

PUBLIC PROCUREMENT OVERSIGHT AUTHORITY

Transforming Procurement

FINAL REPORT

**MINISTRY OF ENERGY
PROCUREMENT REVIEW**

REVIEW PERIOD: 1 JULY 2007- 30 JUNE 2008

25 NOVEMBER 2008



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ACRONYMS

AIE	Authority to Incur Expenditure
AFD	French Development Agency
AO	Accounting Officer
D	Minor Deviations
DD	Moderate Deviations
DDD	Major Deviations
DP	Direct Procurement
EIB	European Investment Bank
FY	Financial Year
GOK	Government of Kenya
IA	Internal Auditor
IDA	International Development Agency
IFMIS	Integrated Financial Management Information Systems
IPR	Independent Procurement Review
KACC	Kenya Anti Corruption Commission
KENGEN	Kenya Electricity Generation Company
KfW	German Financial Cooperation
KOSF	Kenya Oil Storage Facility
LPO	Local Purchase Order
LSO	Local Service Order
LVP	Low value Procurement
MCA	Millennium Challenge Account
MOE	Ministry of Energy
MPC	Ministerial Procurement Committee
MTC	Ministerial Tender Committee
NDF	Nordic Development Fund
NOCK	National Oil Corporation of Kenya
OIT	Open International Tender
ONT	Open National Tender
PDL	Petroleum Development Levy
PE	Procuring Entity
PIN	Personal Identification Number
PPDA	Public Procurement and Disposal Act
PPDR	Public Procurement and Disposal Regulations
PPO	Principal Procurement Officer
PPOA	Public Procurement Oversight Authority
PR	Procurement Review
PS	Permanent Secretary
PU	Procurement Unit
REA	Rural Electrification Authority
RFP	Request for Proposal
RFQ	Request for Quotations
RRI	Rapid Results Initiative
RT	Restricted Tender
SP	Satisfactory Performance
SPP	Specially Permitted Procurement
TP	Threshold Program
USAID	United States Agency for International Development
VAT	Value Added Tax

EXECUTIVE SUMMARY

This report presents the results of the procurement review of the Ministry of Energy (MOE) undertaken jointly by the ARD/PPOA team under the MCA-Threshold Program, which was carried out during the period of August to September 2008. The objective of the exercise was to carry out review of the status of MOE's procurement contracting, and implementation processes and systems, in order to determine the level of compliance with the new procurement law, regulations, circulars, and directives issued by the Public Procurement Oversight Authority and generally accepted principles.

The review considered compliance with the law, regulations, internal controls, generally accepted principles, and institutional framework as they relate to procurement functions for the period 1 July 2007- 30 June 2008. The review scope encompassed key areas of the public procurement and disposal processes from planning to completion undertaken by the Ministry selected by random sampling method.

The fieldwork was undertaken by going through the ministry's procurement systems and processes and, where appropriate, was integrated with discussions with the key persons involved in the functions related to procurement. The work was then finalized in consultation with the procurement unit and standing committees.

The review also considered the reports of earlier reviews carried out in the ministry including the Independent Procurement Review 2005 (IPR); PPOA Rapid Results Initiative (RRI) assessment exercise carried out in 2007; External Audit Report for YR2006-2007; periodic internal audit reports; and the Baseline Record Management Report 2008. The review evaluated the implementation of some of the findings and recommendations of these reports.

The detailed results of the review, and recommended action, are documented in this report. Key findings and recommendations as they relate to each of the areas considered in this review is provided in Chapter 3 of the report. A complete action plan of the recommendations as they relate to each of the areas considered in this review is provided at the end of this report.

This report has included a three-month follow-up period during which the team will work with Ministry of Energy to ensure that the recommendations are implemented.

The areas considered in the report are felt to be critical to the future success of the compliance effort. However, there is great concern that unless changes are implemented, the MOE will not be able to fully comply with the Public procurement and Disposal Act 2005. the associated regulations and directives

1 INTRODUCTION

The Government of Kenya (GOK) and USAID/Kenya signed the Kenya Millennium Challenge Account Threshold Program (MCA-TP) agreement on March 23, 2007. The program addresses public procurement reform, with a particular emphasis on the healthcare sector. The Program consists of three components:

- a. Component 1: Reforming the Public Procurement System;
- b. Component 2: Improving Healthcare Procurement and Delivery;
- c. Component 3: Civil Society Monitoring of Procurement Reform and Healthcare Procurement and Delivery.

For Component 1 of the MCA-TP, ARD, Inc. was selected to provide technical assistance and training to support the Public Procurement Oversight Authority (PPOA) to reform the public procurement process in Kenya. One of the tasks of the project is to assist PPOA carry out comprehensive procurement reviews (audits) to determine level of compliance and performance with the laws and best procurement practices in six high spending procuring entities namely Ministries of Health (treating MOH and KEMSA as separate entities). Others include Education, Energy, Roads and Public Works and Office of the President. In assessing compliance, “procurement reviews” have been used in place of “audits,” to distinguish these activities from those of the Kenya National Audit Office.

1.1 Mandate of PPOA

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 Permanent Secretary on 29 July 2008, informing him that the review would take place and attaching the checklist of the information and documents to be provided by the Ministry.

1.2 Responsibility of procuring entity

Section 27(1) of the Public Procurement and Disposal Act 2005 provides that a public entity shall ensure that this Act, the regulations, and any directions of the PPOA are complied with respect to each of its procurements.

1.3 Specific Review Objectives

The main purpose is to carry out review of the status of MOE’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:

- a) To verify the procurement and contracting procedures, processes and documentation followed by MOE, in order to determine whether they were carried out in accordance with the Public Procurement and Disposal Act 2005 and the associated Regulations;
- b) To establish the Ministry's adherence to the general principles of economy and efficiency; equal opportunities; transparency; integrity; fairness; and value for money;
- c) To determine the technical compliance, physical completion and price competitiveness of each contract in the selected representative sample;
- d) To review the capacity of MOE to handle procurement efficiently; comment on the quality of procurement and contracting; and identify reasons for delays, if any;
- e) 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;
- f) To establish whether recommended actions made in the previous reviews have been carried out successfully;
- g) 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;
- h) To assist in clarification of areas where MOE may have misunderstood the requirements of the legislation; and
- i) To identify weaknesses e.g. staff shortages, lack of equipment, which impede good performance and need to be rectified.

1.4 Review Methodology

1.4.1 Entry meeting

Before the commencement of fieldwork, an entry meeting with the Ministry's management team was organized on 31 July to discuss the scope of the review, the review plan, the reviewers' expectations, access to documentation and other administrative issues. Mr. Hunja the Director General led the review team to the entry meeting. The PE team was led by the Mr Patrick Nyoike, the Accounting Officer and included among others, the Chair of the Tender Committee, Heads of User Departments, and the Head of the Procurement Unit. The fieldwork activities followed upon the entry meeting.

1.4.2 Key documents

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

The team reviewed the supporting documentation, such as procurement files, contract files, project documentation, budgets, business plans, etc.

Other background documents included but were not limited to the following: Independent Procurement Review Report (IPR) 2005, Rapid Results Initiative (RRI) 2007 report, AFDB -Kenya Institutional Support for Good Governance (KISGG), Ministry of Energy Strategic Plan 2004-2009, Public Procurement and Disposal Act, 2005 and Regulations, 2006. Report on Records Management in Ministry of `Energy, among others.

1.4.3 Interviews and Discussions

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

Persons met during the review

Name	Title	Role
Paul G. Ngatia	Senior Deputy Secretary	Chairman MTC
Eng. R. Khanzenzi	Ag. Director Renewal Energy	Chairman MPC
B. Khadiaghala	Chief Finance Officer	Chairman Disposal Committee
W. M. Deche	Chief Economist	Member of MTC
Isaac Ngayai	External auditor	Oversight
Mwangi	Internal auditor	Internal Control
M. M. Kaburu	Principal procurement officer	Head, PU
Rebecca Mounde	Senior Procurement Officer	Deputy head PU

1.4.4 Sampling

A total of 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 80% and the probability of non-conformity to be 83. %. 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 functions. With random selection of eight 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.

Number of samples	Estimated initial compliance with Public Procurement and Disposal Act 2005									
	10	20	30	40	50	60	70	80	90	100
	Probability of finding a sample which does not comply with PPDA 2005 %									
3	99.90	99.20	97.30	93.60	87.50	78.40	65.70	48.80	27.10	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	97.20	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	99.80	98.99	95.96	86.58	61.26	0
10	100	100	100	99.99	99.90	99.40	97.18	89.26	65.13	0

The review team selected an estimated compliance level of 80% and the probability of finding non-conformity to be 83%. The high level of estimated compliance level was based on the understanding that the procuring entity had undergone sensitization training last year by PPOA, and this year organized under MCA-TP. Furthermore, MOE had been reviewed by PPOA last year under RRI. In addition, other studies and reviews including IPR 2005, MCA-TP Records management baseline studies 2008, had been previously undertaken.

1.4.4.1 Distribution of the procurement methods in the samples reviewed

Procurement Method	Sample size	Value sample
International shopping	1	122,073955.00
Open national tender	8	291,112,431.45
Restricted tender	4	6,000,000.00
Request for quotation	8	4,332071.36
Request for proposal	7	179,335,240.00
Direct Procurement	2	7,557,219.00
Low value procurement	8	62,246.00
Total	30	610,473,162.81

1.4.4.2 Details of the samples reviewed

TENDER NO	METHOD	DESCRIPTION	VALUE
OIT/RFP/2007-2008	ISP	Ethiopia-Kenya electrification project	122,073955.00
MOE/001/2007-2008	ONT	Prequalification of registered suppliers	NA
MOE/002/2007-2008	ONT	Energy awareness campaign	56,450,686.00
MOE/004/2007-2008	ONT	Installation and testing of solar power systems	63,414,960.35
MOE/005/2007-2008	ONT	Installation and testing of solar power systems	57,777,884.37
MOE/006/2007-2008	ONT	Installation and testing of solar power systems	44,606,400.00
MOE/009/2007-2008	ONT	Installation and testing of solar power systems	40,979,311.00
MOE/023/2007-2008	ONT	Supply and Delivery of Drilling Rig and Accessories	19,911,400.00
MOE/024/2007-2008	ONT	Supply and Delivery of computers and Accessories For MOE	3,976,603.73
NBI/D30/56/2007-2008	ONT	Proposed Renovation s at Nyayo House	3,997,186.00
MOE/019/2007-2008	RFP	Coal Reserve Estimation	5,000,000.00
MOE/RFP/03/2007-2008	RFP	Petroleum Fuels Marking and Tracing Services	94,444,800.00
MOE/RFP/14/2007-2008	RFP	Consultancy on Growing of Trees	70,287,000.00

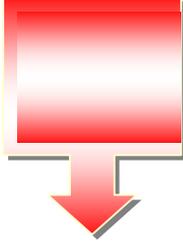
MOE/RFP/26/2007-2008	RFP	Employee satisfaction / work environment and customer survey satisfaction.	1,000,000.00
MOE/REA/20/2007-2008	RFP	Strategy for Rural Electrification Authority	3,954,440.00
MOE/RFP/20/2007-2008	RFP		1,000,000.00
MOE/RFP/01/2007-2008	RFP	Recruitment of Management Consultant of (REA)	3,649,000.00
MOE/020/2007-2008	RFQ		899,000.00
MOE/022/2007-2008	RFQ	Service contract for Rig Machine	2,007,611.36
MOE/038/2007-2008	RFQ	Printing of Christmas Cards and Supply of Desk Diaries	158,240.00
MOE/084/2007-2008	RFQ	Supply and Delivery of Ink Cartridges	430,500.00
MOE/122/2007-2008	RFQ	Supply of furniture in the Assistant Minister's Office	300,000.00
MOE/149/2007-2008	RFQ	Supply of Ink Cartridges	328,000.00
MOE/154/2007-2008	RFQ		106,720.00
MOE/O61/2007-2008	RFQ	Printing of Energy Bulletin	102,000.00
MOE/016/2007-2008	RT	Sale of Bull Calf	Disposal
MOE/022/2007-2008	RT	Supply of Wind Masts & Data Loggers	3,000,000.00
MOE/027/2007-2008	RT	Supply of Wind Masts & Data Loggers	3,000,000.00
MOE/08/2007-2008	RT	Marketing contract for lifting 10,950,000 barrels per year from Nigeria	NA
MOE/03/2007-2008	DP	Land Acquisition for Busia Energy Centre	4,000,000.00
	DP	Two Toyota Corolla Vehicles	3,557,219.00

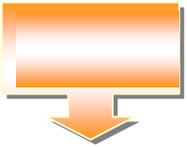
1.4.4.3 Low value procurement

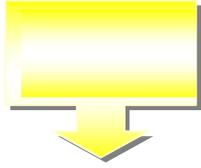
1	M/S Woolmart Ltd	3,097.00
2	M/S Lino Stationers (K) Ltd	1,290.00
3	M/S Copy Cat Ltd	24,012.00
4	M/S Sunbeam Stationers	6,472.00
5	M/S Ebrahims Electronics	7,500.00
6	M/S Prayosa Auto Electronics	4,500.00
7	M/S Taheri General Store	12,710.00
8	M/S Radiant Electricals	2,665.00
	Total	62,246.00

1.4.5 Rating Criteria

The reviewed procurements were categorized according to the procurement/disposal deviation rating criteria outlined in the interim procurement manual and TOR. The method was discussed with the Head of Procurement Unit and consisted of four categories namely:

<p>Major deviation DDD</p> 	<p>Where the major requirements of the PP&D Act and Regulations 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"> Procuring entity is not established and operational; 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 Officer Tender Committee Procurement Unit Procurement Committee Disposal Committee Inspection and Acceptance Committee Tender Opening Committee Evaluation Committee. Coverage not complete <ul style="list-style-type: none"> Procurement Contract management Disposal Goods, works and service Standard and specific committees not meeting as stipulated; No consolidated procurement plan linked to approved budget; No disposal plan; Lack of procedures for making procurement decisions; Not adhering to the threshold matrix; Open tenders not advertised as provided for in the Act and Regulations Choice of improper procurement procedures; Procurements split or inflated; Contracts are not awarded to qualified person; Unjustified termination of procurement proceedings; Lack of approved prequalified list for suppliers; Lack of annual disposal plan; Inappropriate influence on evaluation; Inadequate protection of confidential information;
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	<p>Lack of comprehensive procurement records; Restricted /direct procurement tendering not approved by MTC; Tender committees not meeting as required; Tender evaluation committees not appointed in accordance with the Act; Standard tender documents not used; Not reporting to PPOA as required; External observers not invited for large contracts; Failure to advertise bid opportunities for contracts above certain value thresholds; Many key procurement records that are stipulated by law for retention are missing Such cases warrant immediate attention by the Accounting Officer.</p>
<p>Moderate Deviation DD</p> 	<p>Where procurement procedures were considered to have significant omissions or deviations, including: Some procurement records are missing; Lack of central comprehensive procurement files; Open tenders not the main method of procurement; 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 Ksh 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; Direct procurement is created by dilatory conduct of the PE; Disposal procedures not followed; 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; No evidence of the use of weighting in the award criteria in tender documents; Inspection and acceptance certificates confirming delivery not available; No justification/Authorization for Applying the method; No authorized procurement requisitions;</p>

	<p>No schedules of duties for initiating, certifying and approving officers; Non-disclosure of tender evaluation details; Lack of notice of invitation of expressions of interest and preparation of shortlists for RFPs; No specified period of validity of tenders; Unjustified modification and withdrawal 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. 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: 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 missing; 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</p>

	Time limits for replies not adhered to These weaknesses should be addressed by senior management as part of an ongoing improvement plan.
Satisfactory Performance 	Where procurement practices and procedures met the requirements of the law and regulations and were considered to meet standards of good practice.

1.4.6 Limitation of scope

Our scope was limited by the following:

- a) Lack or incompleteness of records, data and documentation relating to the procurement processes selected;
- b) Because of the lack of central storage and absence of a reliable records control system, document location and retrieval was difficult;
- c) Inability to verify the authenticity of most of the documents sampled; lack of documented organizational internal control manuals relating to initiation, certification, and approvals at various levels; and
- d) Inability to verify the authenticity of the documents sampled against authorized official schedules of responsibilities.

2 BACKGROUND AND ORGANIZATION OF MINISTRY OF ENERGY

2.1 Mandate

To address the energy requirements of the country in line with the vision 2030 by ensuring access to affordable ,reliable, and safe supply of energy to Kenyans.

2.2 Vision

“To promote equitable access to quality energy services at least cost while protecting the environment”.

2.3 Mission

“To facilitate provision of clean, sustainable, affordable, reliable, and secure energy services at least cost while protecting the environment”.

2.4 Functions of the Ministry

The Ministry plays largely a facilitative role in energy supply. This includes taking leadership in the development of policy as well as the legal and regulatory framework for the sector. In addition, the Ministry has an oversight responsibility over the provision of reliable and adequate energy generation capacity and distribution. This is mainly through supervision of service providers responsible for direct service delivery including state corporations.

- Energy policy and development
- Hydropower Development
- Geothermal exploration and development
- Thermal power development
- Petroleum products, import/export/marketing policy
- Renewable energy development
- Energy regulation, security and conservation
- Fossil fuel exploration and development
- Rural Electrification Programme
- Expanding and upgrading of Energy infrastructure
- Promoting energy efficiency and conservation
- Protecting the environment
- Mobilizing requisite financial resources for operation and expansion of energy services consistent with rising demand
- Ensuring security of supply through diversification of sources and mixes in a cost effective manner
- Increasing accessibility to all segments of the population
- Enhance legal, regulatory and institutional frameworks to create both consumer and investor confidence
- Enhancing and achieving economic competitiveness and efficiency in energy production, supply and delivery

Source: MOE Revised Strategic Plan 2004-2009

2.5 Funding Grants for the Ministry for FY2007 - 2008

Printed and Revised Estimates of Expenditure- FY 2007/08			
		Development	Development
1	PDL	1,299,748,000	1,601,924,674
2	KOSF	130,000,000	130,000,000
3	5% Electricity Levy	1,163,052,000	1,356,755,688
4	GOK	9,984,000,000	9,984,000,000
5	KenGen	46,309,920	254,560,000
6	KPLC	75,042,708	258,348,716
7	Royalties	56,000,000	171,940,460
8	IDA	2,546,429,000	2,355,508,504
9	China	429,000,000	210,000,000
10	EIB	2,561,202,860	1,958,752,859
11	NDF	400,000,000	438,000,000
13	AFD	720,000,000	1,920,000,000
14	Finland	56,000,000	56,000,000
15	KfW	63,000,000	0
16	Spain	0	80,000,000
17	Belgium	0	300,000,000
	Sub Total	19,529,784,488	21,075,790,901
		Recurrent	Recurrent
1	KOSF	169,835,974	159,563,400
2	GOK	154,505,700	159,501,380
3	Misc Receipts	3,200,000	3,200,000
	Sub Total	327,541,674	322,264,780
	Ministry's Gross Total	19,857,326,162	21,398,055,681

Source – Estimates of GOK Expenditure 2007/2008

2.6 Standing and Specific Committees

All the standard standing committees have been established namely.

Name	Nature	MOE/Status
Ministerial Tender	Standing	Complying with regulations
Procurement Committee	Standing	Complying with regulations
Tender Opening	Specific	Complying with regulations
Evaluation Preliminary	Specific	Complying with regulations
Evaluation technical	Specific	Complying with regulations
Evaluation Financial	Specific	Complying with regulations
Inspection and acceptance	Standing	Complying with regulations
Disposal	Standing	Complying with regulations

3 GENERAL FINDINGS, OBSERVATIONS AND RECOMMENDATIONS

During the period under review, MOE undertook 550 procurements of total value of Ksh 735 million and one disposal amounting to Kshs 7,800.00. In order to provide an overall reflection of better picture of the level of compliance, the team selected a sample of 30 procurements of total value Ksh 610 million and the disposal.

The review observed that the procurement function in the Ministry has become a financially high-profile function and strategic to the accomplishment of the Ministry's vision, mission and goals. The Ministry has yet to put in place a program of procurement and contract management reforms guided by the Act and regulations to accompany the growth in procurement activities. Procurement should make process improvements that will comply with the law and regulations, streamline their activities, and reduce the amount of time required to prepare the average procurement document. Below are the recommendations arising from the general and specific findings of the review including observed areas of non-compliance and performance.

3.1 Legal Framework

The PPDA 2005 and PPDR 2006 are largely adopted and operational in MOE. However, the team have reservations whether those persons involved the functions relating to procurement understand thoroughly the provisions of the Act and Regulations.

The scope of application of the PPDA2005 and PPDR 2006 are in accordance with the provisions of except for the two cases below, which needed clarification and proper interpretation from PPOA as to whether the transactions fall under the PPDA 2005:

- a) **Ethiopia - Kenya Power Systems Project:** The Ethiopian Govt. is managing this procurement and the entity does not have a budget for it. The method of procurement chosen was International Shopping, which is not part of the Act.
- b) **MOE/08/2007-2008 Lifting of Crude Oil Ex-Nigeria:** This is a service contract for lifting and marketing of Kenya's allocation of 10, 950,000 barrels per year of Nigerian crude oil. The successful tenderer would pay the Government \$0.25 per barrel.

Response:

(a) Ethiopia – Kenya Power Systems Project

The ownership and construction responsibilities of the Interconnector are:

- **On Ethiopian territory
Ethiopian Electric Power Corporation (EEPCo)**
- **On Kenyan territory**

The Government owned Transmission Company (TransCo)

Construction Works may be undertaken by KPLC on behalf of TransCo.

It is therefore not clear as to what section of the Interconnector project the query is referring to.

- b. MOE/08/2007-2008 lifting of Crude Oil Ex-Nigeria – The tender was advertised and awarded but unfortunately the allocation of Crude Oil for the Kenya Government was cancelled by the Nigerian Government. The Procurement could not therefore proceed.**

3.2 Institutional Structures and Capacity

Finding: All key personnel handling functions related to procurement are in place. Some of the personnel have undergone sensitization training in the Public procurement Act, organised by PPOA in February 2007 and seven staff of the Ministry were trained under MCA-TP in March 2008. Some of the staff (Ms Caroline Kiara, and Joseph Motto) have participated in the procurement record keeping training on February 20, 2007 organized by World Bank.

MOE personnel trained under MCA-TP

Name	Position
C. O. Oyaro	Principal Accountant
Genga Nyumba	Finance Officer
Julius K. Mathea	SPO
Musa K. Boit	Procurement Officer I
N. M. Manyeki	ADRE
Sammy Okonji O.	Procurement Officer I
W. M. Deche	Chief Economist

Recommendation: A procedural requirement should be implemented to have the personnel involved in procurement related function undergo a sensitisation training in the Public Procurement and Disposal act 2005 and the related regulations.

Response

We have noted and we will arrange to have the personnel undergo sensitization training.

3.3 Procurement Unit

Finding: The Procurement Unit is established in accordance with the PPDA Section 4 and staffed with trained personnel with several years of experience.

Procurement Staff

Name of Staff	Designation	Qualifications
M. M. Kaburu(Mrs.)	Principal Procurement Officer	Diploma in Supplies management(KIA)
R. B. Mounde(Mrs.)	Senior Procurement Officer	Diploma in Supplies Management
J. K. Mathea	Senior Procurement Officer	Diploma in Supplies Management
S. O. Okonji	Procurement Officer 1	B.A. Economics, CIPS Foundation
M. Boit	Procurement Officer 1	
Thairu	Procurement Assistant	
M. G. Majau	Clerical Officer 11	
C. W. Kangethe	Clerical Officer 11	
B. Esilaba	Clerical Officer 11	Certificate in Supplies Management

There is no training policy or work plan in place to ensure continued development of skills and professionalism in supply chain management for the procurement personnel.

Currently the unit spends 76% of the level of effort on low value procurements and quotations whose total value is less than 1% of the total procurement budget. This means that the unit does not have time to carry out more strategic tasks, such as assisting the management with market analysis, advising on best procurement options, forecasting and price projections. The procurement unit must consider establishing long-term arrangements with reliable prequalified suppliers, which will reduce repetitive tendering for same goods and services.

The team also observed the high turnover of personnel in the procurement unit.. Most of the PU personnel do not remain in the unit for more than two years making it impossible for any significant change to be made.

Recommendation: The unit should put in place a procurement strategic focus on:

- i. Optimizing costs;
- ii. Simplifying transactions;
- iii. Streamlining the process;
- iv. Contract management;
- v. Compliance program with PPDA provisions
- vi. Comprehensive filing systems

Response

1. **Capacity building driven by Training Needs Assessment for skills improvement was done and benefited the whole staff. During the Financial Year, the Chief**

Procurement Officer, Mr. R. Mugoya enrolled for a Masters Degree course and four clerical officers in the unit enrolled for Certificate in Purchasing and Supply Management which are local courses. The rest of the personnel were not trained due to insufficient funds as they had been projected for overseas courses.

- 2. The Procurement Unit will comply with the recommendation on strategic procurement.**

3.4 Budgeting and Expenditure

Findings: There is no evidence that the procuring entity prepared a procurement plan under section 26(3) (a) of the Act for FY2007-2008 as part of the annual budget preparation process.

There was no evidence that the heads of departments submitted their annual procurement plans to the accounting officer at least thirty days before the close of each financial year.

Records from the External Audit indicated that bills totalling Ksh 33,034,401.90 relating to 2006-2007 were not settled during the year but were instead carried forward to 2007-2008. Out of the total pending bills, Ksh, 8,392,986.90 relate to the recurrent vote and Ksh 24,641,415.00 relate to the Development Vote. Carrying forward of unpaid bills distorts the financial statements for the year and adversely affects the provision for the subsequent year to which they have to be charged.

Had these bills been paid and charged to the accounts for the FY2006-2007, the Recurrent Appropriation Account for Recurrent Vote would have reflected a reduced surplus to be surrendered to the exchequer of Ksh 6,323,331.69 instead of the net surplus of Ksh 14,716,318.59 shown. Similarly, the development Appropriation Account for Development Vote would have reflected a reduced surplus of Ksh 1,026,325,610.15 instead of the net surplus of Ksh 1,080,967,025.15 shown. There was one unpaid bill on Tender No.NBI/D3/56/2007-2008 of Kshs1, 371,000.00 carried forward in FY2007-2008. It was not established whether the pending bills were factored into the FY2007-2008 and liquidated.

Recommendation: Establish the appropriate budget for the procurement for all the activities projected in the consolidated procurement plan.

Response: **The goods in question were specialised items which were being imported for drilling purposes. The delivery period was long and extending to the next Financial Year 2007-2008. Cheques were prepared in anticipation of delivery. These were therefore not pending bills.**

3.5 Procurement plans

Finding: There are no consolidated annual procurement plans prepared by PU for all tenders, contracts and/or LPOs reviewed. During the year under review, the users' procurement plans were prepared for each department and forwarded to PU. The

departmental procurement plans (*Act 26(3a) and Regulation 20-21*), were not directly linked to any specific budget line or based on any approved budget.

However, we are pleased to note that the procurement unit did commence the process of preparation of the annual consolidated procurement plan for FY2008-2009 during the review period.

Recommendations:

- PU should continue with the preparation of the comprehensive consolidated procurement plan that is currently being worked on by the Procurement Unit to better manage all aspects of its procurements including the procurement of professional/works/goods/other services.
- All future procurement requests should be linked to the consolidated procurement plan. The timing of both the procurement department's activities and the development of document content by others should be driven from this plan.
- A master procurement schedule, showing the target dates for procurement-related activities and the actual progress achieved, should be generated by the Ministry-wide scheduling system to serve as a communication tool for future procurement planning with project managers and subsequent progress tracking
- The procurement unit should create a list of minimum requirements that need to be covered in the procurement process from staff requesting the services to ensure that all necessary information is gathered on a timely basis and captured in the plans.
- The procurement plan must be updated continuously to meet changing needs and changes in budgetary provisions

Response: In future departments should submit their procurement plans in time to allow enough time for the procurement unit to prepare the consolidated annual procurement plan.

3.6 Lack of authorized purchase requisitions

Finding: The procurement requests from the user departments do not have official purchasing requisitions as stipulated in the *Regulation 22.1*. Memos from the user departments initiated the few procurement requirements seen. There is no evidence that the purchase requests had been approved by the person specified in the First Schedule, prior to the initiation of procurement proceedings (*Regulation 22.3-4*).

The requisitions do not relate to the procurement plan and have no estimated value (*Regulation 22.2*) which could guide the procurement unit and/or MTC on choice of procurement method.

Upon receipt of the approved purchase requisition, the procurement unit did not prepare a procurement plan (*Regulation 22.5*) for each individual procurement requirement, which should have included an estimate of the time required for each stage in the procurement cycle.

When estimating the value of the goods, works, or services, the procuring entity shall ensure that the estimate is realistic and based on up-to-date information on economic and market conditions. The value of the requests in MOE are completely unrealistic and do not reflect the market conditions.

3.6.1 Estimated values in the tenders reviewed.

TENDER / RFP NO.	IDENTIFICATION	METHOD	VALUE (KSHS)	REQUEST VALUE
REA/RFP/01/2007-2008	Recruitment of Management Consultant of (REA)	RFP	3,649,000.00	
MOE/03/2007-2008	Petroleum Fuels Marking and Tracing Services	RFP	94,444,800.00	27,000,000.00
MOE/04/2007-2008	Solar Power System to 16 Schools in Turkana, Baringo Marakwet, West Pokot and Samburu	ONT	63,414,960.35	4,643,620.80
MOE/05/2007-2008	Solar Power to 14 Secondary Schools in Makueni Narok Kajiado, Moyale, Wajir and Marsabit	ONT	57,777,884.37	4,643,620.80
MOE/06/2007-2008	Solar Power Systems to 29 No. Dispensaries and Health Centres in Mandera and Wajir	ONT	46,606,400.00	
MOE/09/2007-2009	Solar Power to 15 No. of schools, Dispensaries and Health Centres in Marsabit	ONT	40,979,311.00	
MOE//14/2007-2008	Consultancy on Growing of Trees	RFP	70,287,000.00	
MOE/25/2007-2008	Supply and Delivery of Combustion Analyzer	ONT	836,160.00	3,000,000
MOE/26/2007-2008	Employees satisfaction/ customer satisfaction surveys.	RFP	1,000,000.00	3,500,000
MOE/28/2007-2008	Upgrade and Implementation of Website	RT	Kshs160,996.00	3,000,000
NBI/D30/56/2007-2008	Proposed Renovations at Nyayo House	RT	3,997,186.00	4,500,000

Recommendations

- a) All future procurement requests should be initiated through the official purchase requisition, which should be duly authorized and linked to a consolidated procurement plan.
- b) There should be a budget line indicated on the purchase requisitions to show source, allocation, and availability of funds in the budget for particular procurement, or authority to incur expenditure for the purchases being requested and authorization. The information on the documentation should be similar to that on the Vote Book Certificate on the payment voucher namely:
 - a) Budget Vote item No
 - b) Total amount budgeted
 - c) Accumulated plus commitment
 - d) Amount requested
 - e) Balance c/f
 - f) Signed by AIE holder
 - g) Approved by Accounting officer/designated officer

Response: An official Requisition Form will be designed and will be operationalised immediately.

3.7 Lack of operations and procedures manual

Finding: The Ministry has also not prepared detailed operational procedures, guidelines, and standard conditions of contract administration specific to the Ministry.

There are no updated schedules of duties in the MOE outlining separation of functions in accordance to *PPDA Section 26.3c* which provides that different officers should handle different functions in respect of procurement initiation, processing, and receipt of goods, works, and services. It is therefore difficult to determine whether there is clear separation of powers for those undertaking various stages of procurement processes.

In the absence of an internal updated handbook outlining schedules of duties, it was not possible to verify the persons authorized to originate, certify, and approve various stages of the procurement process from inception to completion contrary to regulation section 27(4).

3.8 Lack of procurement manual

Finding: The MOE has not developed a manual (*Pursuant to PPDA 2005 section 9(c)(i), and Regulation 30*) of procurement policies and procedures that sets out the procurement policies, procedures, instructions, and regulations that Ministry employees must adhere to in matters relating to procurement.

Recommendation: The Ministry ought to develop procurement procedures manual for the personnel involved in procurement process. Such manuals are meant to strengthen financial and oversight management procedures that should be observed at various levels of procurement management. They would also ensure linkages between procurement procedures with the act and regulations and the financial functions

Response: **Public Procurement Oversight Authority to develop procurement procedures manual for our guidance as per Public Procurement Disposal Act 2005 section 9 (c) (i).**

3.9 Lack of sector manual

Finding: The Ministry being the regulatory authority in the energy sector should take the lead to develop a sector manual for the whole sector procurement to provide guidance for all the providers falling under the ministry.

The procurement manuals for energy sector would articulate the principles and practices to be observed by sector procuring entities in the procurement of goods, services, and works. They would also ensure linkages between procurement procedures with the act and regulations and the financial functions

Recommendation: Develop a sector procurement manual in collaboration with PPOA and other stakeholders in the energy sector.

Response: Sector Procurement Manual has not been a requirement. Individual organisations have been procuring using the existing Government Procurement Procedures as individual entities.

3.10 Lack of prequalification

Observation: The Ministry's goal should be to prepare accurately procurement scopes and to define schedules, design parameters, and interfaces with stakeholders and other parties in order to choose the best procurement method for the repetitive procurements being undertaken by the Ministry. There were instances of failure to provide adequate information, which resulted in non-responsive bids. This is observed in the case of supply of solar systems where six high value and complex tenders (MOE/04/2007-2008, MOE/2007-2008, MOE/06/2007-2008, MOE/09/2007-2008, MOE/17/2007-2008, and MOE/18/2007-2008) were terminated more than once within one year.

Clear procurement documentation, including objectives, scope, deliverables, timing, progress, and payment reporting must be established.

If procurement details are not well defined, financial offers from different tenderers may not be directly comparable, making it more difficult to evaluate them fairly, as in the case RFP/MOE/14/2007-2008 for the consultancy on growing of wood fuel and biodiesel where only two responses were received with a large difference in price range (Ksh 32,901,400.00-70,287,000.00) quoted.

Finding: The Ministry is not publishing invitations to candidates to submit applications to be pre-qualified for specialized, complex tenders for goods and services.(Regulation 23)

Details complex Tenders and Request for Proposals that needed Prequalification

Tender /RFP No.	Identification	Proc Method	Value (Kshs)
REA/RFP/01/2007-2008	Recruitment of Management Consultant of (REA)	RFP	3,649,000.00
MOE/02/2007 - 2008	Energy Awareness Campaign	ONT	57,505,910.00
MOE/03/2007-2008	Petroleum Fuels Marking and Tracing Services	RFP	94,444,800.00
MOE/04/2007 – 2008, MOE/05/2007 – 2008, MOE/06/2007 – 2008 MOE/09/2007 - 2008, MOE/17/2007 – 2008, MOE/18/2007 - 2008	Solar Power System to various Schools in various parts of the country	ONT	63,414,960.35
MOE/07/2007-2008	Provision of Internet and Email Services	RT	1,219,664.00
MOE/07/2007-2008	Coal Reserve Estimation	ONT	Terminated
MOE/08/2007-2008	Lifting of Crude Oil Ex-Nigeria	RT	Premium of USD 0.25 bbl
MOE/10/2007-2008	Installation of fire fighting equipment	RT	1,063,900.00
MOE/12/2007-2008	Internet connection to Energy Centres	RT	Terminated
MOE//14/2007-2008	Consultancy on Growing of Trees	RFP	70,287,000.00
MOE/19/2007 - 2008	Coal Reserve Estimation	RFP	Terminated
MOE/REA/20/2007-2008	Strategy for Rural Electrification Authority	RFP	Terminated
MOE/21/2007-2008	Internet connection to Energy Centres	RT	N/A-Tender was none responsive
MOE/22/2007-2008	Supply of Wind Masts & Data Loggers	RT	Terminated
MOE/23/2007 - 2008	Supply and Delivery of Drilling Rig and Accessories	ONT	19,911,400
MOE/24/2007 - 2008	Supply and Delivery of computers and Accessories For	ONT	3,976,603.73

	MOE		
MOE/25/2007 - 2008	Supply and Delivery of Combustion Analyzer	ONT	836,160.00
MOE/26/2007-2008	Employee's satisfaction/ customer satisfaction surveys.	RFP	1,000,000.00
MOE/27/2007-2008	Supply of Wind Masts & Data Loggers	RT	Terminated
MOE/28/2007-2008	Upgrade and Implementation of Website	RT	Kshs160,996.00
	Ethiopia - Kenya Power Systems Project	ISP	
NBI/D30/56/2007-2008	Proposed Renovations at Nyayo House	RT	3,997,186.00

Recommendation: A procedural requirement should be implemented to encourage the use of the prequalification for suppliers of specialised works, goods, and professional services whenever possible and appropriate.

Response: We feel procurement of one off tenders do not require pre-qualification but we shall prequalify for repeat tenders.

3.11 Registration of Suppliers

Finding: There exists a list of registered suppliers for use for solicitation of RFQ and LVP bids, which was obtained through an open national tender in accordance with the procedures stipulated in Regulation 8.3a.

There is no evidence that the entity verified the documents provided by bidders with the Registrar's office and/or Kenya Revenue Authority to determine their validity. The review team also noted that the list did not cover all the categories of goods and services frequently procured by the Ministry. The regulations allow MOE to either establish its own list or use lists established by other procuring entities. MOE has used these techniques in the past when purchasing the Toyota vehicles from Toyota Kenya. There are several occurrences when the bidders invited are not from the established register.

Recommendation: MOE ought to improve the calibre of invitation lists, reduce the number of RFQs required, and shorten the length of RFPs by using registered (*Regulation 8.3a*) and prequalified (*Regulation 23-25*) suppliers.

Response: We shall endeavour to confirm authenticity of documents submitted by tenders at the evaluation stage.

3.12 Procurement Volume

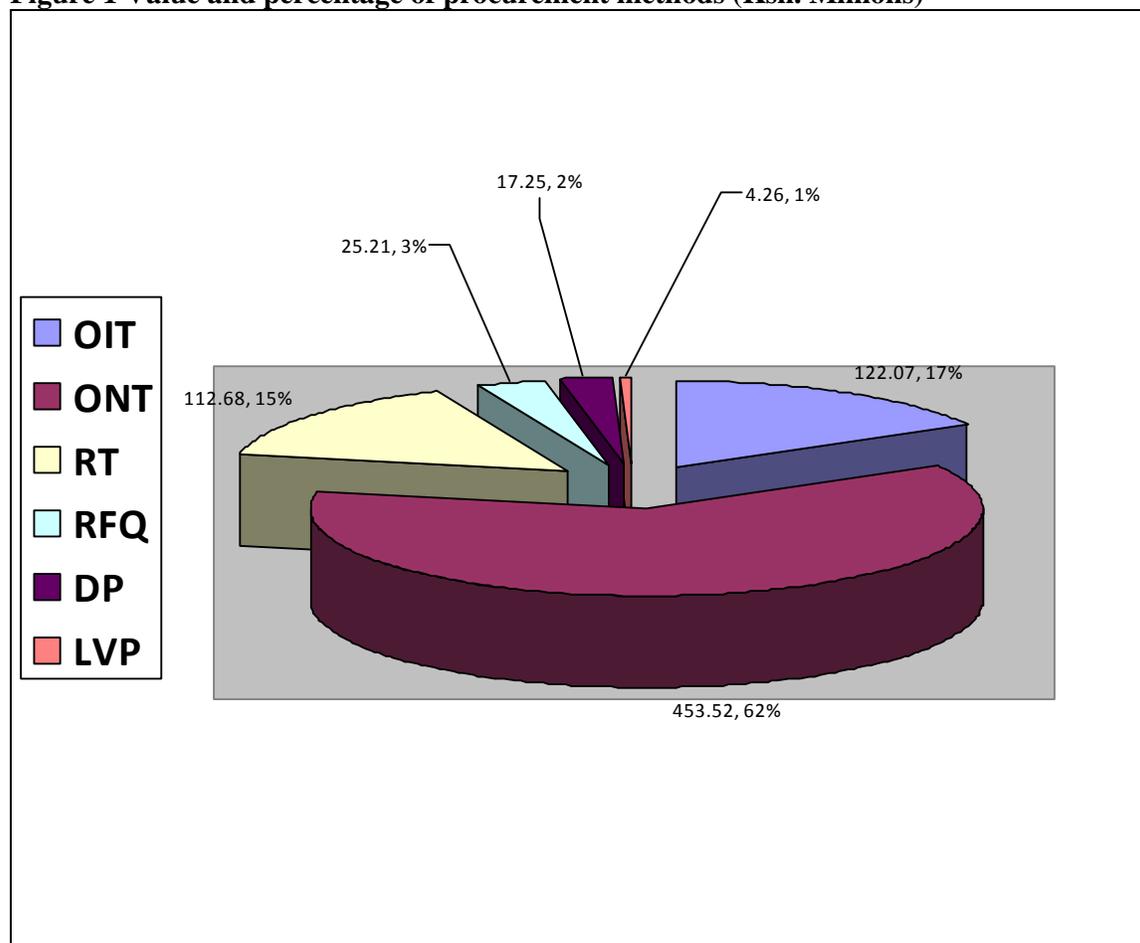
Finding: During the period under review, the Ministry undertook approximately 550 procurement transactions of goods and services of value Ksh 735,026,000.32.

3.12.1 Total number and value of transactions by method of procurement

Type of procurement method	Number	Value(Ksh)
Internal Shopping Procurement(ISP)	1	122,073,955.00
Open National Tender(ONT)	12	453,522,029.00
Restricted Tender (RT)	10	112,689,803.00
Request For Quotations(RFQ)	109	25,216,895.00
Direct Procurement(DP)	4	17,259,621.00
Low Value Procurement(LVP)	414	4,263,697.32
TOTAL	550	735,026,000.32

Notes: These procurements are arising from the YR 2007-2008 grants

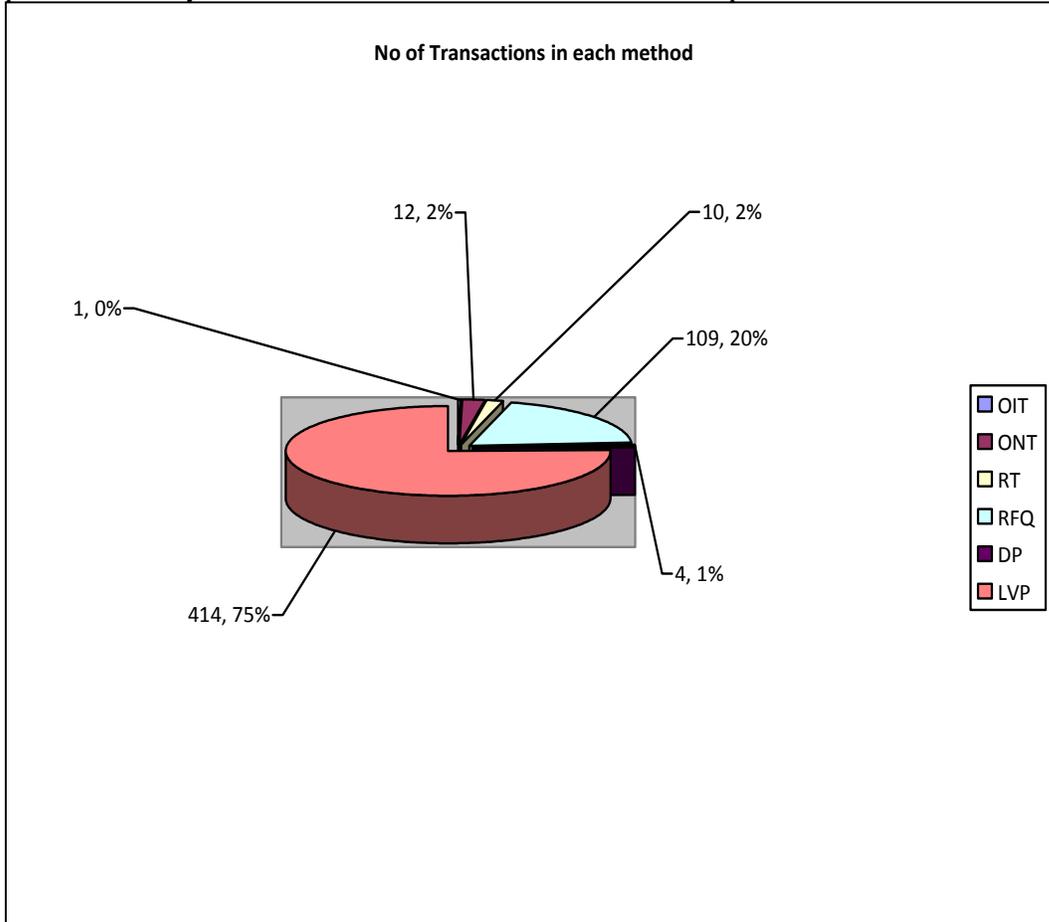
Figure 1 Value and percentage of procurement methods (Ksh. Millions)



The Ministry's main choice of procurement was by open tender (*Section 29 (1) of the Act*) for both goods and professional services amounting to Ksh453.52million that is approximately 62% of the total procurement budget.

During this time, the procurement unit had ten employees: a principal procurement officer, two senior procurement officers, two procurement officers, one procurement assistant, and four clerical officers.

The Ministry used the direct procurement method for a few procurements namely land acquisition for Busia Energy Centre (MOE/03/2007-2008), refresher training for driller, and purchase of Toyota vehicles on LPO D916406/D916412 of pursuant to section 74 of the Act.



The procurement period checked ranges between 7-102 days from the bid date to completion.

Recommendation: The procurement unit should improve their systems to shorten the procurement process, have a list of pre-qualified suppliers available for quick response times, reduce costs, and achieve value for money.

Procurement unit must prioritise procurements and correct inefficiencies in the processes identified as soon as possible.

Response: We have been using the prequalified suppliers for Request For Quotations and Low Value Procurement which form the bulk of the procurement and we shall improve by bulking and purchasing quarterly.

3.13 Terminated Procurement

Tender no	Description	Amount
MOE/06/2007-2008	Supply, Installation of Solar power	46,606,400.00
MOE/09/2007-2008	Supply, Installation of Solar	40,979,311.00

	power	
MOE/027/2007-2008	Wind mast	3,000,000
MOE/RT/8/2007-2008	Lifting of oil ex-Nigeria	NA
NBI/D30/13/2007-2008	Partioning of REA offices	NA
MOE/REA/20/2007-2008	Preparation of Strategy	3,954,440.00
MOE/22/2007-2008	Supply, Installation of wind mast log	2,007,611.36

Finding: Seven procurement proceedings were terminated during the process mainly due to non-responsiveness of the tenders in accordance with PPDA 2005 section 64. There is no evidence that PPOA was informed of these terminations of procurement proceedings, as is required by section 36(7) of the Public Procurement and Disposal Act 2005.

Recommendation: The project managers should improve the quality of information on scope definition, technical information, cost estimating and detailed requirements being forwarded to procurement unit. Accurate procurement data input will save the procurement units' time and will ensure bidders have sufficient information to bid.

The Ministry should advise PPOA of terminated procurement proceedings as required.

Response: We are preparing the reports for the terminated contracts for submission to PPOA.

3.14 Poor record management

Observation: In all procurements, access to information is critical to the many users and stakeholders in the systems. Systems are not put in place to collect and collate comprehensive documentation and data related to particular procurement activities and to report regularly and reliably any information required by various users including PPOA.

Findings: The system of filing and record keeping is fragmented and scattered amongst various departments of the Ministry. This hampers document location, retrieval, and traceability. None of the reviewed procurement files for the year had comprehensive information pertinent to the tender in question. A lot of data and information needed for verification purposes could not be accessed and therefore the accuracy of information is highly compromised.

Certain documents notably tender opening committee minutes and MTC minutes were not signed or approved contrary to Regulation section 27 (1) which provides that all approvals relating to any procedures in procurement shall be in writing and properly dated, documented and filed. The tenders no MOE/01/2007-2008, MOE/02/2007-2008, MOE/08/2007-2008, and MOE/08/2007-2008 minutes are filed without signing by members. The Minutes for MOE/03/2007 and MOE/07/2007-2008 are missing in file.

Recommendation: The Ministry should upgrade the record keeping in line with the requirements of section 45 of the PPD Act and Regulation 34.3 requiring PEs to maintain comprehensive file for each procurement activity. The entity should implement the recommendations of the “*Baseline report on the management of procurement records in the Ministry of Energy*’ Appendix 8.8

Response: We will ensure the tender opening minutes are signed by all members. The two MTC minutes that were missing only confirmed minutes of previous meeting hence the oversight.

We have opened files for each procurement and we are doing comprehensive filing.

3.15 Publication of contract awards

Finding: The entity do not submit to PPOA details of all contracts awarded whose values exceed 5,000,000.00 as required by PPDA 2005 section 46 and PPOA directive of 7 February.2007.

Recommendation: Submit all the reports required by PPOA namely

- a) All contracts over Ksh 5million (PPDA Section 46 and directive);
- b) All terminated procurement proceedings (Act Section 36.7); and
- c) All direct procurements (Regulation 62.3).

Response: The reports are being prepared for submission to PPOA immediately.

3.16 Procuring for affiliated entities

Finding: In accordance of *PPDA 2005 section 27.6* and *Regulation, 8.3v* MOE has undertaken procurement functions on behalf of REA and NOCK whenever the two do not have adequate capacity to handle certain complex procurements.

The review team observed that these procurements (MOE/REA/20/2007-2008 and, MOE/08/2007-2008) are commenced without adequate information and budgets.

Recommendation: The project managers of the affiliates must provide detailed work scopes and budgets to the MOE Procurement Unit to support preparation of the procurement document before commencement of the procurement process.

Response: The procurement done on behalf of Rural Electrification Authority, there was a budget and scope of work for the procurement done on behalf of NOCK. There was no need for budget since there was no payment to be made for the resultant contract.

3.17 Internal Audit

One of the objectives of the AFDB Kenya Institutional Support for Good Governance (KISGG) project is to develop internal audit to deepen adoption on internal control

standards in order to enhance compliance and oversight in the public finance functions including procurement. There is an internal audit department in the Ministry with an establishment of four personnel but currently having only three. They have been trained in the PPDA and PPDR. The department has an annual audit work plan and has listed procurement as high-risk area for audit purposes. They have undertaken audit in several stages of the procurement processes and have issued several periodic reports to the section heads including the procurement unit. The procurement unit has never responded to any of the reports hence there is no evidence that the findings and recommendations have ever been acted upon. There is an audit committee but it has never met for a long time since the chairman was appointed the Chief Executive officer of REA.

Recommendation: Procurement unit to respond to all outstanding recommendations and findings of the internal and external auditors.

Response: The Ministry responded to all audit queries. The audit committee has been meeting irregularly, but now a committee has been reconstituted under a new Chairman.

3.18 Contract management

Findings: The contract agreements are not in the procurement files and the procurement unit is not aware at all what is happening to the contract after it signed.

MOE has failed to develop arrangements that will clarify accountability and contract management structure for delivery of orders, internally and externally, while building stronger horizontal linkages, collaboration and interdependencies in those involved in the supply chain.

- Order-tracking schedules and procurement checklists to confirm the proper completion of all aspects of the procurement process have not been put in place.
- Contract management policies and procedures are not incorporated in procurement plans;
- Advance payments and/or Letters of Credit register are not available in PU for follow-up;
- There are no Progress payments for reports (none seen for the Coal drilling in Mwingi and Kitui);
- There are no certificates of completion for professional services; and
- There is an urgent need to strengthen contract management functions that cross horizontal departmental boundaries.

Recommendation: Periodic operations meetings, involving project management, and procurement staff, should be instituted by MOE to discuss the progress of contracts to enable procurement update their schedules and documentation.

Response: We are doing comprehensive filing and will be holding periodic meetings on project management.

3.19 Inspection and Acceptance Committee

Finding: The entity has constituted this committee as provided for in the Regulation 17 to inspect, test, and review the works, goods, and services and issue completion certificates in accordance with the contracts. The review team found few inspection certificates for office supplies procured under RFQ/LVP but did not find any completion certificates for all major contracts for goods and services undertaken by the Ministry. The team observed that the auditors had earlier made a note of this major discrepancy before and had informed the procurement unit.

The committee does not ensure that the goods, works, or services are delivered or completed on time, or that any delay has been noted as observed in the following case for coal exploration contract on the 30 June 2005.

The Ministry entered into a four-month service contract for coal exploration drilling in Mwingi and Kitui districts whose main objective to drill eight wells with a cumulative depth of 3000meters. The contractor was paid an initial amount of Ksh 8,908,800.00 in advance out of the total Ksh 35,635,200.00. As at 30 June 2006; the contractor had drilled five wells with cumulative depth of 908.34 meters. By June 2007, the contractor had not drilled 1886.70 meters to complete the contract. There was no valid performance bond or insurance cover for any contingency.

It is not clear why the Ministry purchased the following items for use in the laboratory, which had not been built hence they were kept in the stores until this year.

Rig accessories

Various rig accessories worth Ksh 2,201,720.00 received into the stores on the 25.05.2005 were issued out to Geo-exploration section (coal) on 1.08.2008 by Issue voucher no 2105988.

Laboratory equipment

Various laboratory equipment worth Ksh 3,387,669.00, received in the stores on various dates 19.03.2004, 12.10.2004 and 11.11.2004 were issued to Geo-exploration section on 9.05.2008. (Source: External Audit Report for FY2006-2007)

Recommendation: The inspection and acceptance committee to inspect and review all goods, works or services in order to ensure compliance with the terms and specifications of the contract and issue interim or completion certificates or goods received notes, as appropriate and in accordance with the contract.

In order to improve times, the procurement unit needs to track times for all stages of the contracts. A field for sign-off date should be included on the procurement checklist for each procurement document to be tracked through the system. The data obtained from the

checklist will be beneficial for planning procurement schedules and timelines. The requirement for the procurement checklist should be added to the policies and procedures manual to ensure it is included in each procurement file.

Response: Inspection and Acceptance committee

The committee has been carrying inspection on goods procured by the Government and this is done as and when informed. It has never carried inspection on works or services because it has never been asked to do so. This is because it has no information on Contract Agreements to know terms, conditions and completion period of the projects. It is a considered opinion that information on Contract Agreement, Works and Services be availed to enable us make visits to projects and inspect the works that are carried out to determine whether they conform to the Contract Agreements.

This will enable us to give progress report on the projects and issue completion certificates based on the agreed time as per contract period.

Rig Accessories & Laboratory Equipment

a. **Accessories**

The apparent non use of some of the drilling accessories by the Ministry between 25-05-2005 and 01-08-2008 was due to the following two reasons.

1. Depth anticipated using all types of drilling accessories acquired for the coal exploration at Mui Basin is meant to reach 800 metres for full utility of the rig. However, the architecture of the basin is varied with shallow depths in the range of 100 metres reached in some of the areas drilled. Between May 2005 and July 2008 drilling carried out reached a maximum of 300 metres per well drilled, hence not all types of drilling accessories purchased were used, with some staying in the stores. However, as from August 2008, we are reaching depths of below 300 metres and hence all the accessories acquired will be used.
2. Once anticipated drilling depth has been worked out from geophysical survey, drilling tools are purchased in good time because they are not always available on shelf but have to be fabricated once an order is made. Therefore, to avoid wastage of time and of other resources it is always reasonable to acquire all tools that are anticipated for use because one might need them while they may not be readily available. In any case, most of the drilling tools are re-used several times because they are not consumables and will therefore not go to waste.

b. **Laboratory Equipment**

There are two reasons for the apparent non use of laboratory equipment received on various dates of 2004 and issued to Geo-Exploration Department in May 2008 as follows:

1. **Geothermal exploration geochemistry equipment although of laboratory nature are portable and used on site as some of tests require to be done on the spot to avoid erroneous results brought about by change of nature of sample gaseous, liquid and solid materials tested. It is therefore not necessary that a laboratory be built at Headquarters for use of the equipment.**
2. **Adequate preparation for geothermal exploration demands that one has a full range of equipment which is anticipated for use at all likely different stages of the geochemical exploration programme. However, the specific equipment used from time to time will depend on findings made from previous into the next phases of work. Therefore, in our case, some of the equipment purchased in 2004 were not used until May 2008 when the actual need for their use arose.**

3.20 Disposal Plan

Finding: There was one disposal action undertaken (MOE/016/2007-2008) during the period under review. Another list for items had been identified for disposal by a Procurement Assistant in April 2008 but no action taken by the Disposal Committee.

Although the disposal committee is constituted, the following deficiencies were observed:

- a) Disposal committee does not organize meetings as stipulated in the Act and regulations;
- b) There is no Disposal Plan for unserviceable, obsolete, or surplus stores and equipment.

Recommendation: The Disposal committee to develop an annual disposal plan for obsolete and surplus equipment and stores.

Response: A disposal plan is being developed.

3.21 Stores Department

Findings: The stores function at the Ministry is to receive, store, and issue supplies that are procured by the procurement unit. As at 30 June 2008, the stock amounts to Ksh 4,887,186.00.is in stores. The storerooms at the Ministry are inadequate for proper and efficient storage of items. Some items are placed on the floor while others are placed on top of others.

3.22 Items physically checked

No.	Description	Book	Physical	Value
1	Cartridge Tonner 4092A	1	1	7250.00
2	Cartridge Tonner 6615D	2	2	9500.00
3	Cartridge Tonner 6625A	2	2	9800.00
4	Cartridge Tonner 1823D	20	20	76,666.00

5	Cartridge Tonner 7115A	0	0	-
6	Cartridge Tonner 4096A	8	8	143,600.00
7	Cartridge Tonner 48448	31	31	124,000.00
8	Cartridge Tonner 4837A	14	13	53,300.00
9	Cartridge Tonner 4838A	1	2	9,600.00
10	Cartridge Tonner 4836A	14	14	57,400.00
11	Cartridge Tonner 8061X	4	4	68,200.00
	TOTAL			559,316.00

The main challenges in stores management are:

- a) The racks are not enough to accommodate all the stocks;
- b) The available space is inadequate for the volume of inventory;
- c) Material handling equipment is limited;
- d) Information on the stock cards is incomplete;
- e) The stocks are not coded hence identification process slow and inefficient;
- f) Stock-turn rate not established;
- g) No advance planning and scheduling for some equipment hence they end up in the stores for long time;

Response: The above issues are being addressed:-

- 1. Buying racks in 3rd quarter**
- 2. Ensure no overstocking**
- 3. Up-date stock cards**
- 4. Procurement Plans to ensure and adhere to prior planning**

3.23 Complaints

Finding: There were no effective mechanism on how the entity handles complaints and disputes raised by bidders. The two complaints (MOE/14/2007-2008 Consultancy on Growing of Trees and MOE/03/2007-2008 Petroleum Fuels Marking and Tracing Services) raised for the tender awards were rejected because they were time barred.

Recommendation: A procedural requirement should be implemented to have the award and rejection letters submitted to winner and losers within reasonable period to enable disputes to be filed appropriately. This should be monitored through the procurement plan.

Response:

Complaints will be handled by the Chairman, MTC.

Finding: Seven procurement proceedings were terminated during the process for various reasons. The justification was determined as non-responsiveness of the tenders in accordance with PPDA 2005 section 64. The entity did not forward all the terminated to PPOA in accordance to section 36.7 of the PPDA.

Recommendation: Report all the terminated procurement proceedings to PPOA.

Response: We are preparing the said reports which will be submitted to PPOA immediately.

4 SPECIFIC FINDINGS

TENDER	METHOD	FINDINGS	DDD	DD	D	SP
MOE/02/2007-2008 Energy Awareness Campaign	ONT	No Procurement Plan Procurement procedure commenced without budgetary allocation No Procurement Requisition No preliminary evaluation committee minutes in procurement file Tender Security not available and not in file No extract of the TC minutes in the procurement file No completion Certificates in the file No Invoices and payment documents in the procurement file.	X X X	X X X X	X	
MOE/RFP/03/2007- 2008 Petroleum fuels marking and tracks services	RFP	No Procurement Plan No procurement requisition Procurement procedure commenced without budgetary allocation No extract of the TC minutes in the file No Delivery notes copies in the file No Inspection and Acceptance Certificates in the file No Invoices and payment documents in the file External observers not invited for MTC Preliminary evaluation signed but not, dated Evaluation committee minutes not signed by one person	X X X	X X	X X X X	

TENDER	METHOD	FINDINGS	DDD	DD	D	SP
		There is no comparison analysis for the evaluation committee. Budget indicated in the request memo is Ksh6million while the contract awarded is Ksh94million Signed MTC minutes not in file No proof of approval by PS.	X X X	X		
MOE/20//2007-2008 Strategy for Rural Electrification Authority	RFQ	No Procurement Plan Procurement procedure commenced without budgetary allocation No procurement requisition available No extract of the TC minutes in the file No Delivery No copies in procurement file No Inspection and Acceptance Certificates in the file No Invoices and payment documents in the file	X X X	X X	X X	
MOE/24//2007-2008 Supply and Delivery of Computers and Accessories	ONT	No Procurement Plan No procurement requisition Procurement procedure commenced without budgetary allocation Evaluation comparison analysis report not available and not in file No extract of the TC minutes in the file No Delivery Note copies in the file Delivery commenced before contracts were signed. No Inspection and Acceptance Certificates in the file No Invoices and payment documents in the file	X X X	X X X X	X X X	

TENDER	METHOD	FINDINGS	DDD	DD	D	SP
MOE/014/2007-2008 Consultancy for growing of Trees	RFP	No Procurement Plan No procurement requisition Procurement procedure commenced without budgetary allocation No extract of the TC minutes in the file No Delivery No copies in the file No Inspection and Acceptance Certificates in the file No Invoices and payment documents in the file	X X	X	X X	
MOE/122/2007-2008 Supply of Furniture in the Assistant Minister's Office	RFQ	No Procurement Plan No procurement requisition budget Procurement procedure commenced without budgetary allocation No extract of the MPC minutes in the file No Delivery No copies in the file No Inspection and Acceptance Certificates in the file No Invoices and payment documents in the file	X X X	X X	X X	
MOE/149/2007-2008 Supply of Ink Cartridges	RFQ	No Procurement Plan Procurement procedure commenced without budgetary allocation No procurement requisition No extract of the TC minutes in the file No Delivery Note copies in the file No Inspection and Acceptance Certificates in the procurement file No Invoices and payment documents in the file	X X X	X X	X X	

TENDER	METHOD	FINDINGS	DDD	DD	D	SP
MOE/038/2007-2008 Printing of Christmas Cards and supply of desk diaries	RFQ	No Procurement Plan No procurement requisition Procurement procedure commenced without budgetary allocation No extract of the PC minutes in the file No Delivery Note copies in the file Only one bidder submitted the business registration No Inspection and Acceptance Certificates in the file No Invoices and payment documents in the file	X X X	X	X X X	
MOE/061/2007-2008 Printing of Energy Bulletin	RFQ	No Procurement Plan Procurement procedure commenced without budgetary allocation No bidders submitted the business registration No extract of the TC minutes in the file No Delivery Note copies in the file No Inspection and Acceptance Certificates in the file No Invoices and payment documents in the file	X X	X X X	X X	
MOE/084/2007-2008 Supply of Ink Cartridges	RFQ	No Procurement Plan Procurement procedure commenced without budgetary allocation	X X			
MOE/022/2007-2008 Supply of Wind Masts and data loggers	RFQ	No Procurement Plan No procurement requisition Procurement procedure commenced without budgetary allocation No extract of the TC minutes in the file	X X X	X		

TENDER	METHOD	FINDINGS	DDD	DD	D	SP
		No Delivery Note copies in the file No Inspection and Acceptance Certificates in the file No Invoices and payment documents in the file		X	X	
MOE/19/2007-2008 Supply of twin flat	RFQ	No Procurement Plan No procurement requisition Procurement procedure commenced without budgetary allocation Procurement procedure commenced without budgetary allocation	X X X		X	
MOE/023/2007-2008 Supply and Delivery of Drilling Rig and Accessories	ONT	No Procurement Plan No procurement requisition Procurement procedure commenced without budgetary allocation No extract of the TC minutes in the file No Delivery Note copies in the file No Inspection and Acceptance Certificates in the file No Invoices and payment documents in the file	X X X	X X X		X
NBI/D30/56/2007- 2008 Renovation of 21 st , 22 nd and 24 th floors at Nyayo House	ONT	No Procurement Plan No procurement requisition Procurement procedure commenced without evidence budgetary allocation No extract of the TC minutes in the file No Completion Certificate in the file No Invoices and payment documents in the file	X X X	X	X X	
MOE/004/2007-2008	ONT	No Procurement Plan	X			

TENDER	METHOD	FINDINGS	DDD	DD	D	SP
Solar Power System to 16 schools in Turkana, Marakwet, West Pokot and Samburu		No procurement requisition Procurement procedure commenced without budgetary allocation No extract of the TC minutes in the file No Completion Certificate in the file No Invoices and payment documents in the procurement file	X X	X	X X	
MOE/005/2007-2008 Solar Power System to 14 Secondary Schools in Makueni, Narok, Kajiado, Moyale, Wajir and Marsabit	ONT	No Procurement Plan No procurement requisition Procurement procedure commenced without budgetary allocation No extract of the TC minutes in the file No completion certificate in procurement file No invoice and payment documents in the procurement file	X X X	X	X X	
MOE/26/2007-2008 Consultancy Employee Satisfaction Survey	RFP	No Procurement Plan No procurement requisition Procurement procedure commenced without budgetary allocation No extract of the TC minutes in the file No invoice and payment documents in the procurement file No completion certificate in procurement file	X X X	X	X X	
MOE/01/2007-2208 Recruitment management consulting firm for REA	RFP	No extract of the TC minutes in the file		X		

TENDER	METHOD	FINDINGS	DDD	DD	D	SP
MOE/20/2007-2002 Consultancy Services for preparation of strategy for Rural Electrification Authority	RFQ	No extract of the TC minutes in the file		X		
MOE/020/2007-2008 Signage	RFQ	No Procurement Plan No procurement requisition No invoice and payment documents in the procurement file Procurement procedure commenced without budgetary allocation No completion certificate in procurement file	X X X		X X	
MOE/154/2007-2008	RT	No Procurement Plan No procurement requisition Procurement procedure commenced without budgetary allocation No extract of the TC minutes in the file No Delivery No copies in the file No Inspection and Acceptance Certificates in the file No Invoices and payment documents in the file	X X X	X X	X X	
MOE/022/2007-2008 Supply Of Wind Masts	RT	No Procurement Plan No procurement requisition Procurement procedure commenced without budgetary allocation No extract of the TC minutes in the file	X X X	X		

TENDER	METHOD	FINDINGS	DDD	DD	D	SP
MOE/027/2007-2008 Supply Of Wind Masts	RT	No Procurement Plan No procurement requisition Procurement procedure commenced without budgetary allocation No extract of the TC minutes in the file	X X X		X	
MOE/06/2007-2008 Supply, Installation, Testing and Commissioning of Solar Power System	RT	No Procurement Plan No procurement requisition Procurement procedure commenced without budgetary allocation No extract of the TC minutes in the file	X X X		X	
MOE/09/2007-2008 Supply, Installation, Testing and Commissioning of Solar Power System	ONT	No Procurement Plan No procurement requisition Procurement procedure commenced without budgetary allocation No extract of the TC minutes in the file	X X X		X	
NBI/D30/13/2007- 2008 Proposed Partitioning of REA Offices	RT	No extract of the TC minutes in the file		X		

5 ACTION PLAN

Tasks	Lead Accountable	Timeline	PPOA/ARD Review Date
Organise sensitisation training in the Public procurement and Disposal act 2005 and the related regulations for all members of standing committees and staff involved in procurement related functions.	AO/PPOA/ARD	February 2009	April, 2009
PU to upgrade the record keeping and develop comprehensive records management systems for all current procurement transactions. The entity should implement the recommendations of the “ <i>Baseline report on the management of procurement records in the Ministry of Energy</i> ”	Head of PU	March 2009	April 2009
Establish the appropriate budget for the procurement for all the activities projected in the consolidated procurement plan.	CFO/PROJECT MANAGERS/PU	December 2008	February 2009
Complete the preparation of the comprehensive consolidated procurement plan that is currently being worked on by the Procurement Unit to better manage all aspects of its procurements including the procurement of professional / works / goods / other services.	Head of PU	December 2008	February 2009
Develop a master procurement schedule for all on-going contracts, showing the target dates for procurement-related activities and the actual progress achieved, to serve as a communication tool for future procurement planning with project managers and subsequent progress tracking.	Head of PU/Project Managers	December 31, 2008	January 15, 2009
Implement outstanding internal and external audit findings and recommendations relating to procurement management.	AO/IA/SDS	January 2008	March 2009
The Ministry should introduce comprehensive purchase requisitions for initiating procurement with clear links to budget lines.	PU	December 2008	January 2009
Develop an operations manual outlining schedules of responsibilities and authorisation levels for procurement documents.	AO/SDS	March 2009	May 2009
Develop internal procurement manuals for procurement and contract management to regulate procurement processes and reporting.	AO/SDS/PU/PPOA	December 2008	January 2009
Introduce a procedural requirement that encourage the use of the prequalification for suppliers of specialised works, goods, and professional services whenever possible and appropriate.	AO/PU/MTC	December 2008	January 2009

Tasks	Lead Accountable	Timeline	PPOA/ARD Review Date
Develop a training policy for the PU staff for continued development of skills and professionalism in the areas of supply chain management for PU staff.	AO/PU	Immediate	December 2008
Procurement unit to respond to all outstanding recommendations and findings of the internal and external auditors.	PU/AUDITORS	December 2008	January 2009
PU to improve the calibre of invitation lists, reduce the number of RFQs and LVPs required, and shorten the length of RFPs by using prequalified suppliers. PU also to endeavour to implement alternative framework contracts and long term arrangements.	AO/PU	July 2009	August 2009
Periodic operations meetings, involving project management, and procurement staff, should be instituted by MOE to discuss the progress of contracts to enable procurement update their schedules and documentation.	SDS/PU	Immediate	January 2009
The IFMIS should be upgraded to maintain uninterrupted operations and bring users on board.	AO/TREASURY	-	-
Submit all reports for procurements to PPOA as required by the PPDA and associated directives.	PU	December 2008	January 2009
Invite external observers to attend MTC meetings of contracts over Ksh 50million.	PU/MTC	Immediate	January 2009
The inspection and acceptance committee to commence inspecting and reviewing all goods, works or services in order to ensure compliance with the terms and specifications of the contract and issue interim or completion certificates or goods received notes, as appropriate and in accordance with the contract.	Chairman, Inspection and Acceptance Committee	Immediate	January 2009
Institute local complaints and dispute resolution mechanism.	PU/SDS	Immediate	January 2009

5.1 Action plan for Records management

Action plan for implementation of restructured procurement records management system for the Ministry of Energy

Objective: To improve management of records practices and compliance with the Public Procurement and Disposal Act, 2005 and Regulations, 2006

Action	Lead Responsibility	Timing Month / Year	Critical Output	Status comments
Procurement records policy and procedures manual	PPO	December 2008	Policy and procedure document to guide on management of procurement, accounts, and stores records.	Not in place at the moment, but follow the normal procedure
Use of standard tender documents-compliance with section 45(1) 45 (2a-h) of the PPDA	PPO	December 2008	Compliance with section 45 (1), 45 (2a-h) and 45 (6) of the PPDA. Maintenance of a proper filing system. Official procurement documents maintained in official files. Revised file scheme. Procurement files referenced and coded according to the new file scheme. Copies of revised file scheme circulated to action officers to facilitate speedy access to information and documents in the procurement files.	The Procurement unit complied with regulation since the regulation came into force
Comply with section 45 of the PPD Act, & 34 (3) of PPD Regulations	PPO	December 2008	Maintenance of complete and self-contained file for each procurement activity. Maintain a complete file for each tender and quotation, including documents on receipt and payment for goods and services. Papers in each file in the correct order, serially numbered and reflecting sequence of transactions. Procurement files linked with corresponding payment records by cross-referencing.	Complied

Closed procurement records	PPO	February 2009	Closed procurement records properly organized. Inventory or catalogue prepared to facilitate access and retrieval.	Records and inventory maintained by the MTC Secretariat
Accommodation for procurement records	PPO	March 2009	Adequate accommodation for current and closed procurement documents provided. Current procurement documents separated from closed ones. An inventory of closed procurement documents prepared and distributed to users. Requisite storage equipment installed, Properly describe and arrange the records. Prepare catalogues and distribute to users. Records access rules and regulations prepared. This is in line with Regulation 8 (3) (n) on maintenance and archiving of procurement documents.	More space needed to accommodate closed and current records
Assign procurement records management responsibility	PPO	April 2009	Procurement records management duties delegated to a specific officer, preferably from the MTC. Duty schedule revised to reflect new responsibilities.	P. O. I (MTC) Secretariat to take charge and maintain
Payment records	PPO / Ag. Principal Accountant	May 2009	Payment records organized and arranged in vote-head, sub-head and item-head account code (number). PVs under a specific item-head accommodated in one file that has been assigned appropriate account code and reference number. PV files arranged in accounting code and financial year sequence. An inventory (catalogue) of PV files prepared and linked to (cross-referenced with) corresponding procurement files. Inventory circulated to relevant action officers. Obsolete accounts documents disposed of by applying chapter 23 of Government Financial Regulations and Procedures.	PPO to file copies of PVs in Procurement file and Ag. Principal Accountant keeps original PVs.

Registers	PPO	December 2008	Prepare and maintain a contracts agreement register.	The Unit opened and maintains the register
Records Management activities Budget	PPO, Chief Accountant	December 2008	Prepare & submit budget for records management activities.	PPO to prepare
Stores records	PPO	December 2008	Stores documents and files organized, and reflected in the PE's main file scheme. Cross-reference stores files with corresponding procurement and payment files.	Maintained by in charge stores
Support and co-operation from senior management staff	All staff members	January 2009	Senior staff support and co-operation with the requirements of restructured and improved procurement RM system.	Staff to be made aware

6 CONCLUSION

We have assessed whether the functions comply with general by accepted good practices. We have identified deviations in general and specific areas of procurement stages and attached ratings to them. In the selected areas, we concluded that the MOE compliance level is very low in major areas of the Act and Regulations. We urge the management to demonstrate greater commitment to follow the law in their operations. It is important for MOE to embrace the law by preparing an organization-wide compliance program. ***It is far better to conduct an internal review to discover, and then repair, your own problems.***

The office of the internal auditor needs to be strengthened to verify, examine, and determine that individual transactions comply with the Act and regulations. The auditor needs to undertake sensitization training in the public procurement law and the related regulations to enable him to perform better. The auditor should contact senior management for intervention in areas where his recommendations are ignored by the departments.

The major challenge in the MOE is in the area of record keeping, data, and documentation controls. Retrieving records for review purposes was difficult, time consuming and even for the files made available, some records pertaining to fulfilment of the procurement process were incomplete, limiting the review scope. The area needs an urgent attention of the senior management, since poor record keeping compromises validity, authenticity, and quality and reliability of the information coming from the entity.

It was noted that some of the documents not in operation are yet to be prescribed by PPOA. The Procurement Unit should keep in regular touch with PPOA, seek their guidance on matters of doubt, and if possible get directives from them in writing.

We did commence our review against the background of other comparable past reviews. We found that the Ministry has not adequately addressed recommendations of the previous reviews. We have included a follow-up phase in our recommendations to ensure that the corrective measures are carried out in order to improve compliance, efficiency, and effectiveness in procurement management.

We congratulate MOE on the proportion of it's spend covered by open tendering which is 62% and we encourage the management to continue this practice.

7 APPENDIX

7.1 Entry meeting

In attendance:

No.	Name	Position	Organization
1	Patrick Nyoike	Permanent Secretary	MOE
2	Robert Hunja	Interim Director General	PPOA
3	Maurice Juma	Technical Director	PPOA
4	Nigel Shipman	Chief of Party	ARD
5	James Okello	Review Team Leader	ARD
6	Jane Njoroge	Compliance Manager	PPOA
7	B. Kahdiagala	Chief Finance Officer	MOE
8	Eng. Richard Muiru	Chief Electrical Engineer	MOE
9	R. I. Sultani	Project Co-ordinator	MOE
10	W. M. Deche	Chief Economist	MOE
11	M. M. Kaburu (Mrs.)	Principal Procurement Officer	MOE
12	Eng. I. N. Kiva	Ag.Sr. Deputy Director	MOE
13	Michael Obuya	Compliance officer	PPOA
14	N. Manyeki	Deputy Director	MOE
15	R. Mounde	Senior Procurement Officer	MOE
16	Absalom K. Kosgei	Consultant	MOE
17	Jane Wambugu	Accountant	MOE
18	Thomas Onono	Review Team	ARD
19	J. K. Mathea	Senior Procurement Officer	MOE

Purpose

The purpose of the meeting was to introduce the ARD/PPOA review team to Ministry of Energy management. The meeting's objective was also to inform MOE management the purpose of carrying out the review that is to establish the status of MOE's procurement contracting, and implementation processes and systems, in order to determine the level of compliance with the new procurement law, regulations, circulars, and directives issued by the Public Procurement Oversight Authority.

Matters Arising

Robert Hunja, Interim Director General, PPOA took the team through an introduction of the entire MCC Threshold Program. He also reported that ARD was responsible for handling component 1. PPOA would prepare an e-procurement strategy and MOE would be one of the pilot entities before its implementation.

Mr Hunja reported that Reviews at MOE would be the responsibility of ARD/PPOA staff; therefore, the purpose of the meeting was to kick-start the review process. Mr

Hunja stressed on the importance of the review so that Kenya could be considered for compact status within the MCA Threshold Program.

Nigel Shipman, ARD Chief of Party took the team through the process that was to be used to carry out the review. The review was meant to assist Procuring Entities improve on their procurement procedures which should be carried out according to the Act & Regulations. Mr Shipman reported that after the review, ARD would prepare a draft report, which would then be forwarded to PPOA. Once PPOA is satisfied with the draft, it would then be forwarded to MOE management. The review would look at the mandate of MOE, structures, committees, procurement plans and whether they are linked to the budgets, record keeping, minutes of Tender Committee meetings amongst others. Nigel requested MOE to have all documentation ready before the review team reports on 18 August 2008.

Mr. James Okello reported that the review team would use the PPDA and the related regulations as the reference point and the review would focus on the period covering the FY2007-2008, and shall include procurements of services, goods, and works. Mr Okello went further to elaborate on the rating criteria that will be used. He estimated that the time needed to carry out this intensive review would be 25 days, which would also be determined by the availability of the documents. Mr. Okello also requested MOE to provide appropriate workstation for the review team.

7.2 Ministry of Energy personnel trained under MCA-TP

Name	Position	Gender
C. O. Oyaro	Principal Accountant	M
Genga Nyumba	Finance Officer	M
Julius K. Mathea	SPO	M
Musa K. Boit	Procurement Officer I	M
N. M. Manyeki	ADRE	M
Sammy Okonji O.	Procurement Officer I	M
W. M. Deche	Chief Economist	M

7.3 Tender Committee members

MTC as at 14 May 2007

Name	Designation	Alternative
Paul G. Ngatia	Chairman	
R. M. Mugoya	Secretary	Jane Wambugu
B. Khadiagala	Deputy Chairman	I.Kiva
Eng. Kiva	Member	Nganga Munyu
W. M. Deche	Member	M.Heya
R. Khazenzi	Member	W.Oselu
Don Riaroh	Member	J.Manyeki
R. Muiru	Member	J.K.Kaganjo
C. O. Oyaro	Member	

7.4 Procurement Committee Members

Name	Designation
R. Khazenzi	Chairman
R. Mounde	Secretary
N. Mwangi	Member
J. Wambugu	Member
H. Andambi	Member
W. Oselu	Member

7.5 Inspection and acceptance Committee

Name	Designation
Nyamongo Nyaberi	
Origa Ogutu	Chairman
A.Odawa	Member
Eng.I.Kiva	Member

7.6 Disposal Committee members

Name	Designation
B.Khadiagala	Chairman
J.K Kaganjo	Member
M.Mugoya	Member
Eng.I.Kiva	Member

7.7 Stock balances as 30.6.2008

CODE NO.	ITEM DESCRIPTION	UNIT OF ISSUE	BALANCE IN STOCK	VALUE
1	SHORT HAND NOTEBOOKS	NOS	409	16,135.50
2	DELIVERY BOOKS GP 54	NOS	3	
3	FIELD NOTEBOOKS	NOS	394	7880
4	BOOKS REGISTER 2 QRS	NOS	6	789
5	BOOKS REGISTER 4 QRS	NOS	2	290
6	SPIRAL BINDERS	NOS	7320	146400
7	BOARDS EMBOSSED ASS	NOS	4615	34,612.50
8	CELLOTAPE	ROLLS	43	3225
9	CANDLES SEALING	NOS	1325	6625
10	CLIPS PAPER	PKT	54	2430
11	CARTRIDGE TONER 3150	NOS	4	92000
12	CARTRIDGE INK 51645A	NOS	4	18,400
13	CARTRIDGE TONER 4092A	NOS	4092	145,000
14	CHART FLIP	NOS	27	7182
15	TONER MITA DC 3060/4060	NOS	18	81,000
16	CARTRIDGE INK 6615D	NOS	4	19,000
17	CARTRIDGE INK 6625A	NOS	4	19,600
18	CARTRIDGE INK 1823D	NOS	21	80,500

19	CARTRIDGE TONER 7115A	NOS	8	63,920
20	CARTRIDGE TONER 4096A	NOS	9	161,550
21	CALCULATOR SCIENTIFIC	NOS	18	23,310
22	CARTRIDGE INK 4844A	NOS	47	188,000
23	CARTRIDGE INK 4837A	NOS	24	98,400
24	CARTRIDGE INK 4838A	NOS	5	24,000
25	CARTRIDGE INK 4836A	NOS	24	98,400
26	CD REWRITABLE	NOS	214	26,750
27	CARTRIDGE TONER Q2610A	NOS	3	38,250
28	CARTRIDGE TONER 8061X	NOS	4	68,200
29	CARTIRIDGE TONER Q6511A	NOS	11	154,000
30	CARTRIDGE TONER 12A	NOS	8	66,800
31	DISKETTES 3 1/2 HD	PKTS	42	14,910
32	DICTIONARY OXFORD	NOS	1	1780
33	DRAWING PINS (THUMB TACKS)	PKTS	6	540
34	ENVELOPES 150*88	NOS	508	254
35	ENVELOPES 250*174 (A5)	NOS	3200	4160
36	ENVELOPES CLASSIC	NOS	1425	8550
37	ENVELOPES 420*275 (A3)	NOS	3207	14,431.50
38	ENVELOPES 176*125	NOS	45	45
39	ENVELOPES 263*210 (A4)	NOS	3295	11,532.50
40	ENVELOPES 110*220	NOS	6266	9399
41	ERASER RUBBER B/R	NOS	4089	8,568.00
42	ENVELOPES 329*229	NOS	7775	19,437.50
43	FILE FASTENERS	PKTS	130	10,920
44	FILE FOLDERS	NOS	1675	75,375
45	FILES BOX	NOS	23	2875
46	FAX FILMS VARIOUS	NOS	38	72,200
47	FILES SPRINGS	NOS	659	19770
48	FOLDERS CLEAR	NOS	154	6160
49	GLUE OFFICE	BTLS	19	518.7
50	GLUE STICK	NOS	263	32,875
51	INK QUINK BLACK	BTLS	10	2260
52	INK QUINK BLUE	BTLS	22	6160
53	TONER INK SHARP SF 1025	NOS	18	62,640
54	TONER INK SHARP AR 150	NOS	8	12,000
55	MACHINE STAPLER 50/60	NOS	3	810
56	MACHINE STAPLER 24/6	NOS	2	3800
57	MACHINE STAPLER HEAVY DUTY	NOS	7	22,400
58	MEMORY STICK 2GB	NOS	2	5,000
59	ORGANISERS DESK	NOS	109	173,855
60	PENCILS HB 110	NOS	27	621
61	PHOTOCOPY PAPERS A4	RMS	1559	746,761
62	PAPER PINS	PKTS	64	2880
63	BIRO PENS BLUE/RED/BLACK	NOS	4111	45,221
64	PAD STAMP	NOS	25	5250
65	PAPER TOILET	ROLLS	3198	63960
66	PAPER CARBON BLUE/BLACK	PKTS	45	38250
67	PAPERS COMPUTER 14.5*11 2PART	BOXES	19	47,500
68	PAPER PUNCH HEAVY DUTY	NOS	6	18,420
69	PAPERS DRAFTING A4	RMS	54	20,520
70	PAPERS CONQUEROR A4 100GSM	RMS	66	192,720

71	PAPERS COMPUTER 14.5*11 1PART	BOXES	17	42,500
72	PENTEL PENS	NOS	152	17,100
73	PENS MARKER (SNOWMAN)	NOS	3	240
74	PAPERS COMPUTER 9.5*1 2PART	BOXES	9	17,550
75	PHOTOCOPYING PAPERS A3	RMS	40	38,800
	PAPERS RULED A4 FOOLSCAPS	RMS	31	15,035
77	PENS HIGHLIGHTORS ASST	NOS	68	5100
78	PADS WRITING A4	NOS	235	14,687.50
79	RIBBON IBM EASY STRIKE	NOS	15	20,250
80	ROLLS MACHINE	ROLLS	86	4730
81	RULER PLASTIC 18"	NOS	30	720
82	ROLLS FAX 210*30MTRS	ROLLS	122	32,940
83	ROLLS FAX 210*100MTRS	ROLLS	29	13,050
84	STAPLES 24/6	PKTS	89	5,340
85	STAPLES 50/60	PKTS	35	1400
86	STANDS DESK CALENDER	NOS	90	89,100
87	STAPLE REMOVER	NOS	13	776.1
88	STAPLE GIANT 9/14	PKTS	88	39,600
89	STICKERS URGENT /VERY URGENT	PKTS	213	27,690
90	STICKERS CONFIDENTIAL	PKTS	10	1300
91	SHARPENER PENCIL DESK	NOS	31	43,090
92	SCISSORS	PRS	18	2248.2
93	TAPE COTTON	ROLLS	10	3320
94	TAPE LIFT-OFF EASY STRIKE	NOS	27	33,750
95	TAGS NAME	NOS	71	1420
96	TRANSPARENCIES	NOS	4555	43,272.50
97	TAPE MASKING	ROLLS	10	3320
98	TONER SHARP AR161	NOS	47	21,500
99	TONER MITA KM 2030	NOS	3	18,270
100	TONER COPIER NASHUA 3715	NOS	15	40,350
101	TONER MITA KM 4035	NOS	10	285,360
102	WHITE OUT	BTLS	42	2688
103	WAX SEALING	PKTS	56	36,400
104	WALLET DOCUMENT	NOS	194	13,483
105	YELLOW STICKERS	NOS	324	27,540
106	AI8R FRESHENER	NOS	135	26,730
107	BASKET WASTE PAPER	NOS	38	3640
108	DUST COATS WHITE	NOS	20	25,900
109	CLEANER INSTANT PLEDGE	NOS	51	16,830
110	DUSTERS YELLOW	NOS	195	9750
111	HARPIC LIQUID	BTLS	54	10638
112	DUST MASTS	NOS	338	4656
113	SOAP DETERGENT	NOS	120	13,800
114	EXTENSION CABLES 4WAY	NOS	77	157,850
115	SOAP WASHING BARS	BARs	428	27,820
116	TISSUES FAY	PKTS	3	225
117	STARTERS	NOS	492	12,300
118	TOILET SOAP	NOS	36	2484
119	CAPACITORS	NOS	50	49000
120	CHOKES 40 WATTS	NOS	200	99,800
	TOTAL			4,887,186