



PUBLIC PROCUREMENT OVERSIGHT AUTHORITY

Transforming Procurement

FINAL REPORT

COUNTY COUNCIL OF NAROK

PROCUREMENT REVIEW

REVIEW PERIOD: 01 JULY 2007 - 30 JUNE 2008

DECEMBER 2009

TABLE OF CONTENTS

TABLE OF CONTENTS	1
TABLE OF ACRONYMS	3
EXECUTIVE SUMMARY	4
1.0 INTRODUCTION	5
1.1 Mandate of PPOA	5
1.2 Responsibility of procuring entity.....	5
1.3 Specific Review Objectives.....	5
1.4. Entry meeting	6
2.0 BACKGROUND AND ORGANIZATION OF CCN	8
2.1. Mandate.....	8
2.2 Vision	8
2.3 Mission	8
2.4 Functions of CCN	8
3.0 REVIEW METHODOLOGY AND SPECIFIC FINDINGS	9
3.1. Key documents	9
3.2. Interviews and Discussions	9
3.3. Sampling	9
3.3.1. Selection of Samples	9
3.3.3. Distribution of the procurement methods in the samples reviewed	10
3.3.4. Rating Criteria.....	11
3.4. Limitation of scope	13
3.5 Specific Findings	14
4.0 GENERAL FINDINGS AND RECOMMENDATIONS	16
4.1 Internal organisation of the PE	16
4.2 Record Management	16
4.3 Malfunctioning of Procurement Institutions	16
4.4 Skills Capacity of Procurement Staff.....	17
4.5 Procurement Unit.....	17
4.6 Anomalies in Budgeting and Expenditure.....	19
4.7 Procurement plans	20
4.8 Authorized Purchase Requisitions	20
4.9 Local Purchase Orders/ Local Service Orders.....	21
4.10 Values in the Tenders Reviewed	21

4.11 Operations Procedures and Procurement manuals	21
4.12 Prequalification.....	21
4.13 Procurement Volume	22
4.14 Terminated Procurement	23
4.15 Mandatory Reports to PPOA.....	23
4.16 Poor Contract Management	23
4.17 Inspection and Acceptance Committee	24
4.18 Disposal Committee.....	24
4.19 Stores Department.....	24
4.19.1 Items physically checked:.....	24
4.20 Complaints	25
4.22 Stock Taking.....	26
4.23 Low Value Procurements	26
5.0 EXIT MEETING	27
6.0 ACTION PLAN	29
7.0 CONCLUSION.....	31
APPENDICES	32

TABLE OF ACRONYMS

AIE	Authority to Incur Expenditure
AO	Accounting Officer
CCN	County Council of Narok
CMS	County Model School
D	Minor Deviations
DC	Disposal Committee
DD	Moderate Deviations
DDD	Major Deviations
DP	Direct Procurement
EC	Evaluation Committee
FY	Financial Year
GOK	Government of Kenya
HoD	Head of Department
IA	Internal Auditor
IAC	Inspection and Acceptance Committee
IFMIS	Integrated Financial Management Information Systems
IPR	Independent Procurement Review
KACC	Kenya Anti Corruption Commission
LPO	Local Purchase Order
LSO	Local Service Order
LVP	Low value Procurement
OIT	Open International Tender
ONT	Open National Tender
PC	Procurement Committee
PE	Procuring Entity
PIN	Personal Identification Number
PO	Procurement Officer
PPDA	Public Procurement and Disposal Act 2005
PPDR	Public Procurement and Disposal Regulations 2006
PPOA	Public Procurement Oversight Authority
PR	Procurement Review
PU	Procurement Unit
RFP	Request for Proposal
RFQ	Request for Quotations
RT	Restricted Tender
SP	Satisfactory Performance
SPP	Specially Permitted Procurement
TC	Tender committee
VAT	Value Added Tax

EXECUTIVE SUMMARY

The quest to improve the Government procurement systems is becoming an important agenda for most Government departments as stipulated in the PPDA and the accompanying PPDR, which introduced new measures to regulate public procurement and disposal that would ensure that good practices are upheld.

The following report presents the procurement procedures, and sample based findings of the implementation and operationalization of the Act by the County Council of Narok.

In carrying out the review, the consultants sought to focus on the procurement, disposal, contracting and implementation procedures and processes of the procuring entity. Sample based findings are also presented in order to support the observed extent of compliance or non compliance with the new procurement law, regulations, circulars, and directives issued by the Public Procurement Oversight Authority (PPOA).

The review observed that the procurement function in the County Council is a financially high-profile one and strategic to the accomplishment of the Local Government Ministry's vision, mission and goals.

The County Council of Narok is the custodian of revenues from the “Seventh Wonder of the World,” The Maasai Mara Game Reserve.

Key recommendations include harmonization and coordination of a procurement framework that will offer the most effective and efficient way of responding to user departments needs without losing sight of the new procurement law. With such a framework, County Council of Narok will provide a firm foundation for the provision of the much needed services and firmly anchor future responses to needs as and when they arise with a view to realising its stated mission and vision. This will enable diverse user departments to structure their demands and responses within the legal framework.

Another key recommendation is the enhancement of professional staff and skills capacity building initiatives and sensitisation of all internal stakeholders on the new law and procurement best practices.

1.0 INTRODUCTION

The Public Procurement Oversight Authority (PPOA) is a public body established under the Public Procurement and Disposal Act 2005. The Authority was established on 1st January, 2007 when the Act and Public Procurement and Disposal Regulation 2006 were operationalized.

1.1 Mandate of PPOA

PPOA is mandated with the responsibility of the following among others:-

- Ensuring that procurement procedures established under the Act and Regulations are complied with;
- Monitoring the procurement system and reporting on its overall functioning;
- Assisting in the implementation and operation of the public procurement system.
- Initiating public procurement policy.

Section 49(1)(a) of the Act, provides for the PPOA's procurement review function, which states that the Director-General or anyone authorized by him may inspect at any reasonable time the records and accounts of a procuring entity and the procuring entity and contractor shall co-operate and assist whoever does such an inspection. The Director General wrote to the Clerk to CCN informing him that the review would take place and attached the checklist of the information and documents to be provided by the County Council.

1.2 Responsibility of procuring entity

Section 27(1) of the PPDA provides that a public entity shall ensure that this Act, the Regulations, and any directions of the PPOA are complied with in respect to each of its procurements.

1.3 Specific Review Objectives

The main purpose is to carry out review of the status of CCN's procurement, contracting and implementation processes and systems, in order to establish the state of compliance with the new procurement law, regulations, circulars, and directives issued by the Authority.

The specific objectives of this procurement review are:

1. To verify the procurement and contracting procedures, processes and documentation followed by CCN, in order to determine whether they were carried out in accordance with the Act and the associated Regulations;
2. To establish the County Council's adherence to the general principles of economy and efficiency; equal opportunities; transparency; integrity; fairness; and value for money;
3. To determine the technical compliance, physical completion and price competitiveness of each contract in the selected representative sample;
4. To review the capacity of CCN 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 regulations;

6. To establish whether recommended actions made in the previous reviews have been carried out successfully;
7. To make recommendations for improvement in an action plan which will be followed up within 3 months to establish whether these improvements have been implemented;
8. To assist in clarification of areas where CCN may have misunderstood the requirements of the legislation; and
9. To identify weaknesses e.g. staff shortages, lack of equipment, which impede good performance and need to be rectified.

1.4. Entry meeting

An entry meeting with the County Council's management team was organized on 4th May 2009 before the commencement of fieldwork. Mr. P.K. Ndung'u, the Ag. Deputy Manager, Compliance led both the PPOA and review team in the entry meeting. The PE's team was led by Mr. Daniel Leleruk, the treasurer to the Council. The meeting which was held in the clerk's office was as follows;

Present

Name	Designation	Organization
Peter K. Ndungu	Ag. Dep. Manager Compliance	PPOA
Stanley Miheso	Compliance Officer	PPOA
N.N. Wachira	Team Coordinator	Lindi Agencies Ltd.
Ernest W. Kinuthia	Team Leader	Lindi Agencies Ltd.
Samuel W. Nderitu	Consultant	Lindi Agencies Ltd.
T. Kanina	Consultant	Lindi Agencies Ltd.
R. Hamadi	Consultant	Lindi Agencies Ltd.
Stephen Koriata	Clerk	CCN
Daniel L. Leleruk	Treasurer	CCN
Joseph Ole Sonkori	Procurement Officer	CCN
Nelson Keshei	Internal Auditor	CCN

Purpose of the meeting

The purpose of the meeting was for the PPOA to:-

1. Formally introduce Lindi Agencies' Ltd. team of consultants to the CCN team.
2. To inform CCN the purpose of carrying out the procurement review.
3. To advise in respect to the type of review/audit and the period to be covered by the subject review.
4. To advise in respect to the anticipated duration of the review exercise and the stages in which it would be carried out.
5. To advise on what is expected of both the consultants and the CCN.
6. To advise on the expected deliverables following the exercise and how such deliverables will be dealt with by the PPOA.
7. To advise on the likely impact following the findings of the review.

Mr. Peter Ndung'u advised as follows:

1. That the review was primarily to assess the performance and the compliance of the Procuring Entity (PE) with the new procurement law which is specifically the PPDA and the accompanying PPDR.
2. That the review would also address the challenges that the PEs are encountering as they implement the said law. This, he said, would be useful when the amendment of the law will be being addressed.
3. That the review will address performance and compliance with the law for the period of financial year 2007/2008 only. It will not be an investigation and it is not as a consequence of any reported or observed omission or commission on the part of the PE.
4. That the PE should provide all the documents and information that the consultants may require to ensure that the exercise is carried out smoothly and successfully within the limited time that has been allocated to the exercise/assignment.
5. That the consultants are expected to produce a report of their findings which will eventually be posted to the PPOA's website after it has been discussed and agreed with the PE during the exit meeting.
6. That the likely results to the PE, following the report, are assistance from PPOA to enhance performance and compliance with the law. This could be but not limited to provision of training, sensitization to the law, capacity building or even recommendation that the procurement function be handled by professionals. Remedial measures would also be recommended where found necessary.

2.0 BACKGROUND AND ORGANIZATION OF CCN

2.1. Mandate

To provide, manage and service County Council services to residents of Narok as stipulated in the Local Government Act Cap 265 of the Laws of Kenya.

2.2 Vision

Excellence in community service delivery and sustainable management of natural resources

2.3 Mission

To promote sustainable growth and development through collaboration, partnership and stakeholder involvement, initiate responsive, supportive and adaptable structures to ensure efficient and effective service delivery.

2.4 Functions of CCN

Deliver services required by residents of CCN in the various sectors including;

- Education.
- Health.
- Roads.
- Water.
- Garbage collection.
- Social services and
- Environmental services.

3.0 REVIEW METHODOLOGY AND SPECIFIC FINDINGS

3.1. Key documents

The review concentrated on gathering sufficient evidence to support any findings regarding the compliance and performance of the County Council.

The team examined various documents, i.e. Procurement files, contract files, project documentation, budgets, etc. Other background documents included but were not limited to the Audit Inspection Report 2007/2008.

3.2. Interviews and Discussions

The team held discussions/interviews with relevant staff/officials of CCN directly involved in the procurement function to ascertain general and specific information about the procurement/disposal process, procedures, and existing staff capacity at the council.

Persons Interviewed during the review

Name	Title	Role
Joseph S. Ole Sonkori	Procurement Officer	Head, PU
Daniel L. Leleruk	Treasurer	Treasurer, Ag. Clerk
Nelson Keshei	Internal Auditor	Internal Audit
Lemita Lemein	Community Dev. Officer / Integrity Assurance Officer	Head, Assurance Management

The Clerk was on leave, but availed himself for the entry meeting.

3.3. Sampling

3.3.1. Selection of Samples

Samples of procurement transactions were selected in accordance with the procedures outlined in the Procurement Review Manual.

The review team estimated compliance level they would be looking for at 40% and the probability of non-conformity to be 97.44 %. The number of contracts, which were selected for review in order that a realistic review report is achieved, included all areas and categories or procurement process. With random selection of four there is a high probability of finding, one sample, which does not comply, can be found from the table below. This sampling table is adapted from International Standard EN45503.

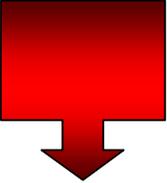
3.3.3. Distribution of the procurement methods in the samples reviewed

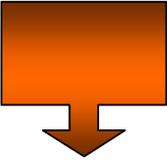
Number of samples	Estimated initial compliance with Public Procurement and Disposal Act 2005 %									
	10	20	30	40	50	60	70	80	90	100
Percentage Probability of finding a sample which does not comply with PPDA										
3	99.9	99.2	97.3	93.6	87.5	78.4	65.7	48.8	27.1	0
4	99.99	99.84	99.19	97.44	93.75	87.04	75.99	59.04	34.39	0
5	100	99.97	99.76	98.98	96.88	92.22	83.19	67.23	40.95	0
6	100	99.99	99.93	99.59	98.44	95.33	88.24	73.79	46.86	0
7	100	100	99.98	99.84	99.22	97.2	91.76	79.03	52.17	0
8	100	100	99.99	99.93	99.61	98.32	94.24	83.22	56.95	0
9	100	100	100	99.97	99.8	98.99	95.96	86.58	61.26	0
10	100	100	100	99.99	99.9	99.4	97.18	89.26	65.13	0

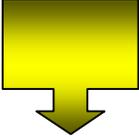
Details of the samples reviewed

TENDER No.	DESCRIPTION	PROCUREMENT METHOD	VALUE IN (KSHS)
CCN/2007/2008/03	Supply and Delivery of Petroleum fuels, & Batteries	ONT	5,967,880.00
CCN/2007/2008/04	Supply and Delivery of tyres and tubes	ONT	1,337,847.00
CCN/2007/2008/16	Provision of Legal Services	ONT	4,576,000.00
CCN/CMS	Construction of Model School	ONT	9,000,000.00

3.3.4. Rating Criteria

<p>Major Deviation (DDD)</p> 	<p>Where the major requirements of the PPDA and PPDR were not adequately followed. This could cause material, financial loss or carry risk for the regulatory system or the entity's reputation. These cases include deficiencies in the structures and systems to implement the law and regulations, or where the procedures have been so flawed that there is severe risk of mis-procurement or procurement fraud such as:</p> <ul style="list-style-type: none">• Procurement procedures are not integrated within the financial framework of the entity;• Main structures are not appointed and operationalised e.g.<ul style="list-style-type: none">Accounting OfficerTender CommitteeProcurement UnitProcurement CommitteeDisposal CommitteeInspection and Acceptance CommitteeTender Opening CommitteeEvaluation Committee.• Coverage not complete<ul style="list-style-type: none">ProcurementContract managementDisposalGoods, works and service• Standard and specific committees not meeting as stipulated;• No consolidated procurement plan linked to approved budget;• Lack of procedures for making procurement decisions;• Not adhering to the threshold matrix;• Choice of improper procurement procedures;• Procurements inflated;• Lack of approved prequalified list for suppliers;• Lack of annual disposal plan;• Inappropriate influence on evaluation;• Inadequate protection of confidential information;• Lack of comprehensive procurement records;• Tender committees not meeting as required;• Tender evaluation committees not appointed in accordance with the Act;• Not reporting to PPOA as required;• Many key procurement records that are stipulated by law for retention are missing <p>Such cases warrant immediate attention by the Accounting Officer.</p>
---	--

<p style="text-align: center;">Moderate Deviation (DD)</p> 	<p>Where procurement procedures were considered to have significant omissions or deviations, including:</p> <ul style="list-style-type: none"> • Some procurement records are missing; • Lack of central comprehensive procurement files; • Procurement unit not functioning as per the regulations. • Lack of signatures on key minutes • Choice of selection procedure not justified; • Consolidated Procurement plan not updated; • Contracts awarded not from the approved list of suppliers; • Contracts over Kshs 5million not reported to PPOA; • Criteria for the evaluation of proposals not specified in the tender documents; • Award Letter missing; • Description of goods, works or services in the bid not adequate; • Entities with recurring or ongoing requirements have not analyzed their medium to long term needs to adopt long-term arrangements or framework contracts; • No evidence of analysis of bid documents by Tender Evaluation Committee; • No evidence of award by Tender Committee; • Lack of evidence of commencement certificate in contract missing; • Lack of evidence of contract being countersigned by AO; • Evidence of performance bond not in the contract file; • Inspection and acceptance certificates confirming delivery not available; • No justification/Authorization for Applying the method; • No authorized procurement requisitions; • Non-disclosure of tender evaluation details; • No specified period of validity of tenders; • Prequalification proceedings not adequate; • Absence of award criteria in tender documents; • Absence of procurement requisitions; • Record of procurement proceedings not comprehensive; • Lack of justification for direct and restricted procurement; • Termination of procurement proceedings not reported to PPOA; and • Inadequate oversight by internal auditor. <p>These weaknesses warrant immediate attention of the senior management.</p>
---	---

<p>Minor Deviation (D)</p> 	<p>Where procurement practices and procedures conformed to most regulations, though there were deviations, which are relatively small in quantity, size or degree and are low in risk. These weaknesses warrant immediate attention of the procurement unit or user department. The deviations include:</p> <ul style="list-style-type: none"> • Absence of an Award Letter in procurement file; • Absence of authorization Date of LPO; • Absence of Invoice copy in the procurement file; • Absence of LPO Authorization; • Absence of LPO or LSO in the procurement file; • Absence of Payment Voucher copy in the procurement file; • Absence of Procurement Request in the procurement file; • All tenderers not informed of the result of a tendering process in accordance with the law; • Anti corruption mechanisms not defined and published; • Commencement of contract date missing; • Date of evaluation committee report or recommendation letter missing; • Date of the bid opening missing; • Date of the MTC meeting awarding the contract missing; • Evidence of award by Tender Committee not in file; • No evidence of contract being countersigned by AO in procurement file; • No evidence of performance bond in the contract file; • Goods or Services Received Note missing in file; • Inadequate monitoring of contracts awarded; • Incomplete procurement plan; • Methods and criteria for selecting firms and for awarding contracts are not documented; • Records are available but not in the procurement file; and • Time limits for replies not adhered to. <p>These weaknesses should be addressed by senior management as part of an ongoing improvement plan.</p>
<p>Satisfactory Performance (SP)</p> 	<p>Where procurement practices and procedures met the requirements of the law and regulations and were considered to meet standards of good practice.</p>

3.4. Limitation of scope

- Incompleteness of documentation relating to the selected procurements;
- Inability to verify the authenticity of most of the documents sampled;

3.5 Specific Findings

Tender	Method	Findings	DDD	DD	D	SP
CCN/2007/2008/03 Supply and Delivery of Petrol, Oils, Lubricants (in Bulk) and Batteries	ONT	No Procurement Plan	X			
		No procurement requisition	X			
		Procurement procedure commenced without budgetary allocation	X			
		No extract of the TC minutes in the file		X		
		No preliminary evaluation committee minutes in procurement file		X		
		No extract of the TC minutes in the procurement file		X		
		No Invoices and payment documents in the procurement file.		X		
		No Delivery notes copies in the file		X		
		No Inspection and Acceptance Certificates in the file		X		
		Evaluation comparison analysis report not available and not in file				X
		Evaluation committee minutes not signed by one Member				X
		CCN/2007/2008/04 Supply and Delivery of tyres and tubes	ONT	No Procurement Plan	X	
No procurement requisition	X					
Procurement procedure commenced without budgetary allocation	X					
No extract of the TC minutes in the file				X		
No preliminary evaluation committee minutes in procurement file				X		
No extract of the TC minutes in the procurement file				X		
No Invoices and payment documents in the procurement file.				X		
No Delivery notes copies in the file				X		
No Inspection and Acceptance Certificates in the file				X		
No Invoices and payment documents in the file				X		
Evaluation comparison analysis report not available and not in file						X
Evaluation committee minutes not signed by one Member					X	
CCN/2007/2008/16 Provision of Legal Services	ONT	No Procurement Plan	X			
		No procurement requisition	X			
		Procurement procedure commenced without budgetary allocation	X			
		No extract of the TC minutes in the file		X		

Tender	Method	Findings	DDD	DD	D	SP
		No preliminary evaluation committee minutes in procurement file		X		
		No extract of the TC minutes in the procurement file		X		
		No completion Certificates in the file		X		
		No Invoices and payment documents in the procurement file.		X		
		No Delivery notes copies in the file		X		
		No Inspection and Acceptance Certificates in the file		X		
		Evaluation comparison analysis report not available and not in file			X	
		Evaluation committee minutes not signed by one Member			X	
CCN/CMS County Model School Olkeri	ONT	No Procurement Plan	X			
		No procurement requisition	X			
		Procurement procedure commenced without budgetary allocation	X			
		No extract of the TC minutes in the file		X		
		No preliminary evaluation committee minutes in procurement file		X		
		Weak Contract management and internal controls	X			
		No extract of the TC minutes in the procurement file		X		
		No completion Certificates in the file		X		
		No Invoices and payment documents in the procurement file.		X		
		No Inspection and Acceptance Certificates in the file		X		
		No Invoices and payment documents in the file		X		
		Evaluation comparison analysis report not available and not in file				X
		Reporting requirement by PPOA	X			
		Evaluation committee minutes not signed by one Member				X
				Project still on-going		

4.0 GENERAL FINDINGS AND RECOMMENDATIONS

The review observed that CCN is in a financially high profile location. The county council is the custodian of revenues from the “Seventh wonder of the World”, the Maasai Mara Game Reserve.

During the period under review, CCN undertook 173 procurements of total value of Kshs. 35,935,587.00 and disposals amounting to Kshs. 3,699,000.00.

To gauge the level of compliance, a sample of four (4) procurements valued at Kshs. 20,881,727.00 was selected. This is consistent with the Sampling table adopted from the International Standard EN45503.

Outlined below are the general findings and recommendations:

4.1 Internal organisation of the PE

Finding

During the subject review period, the statutory procurement structures that are prescribed by the Act and the Regulation (PPDR Part II) i.e. the Tender Committee, Procurement Unit, Evaluation Committee, DC and IACs were not properly instituted. However, it was noted that the PE has since established the various committees.

4.2 Record Management

Finding

Records were poorly managed and all required documents per order could not be found in a single file.

Recommendation

Record management is a legal requirement and key to the efficiency in the procurement function and this need not be over emphasised.

The PE should manage their records as provided for by Section 45 of PPDA. Training in records management should be provided to those handling the procurement function.

4.3 Malfunctioning of Procurement Institutions

Findings

Key procurement institutions such as Tender Committee, Procurement Unit and Procurement Committee were not functioning as stipulated by PPDA and PPDR. For instance, some of the Procurement Unit functions such as Tender No. CCN/27/2008/03 Supply of Petrol, Oils, Lubricants in bulk and batteries were often performed by the Engineering Department.

Some of the TC functions (as provided by Regulation 10 (2)) were also taken up by technical departments e.g. Contract price variation on Tender No. CCN/CMS which was undertaken without involving the PU.

Recommendation

Key procurement institutions should be allowed to function without interference as provided for by Part II of PPDR.

4.4 Skills Capacity of Procurement Staff

Finding

All key personnel handling procurement processes were in place. Some of the personnel have undergone sensitization training in the procurement law, organised by PPOA in September 2008. Six of the council staff underwent a three day overview of the Act including; tendering processes and Bid evaluation.

Recommendation:

Further training in PPDA & PPDR to cover all staff involved in the procurement function should be carried out.

4.5 Procurement Unit

Findings

The Procurement Unit has since been established in accordance with Regulation 8 of the PPDR. It is staffed with trained personnel.

Procurement Staff

Name of Staff	Designation	Qualifications
Joseph S. Ole Sonkori	Procurement Officer	<ul style="list-style-type: none">• Bachelor of Business Mgt (Marketing Option)• CPA 1• Diploma in Supplies Management (Ongoing)
Sammy Keshui Topisa	Storekeeper	<ul style="list-style-type: none">• Certificate in Stores Management
Jennifer Kudate	Storekeeper	<ul style="list-style-type: none">• Certificate in Stores Management
Lenny Kamoye	Storekeeper	<ul style="list-style-type: none">• Certificate in Stores Management

A training policy is in place to ensure continued development of skills and professionalism in Supply Chain Management for the procurement personnel.

Recommendation

The PU should be allowed to function as provided in the PPDA & PPDR.

4.5.1 Overall observation on Procurement Unit in relation to Regulation 8

	REQUIREMENTS OF REGULATION	OBSERVATION
1.	Maintain and update annually standing lists of registered tenderers required by the procuring entity and liaise with the Authority in respect of the Authority's register of suppliers and procuring agents. (Regulation 8.3a)	A list of registered suppliers was maintained but no liaison with PPOA
2.	Prepare, publish and distribute procurement and disposal opportunities including invitations to tender, pre-qualification documents and invitations for expressions of interest. (Regulation 8.3b)	Done
3.	Coordinate the receiving and opening of tender documents. (Regulation 8.3c)	Not Done
4.	Maintain and safeguard procurement and disposal documents and records in accordance with these regulations. (Regulation 8.3d)	Done
5.	Submit shortlists and lists of pre-qualified tenderers to the tender committee or procurement committee for approval. (Regulation 8.3e)	Not Done
6.	Issue procurement and disposal documents to candidates in accordance to the Act and these Regulations. (Regulation 8.3f)	Done
7.	Propose the membership of evaluation committee to the Accounting Officer for approval. (Regulation 8.3g)	Not Done
8.	Coordinate the evaluation of tenders, quotations and proposals. (Regulation 8.3h)	Poorly managed
9.	Recommend a negotiating team for appointment by the Accounting Officer where negotiations are allowed by the Act and these Regulations and participate and negotiations. (Regulation 8.3i)	Not Observed
10.	Prepare and publish notices of award and notices of tender acceptance. (Regulation 8.3j)	Not Done
11.	Prepare contract documents, in line with the award decision. (Regulation 8.3k)	Not Done
12.	Prepare and issue rejection and debriefing letters. (Regulation 8.3l)	Not Done
13.	Prepare contract variations and modifications to documents. (Regulation 8.3m)	This was done but in some cases it did not involve the PU.
14.	Maintain and archiving documents and records of the procurement and disposal activities for the required period. (Regulation 8.3n)	Attempted but done poorly
15.	Provide information, as required, for any petition or investigation to debar a tenderer or contractor or any investigation under review procedures. (Regulation 8.3o)	Done
16.	Implement the decisions of the procurement, tender and disposal committees including coordinating all activities of these committees. (Regulation 8.3p)	Not Done
17.	Act as a secretariat to the tender, procurement and disposal committees. (Regulation 8.3q)	Not Done
18.	Liaise with the Authority and other bodies on matters related to procurement and disposal. (Regulation 8.3r)	Not well done, Recommendations made
19.	Prepare and submit to the Authority reports required under the Act, these Regulations and guidelines of the Authority. (Regulation 8.3s)	Not done

	REQUIREMENTS OF REGULATION	OBSERVATION
20.	Monitor Contract management by user departments to ensure implementation of contracts in accordance with the terms and conditions of the contracts. (Regulation 8.3t)	Not well done
21.	Report any significant departures from the terms and conditions of the contract to the head of the procuring entity. (Regulation 8.3u)	Not well done
22.	Advise the procuring entity on aggression of procurement to promote economies of scale (Regulation 8.3x).	Not Done
23.	Co-ordinate internal monitoring and evaluation of the supply chain function. (Regulation 8.3y)	Not Done
24.	Carry out periodic market surveys to inform the placing of orders and adjudication by the relevant award committee. (Regulation 8.3z)	Not Done
25.	Conduct periodic and annual stocktaking. (Regulation 8.3aa)	Done
26.	Certify the invoices and payment vouchers to suppliers. (Regulation 8.3bb)	Done
27.	Approve extension of the Tender validity period. (Regulation 8.3cc)	Done
28.	Verify that the available stock levels warrant initiating a procurement process. (Regulation 8.3ee)	Not Done

4.6 Anomalies in Budgeting and Expenditure

Findings

During the year under review, procurement was not directly linked to any specific approved budget and consequently there were so many anomalies. These anomalies were also highlighted in the Systems Audit reports by the External Auditors for the Financial Year 07/08 whose examination of LATF payment vouchers revealed the following;

Description	Amount
Un budgeted provision	Kshs 51,819,006.00
Missing payment vouchers	Kshs 1,662,000.00
Unapproved payments	Kshs 33,532,067.00,
Unauthorized payments	Kshs 30,360,667.00.

The foregoing indicates that the propriety of the expenditure contained in the said payment vouchers cannot be authenticated. It was further noted that there were differences between payment voucher amounts and amounts posted on the cash book, thus affecting the accuracy of expenditure figures reflected in the annual statement. The above figures were all paid out which led to over expenditure in the period under review.

It was noted that the County Council in its letter Ref No: NCC/ARC Vol. 2/11 of 30th March 2009 responded to the Assistant Director of Audit, South Rift Region and advised that internal controls and maintenance of supporting documents including payment vouchers had been instituted.

Recommendation

Records should be properly kept pursuant to Section 45 and internal controls strengthened.

4.7 Procurement plans

Findings

During the year under review, there were no procurement plans as provided for by Section 26 (3) of PPDA and Regulation 20 of PPDR and neither was procurement directly linked to any specific approved budget.

However, it was noted that the PE did commence the process of preparation of the procurement plan for FY 2008/2009 during the review time.

Recommendations

The PE should at all times prepare comprehensive procurement plans as provided for by Section 26 (3) of PPDA and Regulation 20 of PPDR and as much as possible operate within them.

All internal stakeholders involved in the procurement function should be trained on how to prepare and use procurement plans.

4.8 Authorized Purchase Requisitions

Findings

Procurement requests from the user departments are not always initiated by use of Formal purchase requisitions as stipulated in the Regulation 22(1). Some users initiated their own requests without raising any requisitions or involving the procurement unit such as the procurement of Fuels in Tender No. CCN/2007/2008/03.

There is no evidence that the purchase requisitions initiated during the period under review had been approved as is provided for by Regulation 22(3-4).

Recommendations

All future procurement requests should be initiated through the official purchase requisition, which should be duly authorized and linked to a procurement plan as provided for in the threshold matrix.

Initiation and authorization of requisitions should be done as provided by the Law and outlined in the first schedule (Threshold Matrix).

4.9 Local Purchase Orders/ Local Service Orders

Findings

LPOs for the year under review were unpriced. There is no basis on how the LPOs and LSOs are raised. LSOs/LPOs are not based on any requests for quotation.

The values on the purchase requests in CCN are completely unrealistic and do not reflect the market conditions. This matter was highlighted in the Audit Inspection report FY 2007/2008.

Recommendations

Use of well designed LPOs that are completely filled should be emphasised. LPOs should be based on a formally solicited quotation/tender. The PU should do a regular market survey as provided for by Regulation (8)(3)(z) of PPDR.

4.10 Values in the Tenders Reviewed

TENDER No.	DESCRIPTION	PROCUREMENT METHOD	VALUE IN (KSHS)
CCN/2007/2008/03	Supply and Delivery of Petrol, Oils, Lubricants (in Bulk) and Batteries	ONT	5,967,880.00
CCN/2007/2008/04	Supply and Delivery of tyres and tubes	ONT	1,337,847.00
CCN/2007/2008/16	Provision of Legal Services	ONT	4,576,000.00
CCN/CMS	Construction of Model school	ONT	9,000,000.00

4.11 Operations Procedures and Procurement manuals

Findings

The County Council has no operations and procedures manual.

Pursuant to Section 9(c)(i) of PPDA and Regulation 30 of the PPDR, CCN has not developed a procurement manual.

Recommendations

The Council should develop its own manuals. Alternatively, it can obtain and use a general procurement manual from PPOA. Such manual would strengthen the procurement function.

4.12 Prequalification

Finding

The PE has no list of identified prequalified/registered suppliers as provided for by Section 32 of PPDA.

Recommendation

The PE should maintain and update annually standing lists of registered tenderers required by the procuring entity and liaise with the Authority in respect of the Authority's register of suppliers and procuring agents. (Regulation 8.3a)

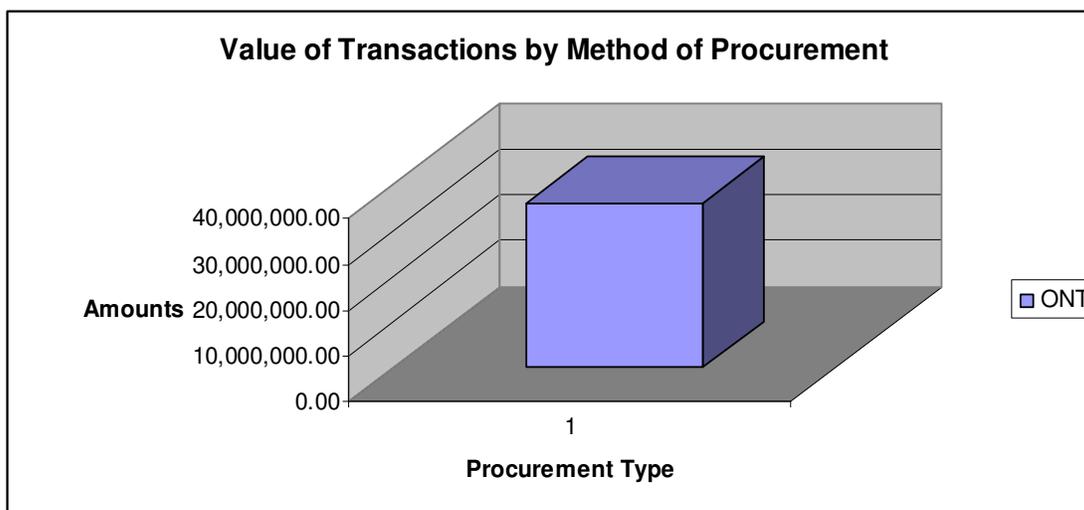
4.13 Procurement Volume

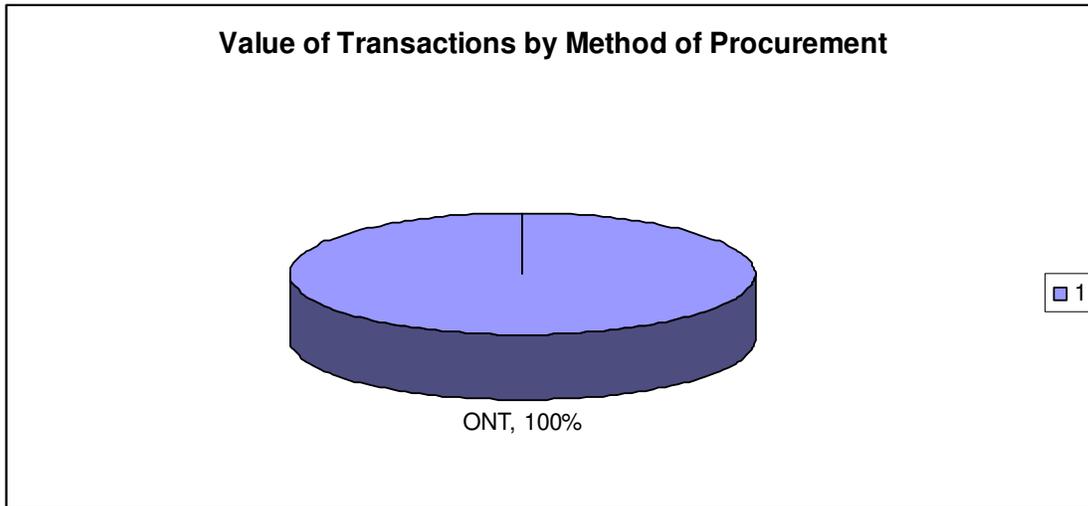
Findings

During the period under review, the CCN undertook 173 procurement transactions of goods and services of value of Kshs 35,935,587.00.

Total number and value of transactions by method of procurement

Procurement Method	Number	Value(Kshs)
OIT	-	-
ONT	173	35,935,587.00
RT	-	-
RFQ	-	-
RFP	-	-
DP	-	-
LVP	-	-





4.14 Terminated Procurement

There were no procurement proceedings that were terminated during the year under review.

4.15 Mandatory Reports to PPOA

Findings

The entity did not submit to PPOA details of all contracts on direct procurement awarded whose values exceeded Kshs. 5,000,000.00 as is provided for by Regulation 8(3)(s) of PPDR and PPOA Circular No. 4 of 24th June, 2009 as in the case of Tender No. CCN/CMS Construction of Model School.

Recommendation

Such procurements should be reported to PPOA in keeping with Regulation 8(3)(s).

4.16 Poor Contract Management

Findings

CCN has not developed structures of contract management for controlling price variations, delivery of orders, internally and externally. While building stronger horizontal linkages, collaboration and interdependencies with those involved in procurement. Progress payments exist and while making them, price variations occur as was the case in tender no. CCN/CMS Construction of Model School.

The following areas were found to be in need of further strengthening;

- Certificates of completion for professional services.

Recommendation

Contract management should be monitored as is provided for by Regulation 8(3)(t) of the PPDR

4.17 Inspection and Acceptance Committee

Finding

The review team found no Inspection and Acceptance Certificates for supplies procured under ONT and only one partial completion certificate for a major contract for construction of Model School (CCN/CMS).

Recommendation

Establish and functionalise IACs pursuant to Regulation 17 (1)(2).

4.18 Disposal Committee

Findings

During the period, the Disposal Committee had not been established; in its place was the District Tender Committee.

One disposal action (CCN/SBM & GS/2007) was undertaken during the period under review. There was no Disposal Plan for unserviceable, obsolete, or surplus stores and equipment.

Disposal committee (District Tender Committee) does not organize meetings as stipulated in the Act and Regulations;

Recommendation

A Disposal Committee should be established and be functionalised as provided for by Regulation 92 and Section 128. A disposal plan should be included in the organisation's procurement and disposal plan.

4.19 Stores Department

Findings

The stores facilities at the council in the various locations to receive, store, and issue supplies that are procured by the procurement entity were in place.

The Council maintained accountable and general stores.

4.19.1 Items physically checked:

Findings

General Store:

Item Description	Quantity
Cellotape	18
Cartridge Toner 4092a	3
Cartridge Toner 7115a	6
Cartridge Toner 4096a	1
Fax Films Various	7
Glue Office	4
Glue Stick	7
Toner Ink Sharp Various	8
Photocopy Papers A4	23
Biro Pens Blue/Red/Black	4
Pad Stamp	7
Paper Carbon Blue/Black	6
Papers Ruled A4 Foolscaps	10
Staples 50/60	16
White Out	9
Air Freshener	17
Short Hand Notebooks	25
Soap Detergent	9

Assorted Motor vehicle used spare parts were also found in the general stores.

Accountable Stores:

- Park Entry Tickets: Resident, Non resident
- User Department Tickets
- Other income tickets

The main challenges in stores management are:

- Lack of well built shelving units for easy access to items – General Stores.
- Issuance methods – Accountable Stores
- The stocks are not coded, hence identification process is slow and inefficient
- No advance planning and delivery scheduling for some equipment/stores and hence they end up in the stores for a long time;

Recommendation

CCN should address the issue of proper warehousing management.

4.20 Complaints

Finding

There are effective mechanisms on how the entity handles complaints and disputes raised by bidders. During the year under review, no complaints or disputes were raised.

4.21 Asset Register

Finding

The Asset register existed in the year under review but included motor vehicles only.

Recommendation

An Asset register should include all the PE's assets at any given time.

4.22 Stock Taking

Findings

1. Stock taking was done on a regular basis especially on accountable stores e.g. Tickets to the Mara Game reserve and other income generating County Council tickets.
2. In the case of motor vehicles, hardware, fire fighting equipment and other items that carry high value, no records were kept and these only featured at the point of Disposal.

Recommendation

Periodic and annual stock taking as is provided for by Regulation 8(3)(aa) should be done for all stock items.

4.23 Low Value Procurements

Finding

There were no records available for LVP. Purchases of items such as Air time fell under this category of which records were lacking.

Recommendation

Low Value Procurement procedure should be carried out only as is provided for by Regulation 63 and Section 90.

5.0 EXIT MEETING

An exit meeting with the County Council's management team was held on 15th Dec 2009 after the fieldwork and compilation of the Final Draft Report. Mr. P.K. Ndung'u, the Ag. Deputy Manager Compliance led both the PPOA and Lindi Agencies' Ltd. teams in the exit meeting. The PE's team was led by Mr. Wanyonyi A. Mkhisa, the County Treasurer (for County Clerk). The meeting was held in the Chairman's Office.

Present

Name	Designation	Organization
Wanyonyi A. Mkhisa	County Treasurer	CCN
Daniel L. Leleruk	Treasurer	CCN
Johnson Ntete	Procurement Officer	CCN
Joseph Ole Sonkori	Revenue Officer	CCN
Michael Sangiriaki	Accountant	CCN
Rachel Tikani	Establishment Officer	CCN
Moses Kitamoni	Market Superintendent	CCN
Peter K. Ndungu	Ag. Dep. Manager Compliance	PPOA
Joseph Kimani	Asst. Snr. Compliance Officer	PPOA
N.N. Wachira	Team Coordinator	Lindi Agencies Ltd.
Ernest W. Kinuthia	Team Leader	Lindi Agencies Ltd.
Samuel W. Nderitu	Consultant	Lindi Agencies Ltd.
T. Kanina	Consultant	Lindi Agencies Ltd.
R. Hamadi	Consultant	Lindi Agencies Ltd.

Purpose of the Exit Meeting

The purpose of the exit meeting was to primarily discuss the review's final draft report and more specifically the key findings and the recommendation for improvement in an action plan.

Mr. P.K. Ndung'u passed greetings from the PPOA's Interim Director General as well as his apologies for not having been able to attend the meeting in person. He further thanked the PE for the cooperation it had accorded the consultants during the review exercise which was carried out both satisfactorily and successfully.

Mr. Ndung'u reminded the PE that the review was in respect to the period 1st July 2007 to 30th June 2008. He observed that since that period, the PE had put in place some of the requirements of the new Procurement Law. However, a lot is still required so as to be fully compliant with the PPDA and PPDR.

Some of the key areas that Mr. Ndung'u emphasized in the light of the findings in the report include:

1. Lack of Procurement planning during review period.
2. Establishment of statutory structures and separation/segregation of duties in respect to the procurement function.
3. Failure to make Mandatory reports to PPOA.
4. Poor Records management

Presentation of the Key Review Findings by the Consultants and the PE's Response.

Mr. Kinuthia, team leader, Lindi Agencies presented a summary of the key findings contained in the final draft report which had been forwarded by the PPOA to the PE. The PE led by Mr. Wanyonyi, County Council Treasurer (for the County Council Clerk) confirmed that the report had been received and studied and having been taken through the summary of the key findings felt that it was a fair and accurate record of the situation as it was during the financial year under review. He however indicated that a lot have been implemented and achieved and therefore the current picture is totally different as shown in the action plan below.

Way Forward

In view of the above and based on the findings contained in the report, recommendations for improvement in form an action plan which would be implemented by the procuring entity and monitored by PPOA was discussed and agreed upon with the PE.

6.0 ACTION PLAN

No.	Tasks	Lead Accountable	Time	PPOA Review Date
1	The PE should manage its records as provided for by Section 45 of PPDA. Training in records management should be provided to those handling the procurement function.	Head of procurement	Being implemented – 31 st January 2010	
2	Key procurement institutions should be allowed to function without interference as provided for by PPDA & PPDR.	County Clerk	15 th December, 2009	
3	Further training in PPDA & PPDR to cover all staff involved in the procurement function should be carried out.	County Clerk and PPOA	31 st January 2010	
4	Records should be properly kept pursuant to section 45(6) and internal controls strengthened. All supporting documents should be in the Procurement file.	Head of procurement	Being implemented	
5	The PE should at all times prepare comprehensive procurement plans and as much as possible operate within them as required by the law.	County Clerk and HoDs	Being implemented	
	All internal stakeholders involved in the procurement function should be trained on how to prepare and use procurement plans.	County Clerk and HoDs	31 st January 2010	
6	Initiation and authorization of requisitions should be as provided by the Law.	Head of Procurement and HoDs	15 th December, 2009	
7	Use of well designed LPOs that are completely filled should be emphasised. LPOs should be based on a formally solicited quotation/tender and PU should do a regular market survey.	Head of Procurement	15 th December, 2009	
8	All future procurement requests should be initiated through the official purchase requisition, which should be duly authorized and linked to a procurement plan as provided for in the threshold matrix.	Head of Procurement and HoD	15 th December, 2009	

No.	Tasks	Lead Accountable	Time	PPOA Review Date
9	The Council should develop its own manuals. Alternatively, it can obtain and use a general procurement manual from PPOA. Such manual would strengthen the procurement function.	County Clerk and Head of Procurement	Being implemented under ISO certification process	
10	The PE should organise registration of suppliers and contractors or use of another PE's list.	Head of Procurement	15 th December, 2009	
11	Procurement records for individual procurements should be maintained as required by Section 45 of PPDA.	Head of procurement	15 th December, 2009	
12	Mandatory Reporting to PPOA should be effected	County Clerk and Head of Procurement	15 th December, 2009	
13	Contract management teams should be put in place for all contracts as may be necessary.	County Clerk and HoD's	15 th December, 2009	
14	A Disposal committee should be established and be operationalised and a disposal plan included in the organisation's procurement and disposal plan pursuant to Regulation 92(1) and Section 128.	County Clerk	Disposal committee in place Disposal plan - 15 th December, 2009	
15	An Asset register should include all the PE's assets at any given time.	Head of Procurement	Being implemented	
16	Stock taking should be done for all stock items.	County Clerk and Head of Procurement	15 th December, 2009	

7.0 CONCLUSION

The procurement law was established to ensure that works, goods and services are obtained in an effective manner and in compliance with PPDA and the corresponding regulations.

The team started the review against the backdrop of no other comparable past reviews. It was found that the Council had not adequately addressed recommendations of previous audits.

The team assessed procurement-related functions complying with the Public Procurement and Disposal Act 2005, Public Procurement and Disposal Regulations 2006 and generally accepted good practices. Deviations in general and specific areas of procurement stages were identified and ratings attached to them. The policies describing how the council conducts procurement and contracting for works, goods and services were found to be lacking. There was no proof that the provisions of the Act and Regulations have been adequately implemented by the council.

In the selected sample areas, it was concluded that the CCN compliance level is low in major areas of the Act and Regulations. The management is urged to demonstrate greater commitment to follow the Act in its operations. It is important for CCN to embrace the Act by preparing an organization-wide compliance program as part of consolidation of the procurement activities.

The major challenge in the council is in the areas of record keeping, data and documentation controls and contract management. Retrieving records for review purposes was difficult and time consuming. Some records pertaining to execution of the procurement process were incomplete, constraining the review. This needs urgent attention of the Accounting Officer since poor record keeping compromises validity, authenticity, quality and reliability of the information coming from the PE.

The Procurement Unit should consult PPOA to seek guidance when in doubt and especially in areas where documents or policies are yet to be developed.

The need to sensitise all those with specific roles in the procurement function need not be over emphasised as this will go along way in eliminating conflicts between the players in the procurement function.

The Accounting Officer is called upon to exercise his role as stipulated in Regulation 7 of the PPDR 2006 and Section 27 of the Act which stipulates that he is primarily responsible for ensuring that the PE fulfils its obligations in ensuring that the Act, the Regulations and any directions of PPOA are complied with respect to each of its procurements.

The procuring entity is urged to fast track implementation of the agreed actions steps contained in the action plan to improve the compliance level to the Procurement Law and guarantee transparency, accountability and value for money.

APPENDICES

Committee members

Tender Committee

Name	Designation
Maurice Ogola	Chairman
Michael Koikai	V. Chairman
Joseph Sonkori	Secretary
Daudi Naisho	Member
Nelson Keshei	Member
Daniel Leleruk	Member
James Sindiyo	Member
Tempes Ntimama	Member
Lemita Lemein	Member

Procurement Committee

Name	Designation
Stephen Koriata	Chairman
Salau Koros	Member
Susan Leposo	Member
Queen Kimorgo	Member
Regina Nthoki	Member
Daniel Leleruk	Member

Disposal Committee

Name	Designation
Joseph Sonkori	Secretary
Daniel Leleruk	Member
Wesley Kimeto	Member
Rachel Tikani	Member
Tempes Ntimama	Member

Evaluation Committee

Name	Designation
Parmeris Ntete	Chairman
Wesley Kimeto	Member
Tabula Wuapari	Member
Tirus Siameto	Member

Inspection and Acceptance Committee

Name	Designation
Nelson Keshei	Member
Tempes Ntimama	Member
Maurice Ogola	Member