

EXECUTIVE SUMMARY

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

The overall objective of this procurement review was to review the status of KIRDI's procurement, contracting, implementation processes and systems to determine the level of compliance with the procurement law, regulations, circulars and directives issued by PPOA.

The specific objectives of this procurement review are to examine and establish the degree of compliance to applicable procurement procedures and Public Procurement and Disposal Act, 2005 and Regulations, 2006, Circulars and any of the directives issued by PPOA, and to propose recommendations for remedial measures against weaknesses identified, institutional arrangements, and/or irregularities in procurement practices, and capacity.

The review team expected:-

- i) KIRDI to have implemented the PPDA, 2005, the PPDR, 2006, all directives and instructions of the PPOA in its procurement and disposal with a compliance rating of not less than 60%.
- ii) KIRDI to have established adequate systems and procedures for implementation of (i) above.
- iii) KIRDI to have adequate capacity in terms of numbers and training for the implementation of (i) above.
- iv) KIRDI to have established effective communication with the PPOA for guidance and professional, as well as proficiency, training.

Areas of Satisfactory Compliance

The following were some of the areas of satisfactory compliance:-

1. Establishment of the various procurement committees as per Section 7 of the PPDR;
2. The functions of the TC and PC as set in PPDR 10 and 14 respectively are mostly complied with;
3. Preparation of the Annual Corporate Procurement Plan was in place in accordance to Section 20 and 21 of PPDR;
4. Contracts are signed in accordance with the 1st Schedule of PPDR;
5. Prequalification of suppliers was done and a Prequalification list developed in accordance to regulation 23;
6. Where tender advertisements have been issued, they indicate the closing date, time and invitation to attend bid opening;
7. Notification of contract awards above Kshs 5,000,000 was done to PPOA in accordance to PPOA Circular 4/2009 of 24th June;
8. Notification of termination of tenders to suppliers who had applied is adequately done; and
9. Direct procurements were adequately reported to PPOA.

Non Compliance

1. The capacity of procurement staff is not adequate to ensure complete compliance with the Act, Regulations, circulars and other directives issued by PPOA;
2. Failure by the procuring entity to use the Standard Purchase Requisition forms in initiation of procurements contrary to Section 22 of PPDR;
3. Failure by the procuring entity to come up with departmental and individual procurement plans contrary to Section 20 (4) of the PPDR and Chapter 6.5 of PPDGM & Section 22 (5) of PPDR respectively;
4. In some instances there was failure by the head of the procuring entity in appointing the Tender Opening Committees and Evaluation committees contrary to section 60 (1) of the PPDA 2005 and Section 16 (1) of PPDR respectively;
5. There was failure by the PU to maintain comprehensive procurement records in the procurement files as required under Chapter 9 of the PPDGM;
6. In some instances the PU did not notify both the successful and unsuccessful bidders at the same time contrary to Section 67 (2) of the PPDA 2005;
7. PU's failure to advertise for tender opportunities for a minimum period of 21 days contrary to Section 40 of the PPDR;
8. PU placing mandatory requirements to bidders in the wrong sections of the tender documents;
9. Financial Evaluations taking more than 5 days from the time of completion of the Technical evaluation contrary to Section 16 (7) (b) of the PPDR 2006;
10. Failure to seek for tender validity extension from bidders within the validity period contrary to Section 61 of the PPDA 2005;
11. Failure to seek for approval from the Tender Committee where the procurement method other than open tender was used, contrary to section 78 of the PPDA 2005 and Chapter 8.3 of the PPDGM on the process of engaging consultants;
12. Advertising proposals as open tenders in contravention of Section 78 of the PPDA 2005 and Section 55 (2) of the PPDR 2006;
13. There were instances where the TC were modifying submissions contrary to section 11(2) of the PPDR 2006;
14. Failure by the TC to review quarterly reports on quotations that have been awarded by the procurement committee as per section 10 (2) (n) of the PPDR, 2006;
15. There was an instance where the Evaluation Committee applied an evaluation criteria that was not provided in the bid documents contrary to Regulation 16(5) and (7) of the PPDR 2006;
16. No fair and equal rotation amongst the persons on the standing list of registered suppliers in respect of requests for quotations contrary to Regulation 59 (2) (c);
17. Failure by IAC to perform their function as set out in Section 17 (3) & 17(4) of the PPDR and Chapter 10.3 of the PPDGM;
18. There was repetition or splitting of items categorised as LVP contrary to Section 90 (1) of PPDA, e.g. Curtains listed four times by the same supplier and Curtain Blinds listed thrice by the same supplier.
19. Failure by the PE to adhere to Section 90 (1) of PPDA on aggregation of the numerous

procurements under LVP method for items like Vertical Blinds and Curtains, to achieve economies of scale to the entity and introduce control;

20. The PE did not carry out Market surveys as set out in section 63 (d) (1) of the PPDR;
21. KIRDI requesting for quotations from firms not in the list of prequalified suppliers contrary to Regulation 25 (3);
22. Failure to administrator procurement contracts as per Chapter 9 of the PPDGM; and
23. Failure to prepare and sign contracts for direct procurements as per section 75(c) of the PPDA 2005.

Summary of Recommendations

1. The capacity of procurement staff should be enhanced to ensure complete compliance with the Act, Regulations, circulars and other directives issued by PPOA;
2. KIRDI should introduce Standard Purchase Requisition forms in initiation of procurements in accordance with Section 22 of PPDR;
3. The PE to ensure departmental and individual procurement plans are prepared in accordance to Section 20 (4) of the PPDR and Chapter 6.5 of PPDGM & Section 22 (5) of PPDR respectively;
4. The KIRDI should improve on the filing system and records management to conform to the provisions of Section 34(3) of the PPDR and chapter 9 of the PPDGM;
5. The head of procuring entity should appoint the members of Tender Opening Committee in Accordance to Section 60 (1) of the PPDA 2005;
6. Notification to both Successful and Unsuccessful bidders should be sent on the same date in accordance to Section 67 (2) of the PPDA 2005;
7. The head of the procuring entity should appoint the Evaluation Committee members in accordance to Section 16 (1) of the PPDR 2006;
8. Advertisement for open tender should be for a minimum period of 21 days in accordance to Section 40 of the PPDR;
9. Financial Evaluations should not take more than 5 days from the time of completion of the Technical evaluation in accordance to Section 16 (7) (b) of the PPDR 2006;
10. PE should seek for tender validity extension from bidders within the validity period in accordance to Section 61 of the PPDA 2005;
11. The Tender Committee should approve procurement methods other than open tender in accordance to section 78 of the PPDA 2005 and Chapter 8.3 of the PPDGM on the process of engaging consultants;
12. Request for proposals should not be advertised as open tenders but should be as per Section 78 of the PPDA 2005 and Section 55 (2) of the PPDR 2006;
13. The TC to approve the submissions in accordance to section 11 of the PPDR 2006;
14. The TC should review quarterly reports on quotations that have been awarded by the procurement committee as per section 10 (2) (n) of the PPDR, 2006;
15. The Evaluation Committee should strictly follow the evaluation criteria as provided in the bid documents as per Regulation 16(5) and (7) of the PPDR 2006;
16. The PE should ensure fair and equal rotation amongst the persons on the standing list of registered suppliers in respect of requests for quotations, as required by Regulation 59 (2) (c);

17. IAC should perform their function as set out in Section 17 (3) & 17(4) of the PPDR and Chapter 10.3 of the PPDGM;
18. KIRDI should undertake an aggregation of the numerous procurements under LVP method to achieve economies of scale to the entity and introduce control as per Section 90 (1) of PPDA;
19. KIRDI should carry out market surveys as set out in section 63 (d) (1) of the PPDR;
20. KIRDI should invite requests for quotations from the list of prequalified suppliers as per Regulation 25 (3);
21. KIRDI should ensure administration of procurement contracts are in compliance with Chapter 9 of the PPDGM; and
22. KIRDI should prepare and sign contracts for direct procurements as per section 75(c) of the PPDA 2005.

Compliance Rating

The compliance rating is provided in detail in Chapter 5 of the report. The compliance level of KIRDI procurement proceedings was rated at 62.82%.