Mandatory reports on procurement proceedings were not submitted to the Authority in accordance with Section 46 of the PPDA and PPRA Circular No.4/2009 of 24th June, 2009.
- (vi) There was no evidence that disadvantaged groups were given procurement opportunities. Further, reports on procurement awarded to enterprises owned by youth, women and persons with disability if any, were not submitted to the Authority as required by Regulation 7(2) of the Public Procurement and Disposal (Preference and Reservations)(Amendment) Regulations, 2013 and PPRA Circular No.1/2014 of 29th January, 2014.
- (vii) Notification of award to letters unsuccessful bidders were not done.
- (viii) Contract management and administration system was weak.
- (ix) Application and adherence to the threshold matrix was weak.

Conclusion

Overall, the Kisumu County Government has demonstrated an unsatisfactory level of compliance at **33.76%** (against the minimum threshold of 60%) with the PPDA, 2005, and the Regulations and guidelines in respect of the sampled procurement transactions. The procuring entity should endeavour to improve their performance so that the PE will become compliant by organising training on various aspects of procurement law and regulations as pointed out in the report.

It is recommended that all the weaknesses noted in the report be addressed in line with the Public Procurement and Asset Disposal Act, 2015.