

## **EXECUTIVE SUMMARY**

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

The overall objective of this procurement review was to review the status of REA'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 were 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. REA 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. REA to have established adequate systems and procedures for implementation of (i) above.
- iii. REA to have adequate capacity in terms of numbers and training for the implementation of (i) above.
- iv. REA 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 Regulation 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 Consolidated Annual Procurement Plan was in place in accordance with Regulation 20 and 21 of PPDR;
4. Prequalification of suppliers was done and a Prequalification list developed in accordance with regulation 23;
5. Where tender advertisements have been issued, they indicate the closing date, time and invitation to attend bid opening;
6. Notification of contract awards above Kshs5,000,000 was done to PPOA in accordance with PPOA Circular 4/2009 of 24<sup>th</sup> June,2009;
7. Notification of termination of tenders to suppliers who had applied is adequately done; and
8. Direct procurements were adequately reported to PPOA.

## Non Compliance

1. The capacity of procurement staff was 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 Regulation 22 of PPDR;
3. Failure by the procuring entity to come up with departmental and individual procurement plans contrary to Regulation 20 (4) of the PPDR and Chapter 6.5 of PPDGM & Regulation 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 and Regulation 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;
7. PU's failure to advertise for tender opportunities for a minimum period of 21 days contrary to Regulation 40 of the PPDR;
8. Financial Evaluations taking more than 5 days from the time of completion of the Technical evaluation contrary to Regulation 16 (7) (b) of the PPDR;
9. Failure to seek for tender validity extension from bidders within the validity period contrary to Section 61 of the PPDA;
10. 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 and Chapter 8.3 of the PPDGM on the process of engaging consultants;
11. Advertising proposals as open tenders in contravention of Section 78 of the PPDA and Regulation 55 (2) of the PPDR;
12. Failure by the TC to review quarterly reports on quotations that have been awarded by the procurement committee as per Regulation 10 (2) (n) of the PPDR, 2006;
13. 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);
14. Failure by IAC to perform their function as set out in Regulation 17 (3) & 17(4) of the PPDR and Chapter 10.3 of the PPDGM;
15. REA requesting for quotations from firms not in the list of prequalified suppliers contrary to Regulation 25 (3);
16. Failure to administer procurement contracts as per Chapter 9 of the PPDGM; and
17. Failure to prepare and sign contracts for direct procurements as per section 75(c) of the PPDA.

## **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. REA should introduce Standard Purchase Requisition forms in initiation of procurements in accordance with Regulation 22 of PPDR;
3. The PE should ensure departmental and individual procurement plans are prepared in accordance with Regulation 20 (4) of the PPDR and Chapter 6.5 of PPDGM & Regulation 22 (5) of PPDR respectively;
4. The PE should improve on the filing system and records management to conform to the provisions of Regulation 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 with Section 60 (1) of the PPDA;
6. Notification to both Successful and Unsuccessful bidders should be sent on the same date in accordance with Section 67 (2) of the PPDA;
7. Advertisement for Open Tender should be for a minimum period of 21 days in accordance with Regulation 40 of the PPDR;
8. The Tender Committee should approve procurement methods other than open tender in accordance with section 78 of the PPDA and Chapter 8.3 of the PPDGM on the process of engaging consultants;
9. Request for proposals should not be advertised as open tenders but should be as per Section 78 of the PPDA and Regulation 55 (2) of the PPDR;
10. The TC should review quarterly reports on quotations that have been awarded by the procurement committee as per Regulation 10 (2) (n) of the PPDR, 2006;
11. 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);
12. IAC should perform their function as set out in Regulation 17 (3) & 17(4) of the PPDR and Chapter 10.3 of the PPDGM;
13. REA should invite requests for quotations from the list of prequalified suppliers as per Regulation 25 (3);
14. REA should ensure that the procedure, of invitation, submissions, and analysing is according Regulation 59 to 61 of the PPDR and chapter 7.5 of the PPDGM.
15. The PE should ensure that written contracts are signed with successful bidders in accordance with section 68 (3) of the PPDA and
16. REA should ensure administration of procurement contracts are in compliance with Chapter 9 of the PPDGM.

## **Compliance Rating**

The compliance rating is provided in detail in Chapter 5 of the report. The compliance level of REA procurement proceedings was rated at 62.40%.