

PUBLIC PROCUREMENT OVERSIGHT AUTHORITY
Transforming Procurement

FINAL REPORT

POSTAL CORPORATION OF KENYA

PROCUREMENT REVIEW

13 January 2011

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ACRONYMS

AO	Accounting Officer
FY	Financial Year
GOK	Government of Kenya
GRN	Goods Receipt Note
HQTS	Headquarters
IA	Internal Auditor
ICT	Information, Communications and technology
IMIS	Integrated Management Information Systems
KACC	Kenya Anti Corruption Commission
KNAO	Kenya National Audit Office
LPO	Local Purchase Order
LSO	Local Service Order
LTA	Long term arrangement
MD	Minor Deviations
MDD	Moderate Deviations
MDDD	Major Deviations
N/A	Not Applicable
ONT	Open National Tender
PC	Procurement Committee
PCK	Postal Corporation of Kenya
PE	Procuring Entity
PI	Proforma Invoice
PO	Procurement Officer
PPDA	Public Procurement and Disposal Act
PPDR	Public Procurement and Disposal Regulations
PPOA	Public Procurement Oversight Authority
PR	Procurement Review
PU	Procurement Unit
RFP	Request for Proposal
RFQ	Request for Quotation
RPPSII	Reforming Public Procurement Systems II
SP	Satisfactory Performance
TC	Tender Committee
TP	Threshold Programme
USAID	United States Agency for International Development
UPU	Universal Postal Union
VAT	Value Added Tax

EXECUTIVE SUMMARY

This report presents the findings of the procurement review of the Postal Corporation of Kenya (PCK), carried out from 9 August to 3 September 2010. The main objective of the exercise was to review the status of the Corporation's procurement, contracting and implementation processes and systems, in order to determine the Corporation's level of compliance with the Public Procurement and Disposal Act 2005 and the associated regulations, circulars and directives issued by PPOA, and generally accepted principles of good practice. Consideration was also given to the relationship between procurement and overall service objectives of the PCK.

The review considered performance of procurement functions for the period 1 July 2008 - 30 June 2009. The review procedures performed included the examination of selected samples of open tenders, restricted tenders, direct procurement, request for proposals and request for quotations. The review also considered the disposal proceedings undertaken by PCK during the period.

The scope of the review encompassed 27 key performance indicators of the PCK's procurement and disposal procurement cycle from planning to completion. The review expected the Corporation to have reached a satisfactory level of compliance (60% and above) with the requirements of the PPDA, PPDR and all directives issued by PPOA in their procurement, disposal and contracting.

The fieldwork included an examination of the files and documents pertaining to the PCK's procurement systems and processes and, where appropriate, was supplemented by discussions with the key persons involved in the functions related to procurement. The work was then finalized in consultation with the Accounting Officer, members of standing committees, Head of Procurement Unit and other persons involved in management and oversight of the procurement functions.

The team also reviewed the implementation of the findings and recommendations of prior internal and KNAO audit reports carried out in 2008-2009. The team observed that the Corporation is not adequately implementing the recommendations of these prior assessments and audit reports that relate to procurement functions.

Key general findings and recommendations as they relate to each of the areas considered in this review are provided in Chapter 3 of the report. An action plan for implementation of the recommendations is provided in Chapter 6 at the end of this report. The PPOA/ARD team will review the implementation of the recommendations in the action plan in Chapter 6 after a three-month period from the date of the final report.

A limiting factor in carrying out the review was the inadequate filing system, records, data and documentation relating to the procurement processes selected. This caused some delay in the review fieldwork.

The review team noted the following satisfactorily compliant practices from the samples that were examined:

- The contracts are awarded to persons with the legal capacity and the necessary qualifications, capability, experience, resources, equipment and facilities to provide what is being procured;
- The Accounting Officer is satisfactorily carrying out his responsibilities under the Act;
- PCK uses technical specifications that are clear, objective, neutral, functional and conform with the requirements of the PPDR;
- PCK has used open tendering as the main procurement method. During the period under review open tendering, (both OIT and ONT) together account for 64% of total procurement expenditure;
- PCK has taken such steps as are reasonable to bring the invitation to tender to the attention of those who may wish to participate;
- Fair and impartial procedures were in place in relation to receiving and opening of tenders;
- A secure facility for the receipt of tenders has been provided by PCK;
- The evaluation criteria are the same as those in the tender document and conform with the requirements; and
- The termination of procurement proceedings have been done in accordance with the PPDR.

The review team noted the following areas with minor deviations or weaknesses that need immediate attention of the Procurement Unit or user department:

- Absence of procurement requisitions in the procurement files examined;
- Absence of award letters in some examined procurement files;
- Absence of invoice copies in the procurement file;
- Absence of LPOs or LSOs in the procurement file;
- Absence of payment voucher copies in the procurement file; and
- There are no copies of the performance bond in the procurement file.

The review team noted the following areas with moderate deviations or weaknesses that need immediate attention of the senior management:

- The team observed that the Procurement Unit is not taking any remedial actions on various observations and recommendations made in various Internal Audit Reports touching on the procurement processes;
- There is a training strategy and capacity but not linked with the PPOA training schedules and is not proactive in organising training and expert support for all staff involved in procurement related functions;
- The state of procurement filing and contract documentation is deficient. The procurement records are fragmented between various files. This made it difficult for records retrieval and caused delays in establishing an audit trail of the procurement processes;
- There is need for more advanced and specialised training in the Act and the associated regulations particularly in General Manual, procurement planning and newly developed procurement guidelines issued by PPOA;

- There are no realistic estimates in all the internal memos used for initiating procurement processes;
- There was no consolidated procurement plan for the period under review. The review team observed that one was prepared for the subsequent period but is not updated regularly;
- PCK does not analyse their recurrent or ongoing requirements for medium to long-term needs with a view to making framework contracts. Many common user goods and services currently being procured on RFQ (currently 98% total number of reviewed transactions) should be placed under framework contracts in order to obtain the better prices associated with large volume procurements and to reduce administrative costs;
- The prices of common user items have not been compared with the PPOA price index;
- Lack of evidence of commencement certificates for complex projects;
- The bid bonds when required are not recorded in the procurement file;
- Lack of official standard purchase requisitions for initiating procurement activities;
- There are insufficient documented contract management procedures in place which monitor progress and conformity with the terms of contract; and
- No schedules of duties for initiating, certifying and approving officers.

The review team noted the following areas with major deviations or weaknesses that need immediate attention of the Accounting Officer:

- There is no substantive procurement professional heading the Procurement Unit;
- The Corporation does not have an operational procurement manual;
- The PE has permanent standing committees on tender opening and evaluation;
- PCK needs to improve staff awareness of updated publications, directives, manuals, and standard documents prepared and distributed by PPOA and should prepare operating systems and procedures accordingly;
- The PE has not applied preference and reservations as provided in Section 39 of the PPDA;
- Procurement records are fragmented in various files.
- There was a standing list of registered suppliers for the period under review but the process was terminated after CTC approval;
- There is no documented complaints mechanism for handling bidders' enquiries and complaints;
- There is no disposal plan that is linked to the budgetary framework and inventory management;
- There is no evidence from the internal memos used to initiate procurement that PCK is adhering to the threshold matrix as provided in the Regulations; and
- The Corporation does not file procurement and disposal reports with PPOA as stipulated in the Regulations.

We recommend that the PCK management put in place the following:

- The PE should recruit a substantive Head of Procurement Unit;
- The PE should appoint tender opening, evaluation, and inspection and acceptance committees as and when required and in accordance with the Act and Regulations;

- PCK should prepare and implement a comprehensive records retention and disposal schedule covering all categories of records as recommended in the *Report on the Management of Records of the Postal Corporation of Kenya* and in accordance with Procurement Records Management Procedures Manual issued by PPOA;
- Introduce measurable mechanisms that promote value for money in its procurements;
- Organise training of all management staff on sensitisation, advanced, and specialised aspects of procurement law and regulations;
- Introduce comprehensive purchase requisition forms for user departments to initiate procurement processes;
- Compare all prices of common user items with the PPOA price index;
- Update the Consolidated Procurement Plan regularly;
- Prepare a Disposal Plan;
- Develop operating systems and procedures for implementation of the Act and Regulations;
- Improve reporting requirements to PPOA;
- Improve the monitoring of contract management processes and update the procurement files; and
- Improve liaison with PPOA on matters where the law and regulations need clarification and support in interpretation of the law and regulations.

As specified in the Terms of Reference, we used the sample of procurement and disposal proceedings to evaluate the level of compliance with the Public Procurement and Disposal Act, associated regulations and directives issued by PPOA. In so doing, we carefully considered the implications and the significance of individual ratings of the key performance indicators. It is clear that some instances of non-compliance have greater significance than others. This factor has been considered in determining the final compliance level.

The team's overall assessment of the compliance level for Postal Corporation of Kenya is calculated to be 50.7% with relevant PPDA, and the regulations and guidelines in respect of the sampled procurement transactions for the period reviewed. This is below the target of 60% compliance set in the Performance Monitoring Plan under RPPS II. Thus, the overall performance of the Corporation in procurement and disposal is not satisfactory, and there are several significant weaknesses that need to be addressed.

Finally, we would like to take this opportunity to thank PCK staff for their co-operation and assistance during this review.

1 INTRODUCTION

1.1 Purpose

This procurement review is one of 8 reviews to be carried out by ARD, Inc as part of the Reforming the Public Procurement System Phase II project. The Postal Corporation of Kenya (PCK) was one of the entities selected by Public Procurement Oversight Authority (PPOA) for review under the current phase of the project.

An entry meeting with the Corporation's management team was held on 15 May 2010 to discuss the scope of the review, the review plan, the reviewers' expectations, access to documentation and other administrative issues. Mr. M. O. Juma, the Ag. Director General, PPOA, led the joint ARD/PPOA review team to the entry meeting.

Mj. Gen (Rtd) Hussein Ali, the Post Master General, led the Corporation management team that included Heads of User Departments, Head of the Procurement Unit and members of various standing procurement committees.

1.2 Mandate of PPOA

The Authority's procurement review function is derived from Section 49 (1) (a) of the Act, 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 the contractor shall cooperate with and assist whoever does such an inspection.

1.3 Role of the PE

- 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;
- Section 27 (2) of the Act provides that the Accounting Officer shall be primarily responsible for ensuring that the procuring entity fulfils its obligations in the implementation of the provisions of the Act;
- Section 27 (3) of the Act provides that each employee of the procuring entity and each member of board or committee of the entity shall ensure, within the areas of responsibility of the employee or member, that the Act, regulations or any directions of PPOA are complied with; and
- Section 101 of the Act provides that a public entity shall provide the Authority with such information relating to procurement as the Director-General may require in writing.

1.4 Objectives

The overall objective of the procurement review was to review the status of PCK's procurement contracting, implementation processes and systems, in order to determine the level of compliance with the procurement law, regulations, circulars, and directives issued by the Public Procurement Oversight Authority.

The specific objectives of this procurement review were:

- To verify whether the procurement and contracting procedures, processes and documentation followed by PCK were in accordance with the Public Procurement Act and the associated Regulations;
- To establish PCK adherence to the generally accepted principles of economy and efficiency, equal opportunities, transparency, integrity and fairness and promotion of local industry;
- To determine technical compliance, physical completion and price competitiveness of each contract in the selected representative sample;
- To review the capacity of PCK to handle procurement efficiently; comment on the quality of procurement and contracting, and identify reasons for delays, if any;
- 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;
- To establish whether remedial actions taken on recommendations made in the previous reviews have been implemented successfully;
- 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;
- To assist in clarification of areas where PCK may have misunderstood the requirements of the legislation; and
- To determine challenges faced by the PCK in the implementation of the Act.

1.5 Expectations

The review expected:

- The Corporation to have achieved a satisfactory level of compliance (60% and above) with the requirements of the PPDA, PPDR and all directives issued by PPOA in their procurement, disposal and contracts;
- Adequate systems and procedures put in place by the Corporation for implementation of the procurement law, regulations and directives;
- The Corporation to have adequate capacity and training to implement the procurement law; and
- Essential procurement records to be maintained with adequate safeguards for procurement records.

1.6 Scope

The PCK undertook a total of 2,017 procurement proceedings and one disposal proceeding during the period under review.

The review covered a sample of transactions selected from the population of transactions executed by the Corporation from 1 July 2008 to 30 June 2009 period including works, goods, and services, to the extent possible.

The procurement review preselected 24 procurement proceedings and 1 disposal proceeding carried out by the PCK under the PPDA during the 1 July 2008-30 June 2009 period, as set out in section 1.6.1.

Description	No of proceedings	Value of proceedings
Total procurement proceedings	2017	150,200,444.50
Sample of procurement	24	100,080,545.00
Ratio of sample to total	1%	66.6%
Total on disposal proceedings	1	
Sample of disposal proceedings	1	
Percentage of sample to total disposal	100%	

The review team did not visit any of the PCK physical facilities outside the Headquarters due to time constraint.

The PE does not conduct periodic and annual stocktaking in accordance with the Regulation 8(3)(aa).

1.6.1 Sampled procurement and disposal proceedings

No	TENDER NO	ITEM DESCRIPTION	METHOD	CATEGORY	AMOUNT
1	TB/PROC/O11/08/09	Refurbishment of Kisii HPO	ONT	Works	7,009,790.00
2	TB/PROC/08/09	Refurbishment Of Kiambu	ONT	Works	5,703,281.00
3	TB/PROC/09/08/09	Refurbishment of Call Centre &	ONT	Works	2,213,396.00
4	TB/PROC/10/08/09	Forensic Audit Consultancy	ONT	Service	3,851,200.00
5	TB/PROC/11/08/09	Supply of Installations smart card	RT	Goods/service	6,678,548.00
6	TB/PROC/12/08/09	Supply of Office furniture for ICT	ONT	Goods	5,781,190.00
7	TB/PROC/05/08/09	Supply of Motor Vehicle	ONT	Goods	28,620,750.00
8	TB/PROC/05/08/09	Supply of Motor Vehicle	ONT	Goods	10,896,480.00
9	TB/PROC/05/08/09	Supply of Motor Vehicle	ONT	Goods	9,088,380.00
10	Indent No 04/08	Printing & supply of stamp issue		Goods	1,178,125.00
11	Indent No. 01/09	Printing & Supply of Stamps	ICB	Goods	1,635,000.00
12	PCK/PROC/17/08/09	Supply, Implement ERP Systems	ONT	Work/Service	3,043,875.00
13	PCK/DIS/01/08/09	Disposal of motor vehicle	ONT	Disposal	2,739,000.00
14	PCK/PROC/13/0S/09	Supply installation of CCTV	ONT	Goods\Works	14,380,530.00
15	PCK/PROC/14/0S/09	Supply of alarm systems		Goods/service	Terminated
16	PCKIPROC/14/0S/09	Supply of alarm systems		Goods/service	Terminated

No	TENDER NO	ITEM DESCRIPTION	METHOD	CATEGORY	AMOUNT
17	PCKIPROC/15/08/09	I Provision of Advertising Agency		Service	Terminated
18	TB/P ROC/21/08/09	Supply of printers	ONT	"	Terminated
19	TB/PROC/02/08/09	Refurbishment of Machakos HPO	ONT	Works	Terminated
20	TB/PROC/06/08/09	Refurbishment of Nakuru HPO	ONT	Works	Terminated
21	TB/PROC/20108/09	Supply of Desktop Computers	ONT	Goods	Terminated
22	TB/PROC/22/08/09	Supply of Servers	ONT	"	Terminated
23	TB/PROC/23/08/09	Commissioning of AN Enter Data		Service	Terminated
24	TB/PROC/24/08/09	Uniform	ONT	Goods	Terminated
					100,080,545.00

1.7 Methodology

The review procedures included the examination of selected samples of the open tenders, restricted tenders, direct procurement, request for quotations and disposal proceedings.

1.7.1 Key documents and data collection

Key procurement and disposal documents and data related to the terms of reference were reviewed. The information collected was analyzed to provide an overall picture of the level of compliance in the various stages of the procurement process. The overall risk rating and scoring systems for the procurements handled by PCK over the review period were assessed using the criteria in Chapter 5 of this report.

Other background documents used by the team included but were not limited to the following: PPDA 2005, PPDR 2006, General Manual, and prior internal and external audit reports. The review team also observed that the PCK staff had undergone sensitization training organised by PPOA, on aspects of Public Procurement management including the implementation of PPDA and PPDR.

Discussions/interviews were held with the following staff/officials of PCK who are directly involved in the procurement process.

	Title	Name
1	Accounting Officer	Maj.General(Rtd) Hussein Ali
2.	Chairman of PC	A.N Saidi
3.	Chairman of Disposal Committee	B Murerwa
4.	Member of Inspection & Acceptance	A.Lempaka
5.	Vice Chairman of TC	B. Murerwa
6.	Internal Auditor	E.Korir
7.	Ag. Head of PU	Augusta Njagi

Through interviews and discussions with officials, the review team recorded general and specific information concerning the procurement/disposal process, procedures and existing capacity at the PCK.

1.8 Expected compliance

The team selected an estimated satisfactory compliance level of 60%, which was based on the current target for the RPPSII.

1.9 Key Performance Indicators and rating criteria

Procurement review was based on risk assessment methodology that focuses on the issues that pose the greatest threat to the compliance with the procurement law and regulations.

The reviewed procurements are categorized according to the procurement/disposal key performance indicators. These consist of three categories of a risk level assigned to each performance indicator, namely:

- **High Risk (3)** - Procurements where serious weaknesses could cause material financial, regulatory or reputational risks warranting immediate attention by senior management;
- **Moderate Risk (2)** - Procurements where weaknesses, although less likely to lead to material financial, regulatory or reputational risk, warrant timely management action using the existing framework;
- **Low Risk (1)** Procurements with weaknesses where resolution within the normal management framework is considered desirable to improve efficiency and promote best practice. Deviations from laid down procedures would normally be graded “low”, provided that there is sufficient evidence of management action to rectify the deviation and to monitor compliance.

Once a risk level had been assigned to each key performance indicator, review tests were devised to ascertain whether the compliance was working as indicated in the risk assessment. More emphasis, time and tests will be focused on those items with the highest risk.

When assigning compliance scores, the review team considered the extent to which compliance procedures were in place for each aspect of the law and regulations. Whole numbers for each item are used:

- 3 indicates full compliance with the stated requirement;
- 2 is for cases in which the system exhibits less than full compliance and needs some improvements in the area being assessed;
- 1 is for those areas where substantive work is needed to bring them into compliance; and
- 0 is the residual indicating a complete failure to comply with the proposed standard.

Each compliance assessment is multiplied by the risk factor to obtain the overall score for each performance indicator. In cases where there are several requirements being evaluated, the scoring was based on the performance range:

61-100%	3
41-60%	2
21-40%	1
0-20%	0

The scores obtained for each performance indicator were then added to arrive at the total score, which was then shown as a percentage of the maximum possible score.

The key performance indicators and the corresponding risk levels used are set out in the Chapter 5.

1.10 Limitation of scope

Our scope was limited by the following:

- Some records, data and documentation relating to the procurement processes selected were not made available and others took time to retrieve; and
- Lack of documented internal control manuals relating to initiation, certification and approvals at various levels.

2 ORGANIZATION OF PCK

2.1 Vision of PCK

To be a dynamic and market oriented postal service provider.

2.2 Mission of PCK

To deliver superior financial, distribution and communication solutions to our customers and create value to our customers.

2.3 The organisation of PCK

The Accounting Officer for PCK, Maj. Gen (Rtd) Hussein Ali, is responsible for ensuring that the PPD Act and Regulations are adhered to. In this respect, his duties (PPDA Section.27) include in respect of the procurement law:

- Establishing all standing committees as stipulated in the Act including Tender Committee, Procurement Committee, Disposal Committee and Inspection and Receipt Committee;
- Establishing a Procurement Unit staffed to an appropriate level with procurement professionals;
- Signing contracts for procurement activities on behalf of the procuring entity for contracts entered into in accordance with the terms and conditions of the award as provided under Schedule One of the regulations;
- Ensuring annual procurement plans are prepared; and
- Ensuring that the procuring entity properly documents procurement proceedings and manages records in accordance with the regulations.

2.4 Scope of procurement expenditure

During the period under review, PCK undertook 2,017 procurement proceedings of total value of Ksh 150,200.444.50 and 1 disposal proceeding amounting to Ksh 2,739,000.00

2.5 Operational income and expenditure

Description	Kshs
Operating expenditure	3,393,316,500.00
Procurement expenditure (2008-2009)	150,200.444.50

Source – PCK *Expenditure estimates budget revision*

Actual expenditure on procurement is approximately 4.4% of total planned operational income.

3 FINDINGS, OBSERVATIONS AND RECOMMENDATIONS

3.1 Functions of Accounting Officer

Finding

The Accounting Officer is carrying out his responsibilities satisfactorily under Section 27 (2) of the PPDA. However, there are some weaknesses having regard to his responsibility at Regulation 7 (e) as follows:

- Has not ensured that the Procurement Unit is staffed to an appropriate level with procurement professionals with the level of qualification and experience required of procurement professionals under section 26(9).
- Has not ensured that the procuring entity properly documents procurement proceedings and manages records in accordance with the procurement law and regulations
- Has not ensured that the Bid Evaluation, Inspection and Acceptance and the Disposal Committees are appointed in accordance with the PDDA and PPDR.

Recommendations

The Accounting Officer should ensure that the weaknesses identified are addressed.

Response:

The filling and documentation is currently being improved

Bid Evaluation, Inspection and Acceptance and the Disposal Committees were all appointed in accordance with the PDDA and PPDR. (See page 18, 19, & 20 of the report)

Number of Trained Persons and Sensitized to the Procurement Procedures

Findings

PPOA (Mrs Njue and Mr Kamande) trained 26 members of PCK on Public Procurement and Disposal Act and the associated regulations.

Recommendation

Although the Corporation has a training policy, strategy and work plan in place to ensure continued development of knowledge and skills in procurement functions, there are some areas where further training needs should be facilitated.

The procuring entity should prioritise their training to include the following:

- Sensitization of new personnel of the PE in requirements of the procurement law and regulations;
-

- Advanced training to improve skills of senior procurement practitioners in
 - Procurement planning;
 - Writing specifications;
 - Qualifying potential suppliers for complex and specialized services;
 - Evaluating bids; and
 - Contract management;
- Specialized aspects of procurement in areas of:
 - Records management;
 - Framework contracting;
 - ICT Manual;
 - Consultancy manual; and
 - Works manual.

The PE should improve liaise with PPOA to link the Corporation’s training strategy with PPOA training priorities.

Response

The Procurement Manager will endeavour to link up with the PPOA Training Section to agree on the time table on the training of our Procurement Staff in the relevant areas.

3.2 Functions of Procurement Unit

Findings

PCK established the PU in accordance with the PPDA and PPDR with a total staff of sixteen officers. Ms Augusta Njagi, the Acting Head of PU is responsible for day-to-day management of the Procurement Unit and is the Secretary to the TC.

The Procurement Unit’s key officials at the time of the review possess qualifications awarded by government training centres but these do not meet the requirements for procurement professional as indicated by KISM. Nor does their experience match the tasks and the complexities of the Corporation’s procurement activities. It was observed that the PE has requested and received two officers from the Directorate of Public Procurement on temporary basis to assist with the streamlining of procurement functions. It was also noted from the discussion with the Accounting Officer that the PE is in the process of recruiting a substantive head of Procurement Unit There was no evidence made available to show that the key procurement personnel are members of any recognised institute of purchasing and supply.

	Name	Designation	Qualifications
1	Augusta Njagi	Ag.Procurement Manager	B.Com(Accounting)
1	K. K. Maala		A Level – Diploma in Purchasing and Supplies
2	Walter Magogo	Procurement Officer	O Level – Certificate in Purchasing and Supplies
3	Peter Akedi	Procurement Officer	O Level – Accounts

			Certificate/Certificate in Supplies Management
4	Veronica Kiio	Procurement Officer	A Level – Diploma in Purchasing and Supplies Management - Foundation Stage
5	Victor Chemarum	Procurement Officer	O Level – Diploma in Purchasing and Supplies Management (KIM)
6	Purity Karani Mumbi	Supplies Officer	O Level -

The team noted the following weaknesses in the PU:

- There is a training strategy and work plan but not linked with the PPOA training schedules, priorities and is not proactive in organising training and expert support for all staff involved in procurement related functions. The current procurement work plan sets out training in integrity, basic computer skills, customer service, procurement and stores management;
- The team observed that the Procurement Unit is not taking any remedial actions on various observations and recommendations made in various Internal Audit Reports touching on the procurement processes that is raised on the basis of PPDA and PPDR;
- Does not maintain and update annually standing lists of registered tenderers required by the procuring entity; (Regulation 8(3)(a));
- Did not submit shortlists and lists of pre-qualified tenderers for supplies of stamps by OSD and Orient Express to the tender committee or procurement committee for approval (Regulation 8(3)(e));
- Does not prepare contract documents as set out in Regulation;;
- Does not maintain comprehensive procurement and disposal filing systems and records in accordance with Section 45 of PPDA and Regulation 34(3) of PPDR;
- Does not follow up with PPOA to ensure that the reports submitted to the PPOA are received;
- Does not update consolidated procurement plans to include changes;
- Does not advise the procuring entity on aggregation of procurement to promote economies of scale in areas of the stationery and office supplies;
- Does not prepare disposal plans in accordance with Regulation 8(3) (w);
- Does not monitor contract management by the User Departments to ensure implementation of the contracts in accordance with the terms and conditions of the contracts(Regulation 8(3)(t));
- Does not carry out periodic market surveys to inform the placing of orders or adjudication by the relevant award committee (Regulation 8(3)(z); and
- Does not conduct periodic and annual stocktaking(Regulation 8(3)(aa).

Recommendation

PU should improve on the all deficient areas.

Although, the Authority is yet to issue a comprehensive definition of a procurement professional, KISM in their presentation to the conference ‘Towards Procurement Professionalism in Eastern Africa’ on 15th – 17th September 2010 at the Whitesands Hotel, Mombasa, Kenya gave the following guidelines:

Academic & professional qualification

- ▶ Formal educational qualifications:
 - PhD & MSc B.Sc Procurement
- Professional exams and certifications:
 - Graduate Diploma in PSM (CIPS UK)
 - Certified Professional in Supply Management (CPSM), ISM,USA)
- ▶ Be registered as members of professional Institution e.g KISM

Response:

- *Future audit reports will be responded to promptly*
- *Corrective measures to update annual standing list of registered suppliers is being undertaken.*
- *Future submission of the report will be properly recorded and confirmed.*
- *The PE is in the process of adopting framework contracts so as to promote economies of scale.*
- *The PE purchases materials only to meet users’ current demand.*

3.3 Functions of the Tender Committee

Findings

The PE has established a Tender Committee as below and it holds regular meetings with minutes.

Name	Role	Date appointed
Enock Kinara	Chairman	20 th Feb.07 – May.09
Andrew Tonui	Vice chairman	20 th Feb.07 – May.09
Ken Oluoch	Member	20 th Feb.07 – May.09
Sally Wainaina	Member	20 th Feb.07 – May.09
Ado Alkama	Member	20 th Feb.07 – May.09
Tom Ogutu	Member	20 th Feb.07 – May.09
Julius Shigoli	Member	20 th Feb.07 – May.09
Erick Buttuk	Alternate member	20 th Feb.07 – May.09
Augusta Njagi	Alternate member	20 th Feb.07 – May.09
Mohamed Abdi	Alternate member	20 th Feb.07 – May.09
Robert Ouko	Alternate member	20 th Feb.07 – May.09
Edgar Imbamba	Alternate member	20 th Feb.07 – May.09
Chris Isabwa	Secretary	20 th Feb.07 – May.09
Phyllis Kipruto	Alternate Secretary	20 th Feb.07 – May.09

The following specific weaknesses were found with the TC records and performance:

- The PE has appointed Phyllis Kipruto as alternate Secretary of the TC. This position is not provided in the Act and Regulation and therefore should be scrapped;
- There is no standard form for the evaluation report used for submission to the TC;
- There is no reference of the evaluation report, survey reports, budget line, approved funds availability and if there was any negotiations in the minutes;
- There is no comprehensive list of all matters considered and decisions reached;
- No certified copy of extract of minutes concerning each procurement was maintained on the individual procurement file;
- Any dissenting opinions were not recorded;
- Tender committee does not review the quarterly reports on procurements that have been awarded by the Procurement Committee as set out in Regulation 10(2) (n). The review team observed only one instance where the CTC reviewed the report for the period April 2008 to June 2008 as per minute No 9/2008 of 29/4/2008;
- The CTC did not approve the additional cost of Ksh 2,926,800.00 in the Tender no PCK/PROC/13/08/09 –Supply, Installation, Testing and Commissioning of CCTV; and
- The audit reports show that some suppliers considered for bidding cannot be traced. This means that the TC is not taking due care to ensure that that person is qualified to be awarded a contract for a procurement only if the person satisfies the criteria set out in Section 31 of the PPDA.

Recommendation

The identified weaknesses in TC operating procedures should be addressed.

Response

- *We no longer have an alternate Secretary.*
- *The invoice was received but no payment was effected since there was no record of variation request or CTC approval –)No variation done therefore no payment neither has the supplier been paid the amount in question).*
- *The standard format for TC was not in use but will be adopted.*

3.4 Functions of the Procurement Committee

Findings

The Procurement Committee is established as below in accordance with Regulation 13 and holds regular meetings with minutes that conform to Regulation 15.

Members of Procurement Committee (2008-2009)

Name	Role	Date appointed
Stephen W. Muriuki	Chairman	20 th Feb.07 – May.09
Peter Korir	Vice chairman	20 th Feb.07 – May.09
Augusta Njagi	Member	20 th Feb.07 – May.09
John Tonui	Member	20 th Feb.07 – May.09

Name	Role	Date appointed
Robert Ouko	Member“	20 th Feb.07 – May.09
Winnie Maru	Alternate member	20 th Feb.07 – May.09
Anne Koech	Alternate member	20 th Feb.07 – May.09
Joseph Alumasa	Alternate member	20 th Feb.07 – May.09
Kennedy Maala	Secretary	20 th Feb.07 – May.09
Veronica Kiio	Alternate member	20 th Feb.07 – May.09

The review team found the following weaknesses in the minutes of the PC, which contravened Regulation 15 (7):

- There is no standard format and price comparison schedule for submissions to PC;
- The list of all matters considered does not refer to the tender or bid number; and
- The audit reports show that some suppliers considered for bidding cannot be traced. This means that the PC is not taking due care to ensure that that person is qualified to be awarded a contract for a procurement only if the person satisfies the criteria set out in Section 31 of the PPDA.

Recommendation

The identified weaknesses in PC operating procedures should be addressed.

Response:

- *We have a Standard Format in place for PC Presentation.*
- *Every matter considered by the committee has a reference number.*

3.5 Functions of the Disposal Committee

Findings

The Disposal Committee is appointed as below and holds regular meetings with minutes.

Members of Disposal Committee (2008-2009)

Name	Role	Date appointed
Mohamed Soi	Chairman	26/3/2009
Felix Gad	Member	26/3/2009
Anne Koech	Member	26/3/2009
Simion Gachara	Member	26/3/2009
Rosemary Barasa	Secretary	26/3/2009

The following deficiencies were found in the review:

- PU does not prepare disposal plans in accordance with Regulation 8(3)(w);
- There was no evidence that the Committee met at least once in every quarter as required by Section 128(2) during the year under review, however currently they are meeting regularly;

- There was no evidence that the recommendations of the committee were approved by the Accounting Officer in accordance with Section 129 and Regulation 92(4);
- The PE does not have written disposal operational procedures that set out the valuation, existence and control mechanism and makes allowances for scrap, obsolete, unusable, and slow moving, or overstocked item; and
- There are no comprehensive individual files for each disposal proceeding.

Recommendations

Procurement Unit should:

- Develop a disposal plan for all the obsolete equipment, furniture, fittings and other assorted items. Disposals should be integral part of planning process. This comprehensive disposal plan should be based on an annual review of assets and related to the procurement plan, as timing of disposal takes place when replacement is scheduled to be delivered;
- Develop written inventory procedures that set out the valuation, existence and control mechanism and make allowances for scrap, obsolete, unusable, slow moving, or overstocked items; and
- Open comprehensive individual files for each disposal activity and where the disposal requirement involves feasibility studies and surveys directly carried out or accepted by the procuring entity in order to prepare the tender documents the reports and other documents resulting from these studies and surveys;

Response

All disposal issues raised have since been addressed and everything is in place currently.

3.6 Functions of Evaluation Committee

Findings

For the tenders reviewed, the following generic weaknesses were observed:

- The PE has a permanent standing evaluation committee appointed in November 2009 contrary to Regulation 16 for the purposes of carrying out all technical and financial evaluation of the tenders or proposals undertaken by the PE.
- The following inconsistencies were noted in the appointment of members the evaluation committee for tender No. PCK/PROC/15/08/09:
 - ✓ The evaluation committee approved by the Corporation Accounting Officer was composed of:- Jane Mutuha, Rosemary Barasa, Dick Rayori, Sorophina Ombati and Catherine Njeru;
 - ✓ The Head of Procurement Unit appointed Jean Nduati, Mary Machina, and Malik Issa who were not approved by the Accounting Officer;
 - ✓ The evaluation report was signed by Agnes Lempaka, Sorophina Ombati, Dickson Royori and Rosemary Barasa;

- The evaluation process of Tender No. TB/11/2008/2009 Supply, Installation and Commissioning of Smart Card System took 106 days in contravention of Regulation 16(5)(b);
- The evaluation committee appointed for tender TB/PROC/14/2008-2009 for Supply and Installation, Testing and Commission of an Alarm Systems at various post offices included “Heads of Departments” who are also members of the Tender Committee contrary to the Regulation 16(4);
- Copies of letters appointing the evaluating teams were not in all the procurement files to ascertain that the team was appointed in accordance with the regulations;
- There was no evidence that each member of the technical evaluation committee evaluated the submissions independently from the other members prior to sharing his or her analysis, questions and evaluation including his or her rating with the other members of the technical evaluation committee as required by Regulation 16(6).

Recommendation

The identified weaknesses in procedures should be addressed:

- The PE should disband the permanent evaluation committee and for a committee as and when required in accordance with Regulation 16;
- The Procurement Unit should ensure that no changes are made to the membership list approved by the Accounting Officer.
- The PU must file all copies of the letters nominating and appointing evaluation teams in the procurement files;
- Each individual team member must evaluate the tender independently before sharing the analysis;
- The evaluation committee should ensure that signed original versions of tender documents provide are used as they best guarantee of authenticity; and
- All tenders must be evaluated within the time limits set out in the Regulations.

Response

All the shortcomings have since been addressed e.g we no longer have Standing Committees.

3.7 Functions of Inspection and Acceptance committee

Finding

Members of Inspection and Acceptance Committee (2008-2009)

Name	Role
Agnes Lempaka	Chair-person
Harris Kulubi	Member
S. K. Chepkalum	Secretary

- There is one standing committee appointed for all inspection activities under Regulation 17. The team observed from the discussion of the committee’s inability to adequately

assess the full range of the commodities being procured by the Corporation because of lack of sufficient resources within the committee; and

- The team did not find any certificate of completion of project or consultancies issued by the inspection and acceptance committee as provided by Regulation 17(4) (a).

Recommendations

- While the review team noted that the standard *Inspection and Acceptance Report Form* will shortly be released by PPOA, the Procurement Unit should meantime develop interim certificates that conform to the requirements of the PPDR, to be certified by the inspection and acceptance committee members after inspection of the complex goods, works and services;
- The PE should consider appointing the inspection and acceptance committee for specific procurements as and when required so that the membership has reasonable knowledge of the commodities or services being inspected; and
- Whenever appropriate the committee should undertake test for goods to determine their functionality instead of relying solely on visual and physical examination.

Response

All the issues raised concerning inspection and acceptance have been addressed and the committees are appointed for each tender whose membership includes the user, technical person and a stores representative.

3.8 Systems and procedures for implementation of the procurement law and regulations

Findings

- The Corporation has not yet established procedures for implementing procurement decisions in accordance with Section 26(1). There is no procurement operational manual;
- The review team did not find any schedules of duties in the Corporation outlining separation of functions. It is therefore difficult to determine whether there is clear separation of powers for those undertaking initiation, processing, and receipt;
- There is limited awareness of updated publications, directives, manuals, and standard documents prepared and distributed by PPOA in accordance with Section 9(c) (i) of the PPDA to be used by procuring entities;
- The majority of the staff involved in the procurement related functions that the team spoke to did know the existence of the following manuals published by PPOA:
 - General Manual;
 - ICT Manual;
 - Insurance Manual;
 - Non-Intellectual Services Manual;
 - Projects Manual;
 - Works Manual;
 - Procurement Records Management Procedures Manual; and
 - User Guide.

Recommendations

- The Corporation should put in place appropriate systems and procedures that distribute procurement information including manuals, guidelines and directives from PPOA to the appropriate people, at the necessary level of detail, on a timely basis and that is accessible to all those involved in procurement related functions; and
- The PE should prepare an operational schedules manual that incorporates the requirements of the PPDA, PPDR and the General Manual.

Response

There is no Procurement Manual in place currently but we are working on developing one.

3.9 Threshold matrix and segregation of Responsibilities.

Findings

The Corporation did not provide schedules of duties to enable the review team to observe and verify if the requirements of First Schedule of PPDR are being followed in the initiation and approval of the procurement processes.

Recommendations

Prepare written operational procedures and systems that set out the initiation and approval of the procurement activity in accordance with First Schedule of PPDR.

Response

This will be catered for in the operational manual once completed.

3.10 Poor record keeping and filing systems of the procurement documents

Findings

The procurement files are not complete, as they do not contain all the documents used in a procurement activity as provided in the Regulation 34(3).

The procurement records were fragmented and different documents relating to procurement are kept by different offices, e.g. Finance, Accounts, and Stores.

Recommendation

- The PE should strengthen the process of collecting, collating classifying and analyzing procurement expenditure data with the purpose of reducing procurement costs, improving efficiency and monitoring compliance. This will also impact in other areas such as inventory management, budgeting and planning, and service delivery. Procurement expenditure analysis can provide answers to such questions as:
 - ✓ What was bought;

- ✓ When was it bought;
 - ✓ With whom did we buy it; and
 - ✓ How much did we pay for it?
- The Procurement Unit should upgrade the filing systems and records management to conform to the provisions of Section 45, Regulation 34(3), General Manual, Procurement Records Management Procedures Manual and recommendations of in the associated *Report on the Management of Records of the Postal Corporation of Kenya, prepared by ARD*;
 - The PU should ensure that a complete file is maintained for each procurement activity. The file should contain all the relevant documents starting with the purchase requisition, documents for the tendering process, evidence of receipt and payment for goods. As far as possible, these should be original documents, or where not possible, certified copies of the originals; and
 - The entity needs to consult with the PPOA on the e-procurement systems being considered for future adoption.

Response

This is true and we are currently improving on our filing system:

- *The PE is in the process of appointing a records management manager who will give guidance on the best way to upgrade the filling system.*
- *An officer in procurement has been assigned the duties of records management as we await the appointment of a professional.*

3.11 Procurement Planning

Findings

- There was no annual procurement plan for the period under review as stipulated in the General Manual and all procurements reviewed were not integrated with applicable budget processes and based on indicative or approved budgets in accordance with regulation 20(2). The team, however verified the current period and found that this is now being done;
- There are no individual procurement plans for general services, consultancy services and civil works as provided in the General Manual Chapter 6.5;
- Multi-annual, rolling work plans for procurement are not prepared by each User Department and there is no indication whether the requirements should be procured under single-year or multi-year arrangement (Regulation 20(3));
- The current procurement plan is inadequate both for planning and as a monitoring tool as it is not linked to the contract management process;
- There is no evidence that the procurement plans are regularly updated to accommodate changes during the year; and
- The review team were not provided with User Departmental annual procurement plans, which were submitted and approved by the Accounting Officer at least thirty days before the close of each financial year (Regulation 20(4)).

Recommendation

- Planning is essential for effective procurement. Procurement planning entails more than the development of estimates for various goods, civil works and services. It combines the legal and institutional frameworks within which procurement must be carried out. The Corporation should develop procurement plans that conform with the requirements of the Act, associated regulations and General Manual;
- The PU should conduct procurement planning meetings with User Departments more frequently so that the users can be assisted with technical expertise; and
- The work plan of the Procurement Unit should include preparation and updating of the procurement plan in regular progress reports (giving status of procurement progress, reasons for delay and revised procurement schedule).

Response

This is currently in place.

3.12 Purchase requisitions

Findings

- The procurement processes are not initiated by the standard purchasing requisition forms as provided for by Regulation 22(1). Procurement processes are initiated by the internal memos from user departments, which do not indicate that they have been originated by the authorized official and approved by the official within the threshold for procurement being considered (First Schedule of PPDR);
- There is no budget line indicated on the memos to show source, allocation, and availability of funds in the budget for particular procurement, or authority to incur expenditure for the purchases requested; and
- The memos do not indicate that the estimated value of the goods, works or services are realistic and based on up-to-date information on economic and market conditions as provided in Regulation 22 (2).

Recommendation

- The review team noted that the standard Purchase Requisition Form is expected to be released by PPOA shortly. At the time of the review, the PE is using internal memos to initiate procurements. In the meantime, the Procurement Unit should put in use an interim purchase requisition form that conforms to the requirements of the PPDR, General Procurement Manual and directives from PPOA. The review observed that there is already a purchase requisition form in place but not being used; and
- The Procurement Unit should put in place a central control register for all requisitions received in the unit in order to put in place sufficient procurement internal control.

Response

The procurement processes are initiated upon receipt of requisitions authorized by finance upon confirmation of availability of funds.

3.13 Prequalification and registration of suppliers

Findings

- There is no approved standing list of registered suppliers in place as required by Regulation 8. (3)(a). There was no evidence that the entity undertook evaluation of the suppliers to ascertain:
 - ✓ The person has legal capacity to enter into legal contracts;
 - ✓ The person is not debarred from participating in procurement proceedings under Section 115 of the Act and Regulations 90 and 91;
 - ✓ The person is solvent; and
 - ✓ The supplier is not precluded from entering into the contract with the person under Section 33 of the PPDA.
- There is no prequalification undertaken for specialised, complex and high value goods or services required by the entity for solicitation of restricted goods or services. The team could not ascertain how the suppliers considered for the supplies of stamps were selected.

Recommendation

- The PE should maintain and update annually standing lists of registered tenderers required by the procuring entity and liaise with the Authority in respect of the Authority's procuring agents;
- Undertake pre qualification in accordance with Regulation 23 of suppliers for specialised and complex procurements;
- Before approving or prequalifying a particular supplier, PU in conjunction with the user department should conduct a supplier evaluation to validate the information provided by the bidders or pre-qualified bidders and to assess whether suppliers' performance meets the expectation or does not meet the expectation in terms of quality of goods and services; and
- There is also need to strengthen supplier performance evaluation The PE should ensure a 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).

Response

- *The List of Suppliers considered for the supply of stamps has been developed since the incorporation of East African Post & Telecommunications Corporation and is usually updated by getting conducts at international forums and international Post Exhibitions. Their performance is usually counterchecked with other postal administrations who have done business with them.*
- *Pre-qualification/Registration exercise for suppliers will be carried out before the end of the financial year 2010/2011.*

3.14 Specifications

Findings

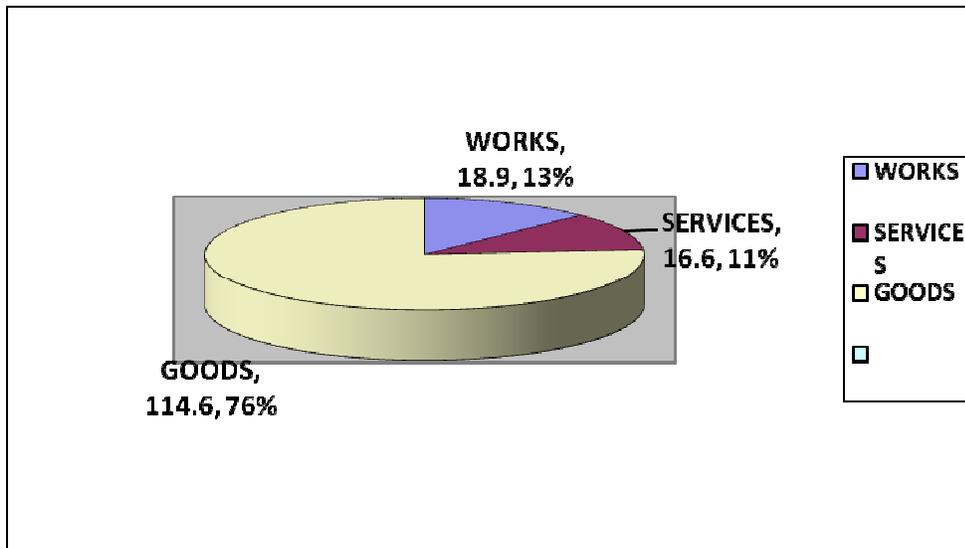
- The User Departments prepared the technical specifications and submitted the requests to the Procurement Unit; and
- The PE uses clear, objective, neutral and functional or technical specifications and in accordance with Section 34 of the PPDA.

3.15 Choice of procurement method

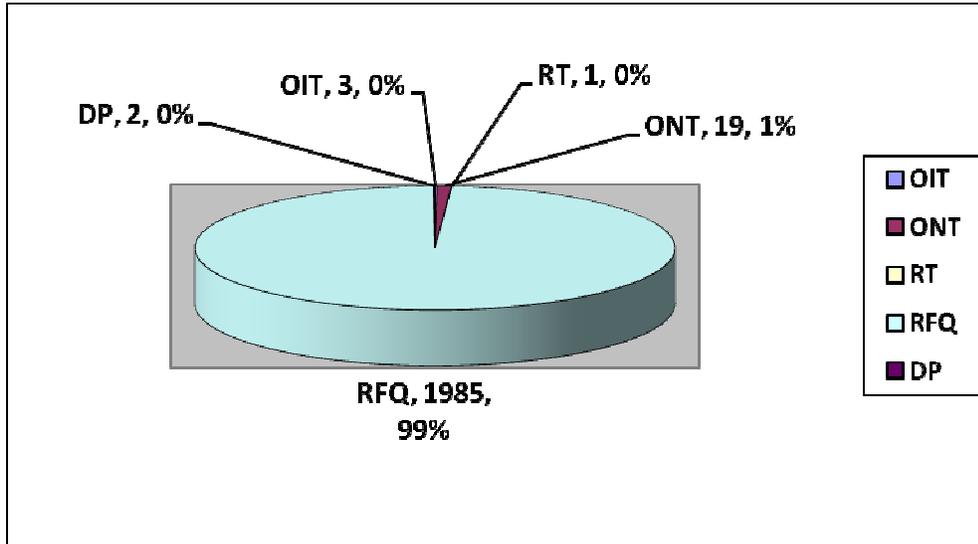
3.15.1 Total Number and value of procurement methods

Type of Procurement method	Number of Transactions	Value of the proceedings
DP	2	2,143,848.00
RFP	1	750,000.00
OIT	3	3,485,650.00
ONT	19	95,996,901.00
RT	1	6,678,548.00
RFQ	1985	41,069,982.70
TOTAL	2011	150,124,929.70

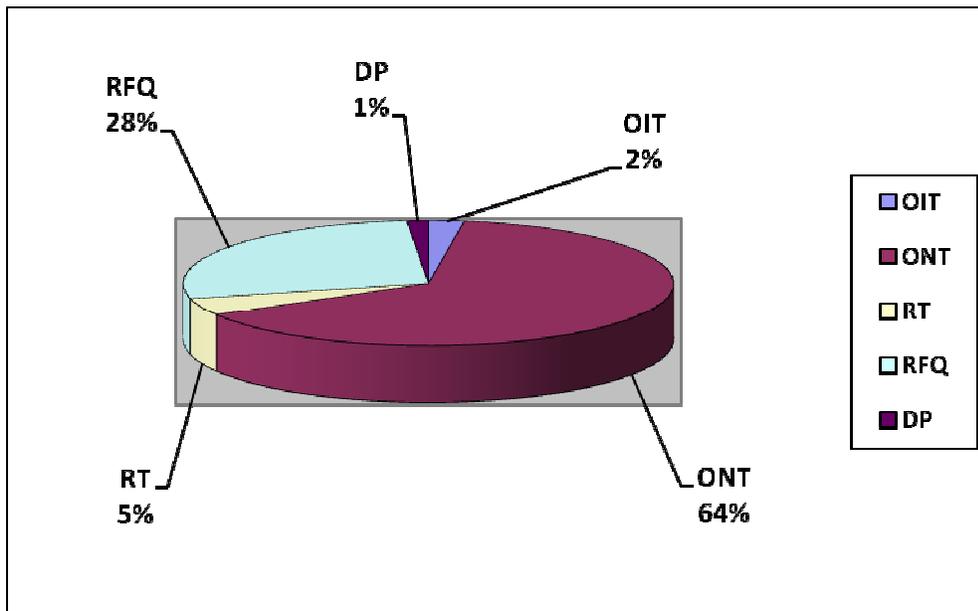
3.15.2 Procurements by Categories



3.15.3 Procurement method by number of transactions



3.15.4 Procurement method by Value



Open tendering is the main procurement procedure as stipulated in the PPDA at 64% of the expenditure on procurement for the period under review.

The review did not find any cases where procurements were split intentionally to evade the appropriate procurement method provided in the Act. The team observed that many common

user goods and services currently being procured on RFQ takes a lot of the level of effort, currently standing at 99% of the transactions of the procurement proceedings.

The PE does not consider aggregation techniques where specifications and needs are identical and economies of scale can be made as set out in the Regulation 8(3)(x),10(2)(f) and General Manual Chapter 6.3. The PE is seeking quotations for procurement proceedings as low as Ksh 500.00.

Recommendation

- The PE should adopt the use of framework contracting for the common user items in order to reduce the repeated use of RFQ;
- The PE should consider allotment techniques where large and complex procurement requirements may be segregated into smaller lots that are either bundles of similar supplies or lots permitting more competition; and
- The PU should seek the TC approval for the choice of direct and restricted tendering method as required by PPDA.

Response

Aggregation is in progress. Framework contracting has been adopted for some items.

3.16 Preference and reservations

Findings

The PE has not applied preference and reservations as provided in Section 39 (8) of the PPDA for procurements that were 100% funded by the Government of Kenya and below the thresholds prescribed in Regulation 28 (1). The PE did not provide any reason for not applying these preferences.

Recommendations

The PE should apply preference and reservations as provided in Section 39 (8) of the PPDA.

Response

The PE did not receive any funding from the government during the year under review.

3.17 Preparation of tendering documents

Findings

The appropriate standard tender documents as prescribed in Section 29(4) of PPDA, Third Schedule of the PPDR and General Manual are not used in all procurement processes reviewed.

The PE has not adopted some of standard bidding documents as specified in the Third Schedule of the Regulations namely:

- Request for quotation form;
- Procurement requisition form;
- Order amendment form;
- Tender register;
- Application for adjudication of tenders/quotation;
- Board of survey form;
- Standard tender document for disposal;
- Standard tender documents for management contracts;
- Application for adjudication of tenders/quotation;
- Disposal certificate;
- Order amendment form; and
- Standard tender documents for preference and reservations.

The review team acknowledged that most of the standard tender documents are presently under review by PPOA and that some existing documents do not conform to the present law. The PE should liaise with PPOA to agree how to handle the documents required by Regulations but not operational.

Recommendations

- The PE should adopt the recommended standard bidding documents and procurement forms that are relevant to its procurement and disposal procedures, once the PPOA's revision of these documents and forms has been completed. In the cases of where the document is still in preparation by PPOA, the Corporation should liaise with PPOA and agree on the appropriate form to be used; and
- The PE should take advantage of the ARD training workshops for the revised standard bidding documents currently being organised in collaboration with PPOA.

Response

The PE is currently using most of the PPOA forms and we will liaise with ARD to get the program for training so as to nominate some members to attend.

3.18 Advertisement of tender opportunities

Finding

- The PE has taken reasonable steps to bring the invitation to open tender to the attention of those who may wish to submit tenders, in accordance with Section 54 of PPDA. The PE has a dedicated portal for tenders on its website; and
- Advertisements indicate the closing date and time, with an invitation to bidders to attend the bid opening.

3.19 Modification to tender documents

Finding

The tenders reviewed did not have any modification. The PE was therefore not evaluated on this indicator.

3.20 Submission and Receipt of Bids

Finding

- There is a secure facility for the receipt of tenders provided at the designated tender location, with two locks with keys for each lock kept by a different officer; and
- Tender opening procedures are carried out in accordance with Section 60 of PPDA and Regulation 45.

3.21 Formation of Contracts

Findings

- Copies of notifications of award letters sent out to all the unsuccessful bidders in accordance with Section 67 of PPDA are not recorded in the procurement files;
- Signed 'Acceptance of offers' were not filed in the procurement files;
- Security bonds were not recorded in the procurement file;
- Performance bonds were found to have been requested but not recorded in the procurement file; and
- The Accounting Officer did not sign contract agreements for Tender TB/11/2008-2009 and TB/18/2008-2009.

Recommendations

- Record copies of the released security bond in the procurement file;
- Record copies of performance bonds in the procurement files;
- Record all advance payment or progress payments secured by the performance bond or bankers guarantee in procurement file.
- Ensure written contract agreement are entered into in accordance with section 68 and Regulation 7(c)

Response

The PE will ensure all files being opened conform to the requirements of the Act & Regulations.

3.22 Termination of Proceedings

Findings

During the period under review, procurement proceedings were terminated in accordance with Section 36 (1) of the PPDA and reported to PPOA.

3.23 Notification to PPOA

Finding

The following contracts over Ksh 5 million were not reported to the PPOA as required by directives from PPOA, although the PE maintains that it notified PPOA appropriately. A copy of a memo to PPOA was shown to the review team but PPOA do not acknowledge having received them.

TB/PROCI05/08/09	Supply of Motor Vehicle	ONT	Goods	28,620,750.00
PCK/PROC/13/08/09	Supply installation of CCTV	ONT	Goods	14,380,530.00
TB/PROCI05/08/09	Supply of Motor Vehicle	ONT	Goods	10,896,480.00
TB/PROCI05/08/09	Supply of Motor Vehicle	ONT	Goods	9,088,380.00
TB/PROC/12/08/09	Supply of Office furniture for ICT	ONT	Goods	5,781,190.00
PCK/PROC/18/08/09	Purchase of spare parts for Secap	DP	Service	2,027,732.80

Recommendations

The PE should notify PPOA of all the procurement and disposal as follows directed by the PPOA as follows:

- All procurement contracts of Ksh 5,000,000.00 and above;
- All terminated procurement proceedings;
- All direct procurement of Ksh 500,000.00 and above; and
- All disposals made to employees.

Care should be taken to ensure that communications sent to PPOA are received and acknowledged.

Response

Report to PPOA is being done now and we endeavour to adhere to the rules and regulations as required by the Procurement Act.

3.24 Enquiries and Complaints Mechanism

Findings

The Corporation does not have documented systems and procedures for handling bid complaints and does not keep a complaints/protest log.

Recommendation

Introduce a documented systems and procedures for handling bid enquiries and complaints and keep a complaints/protest log.

Response

A bid complains/protest log record file has now been opened.

3.25 Follow up of ARB decisions and recommendations.

Findings

There was no procurement taken to the review board for the period under review so the PE was not evaluated on this indicator.

3.26 Value for Money

Finding

The PE does not compare their prices for common user items with the PPOA index.

Recommendations

The PE should seek to enhance value for money.

Response

The PE will ensure future purchases are compared with the PPOA price index to enhance value for money.

3.27 Contract Management

Findings

The team observed the following weakness in the contract management:

- No contract files were opened for the contracts reviewed;
- There is no contract management plan;

- Performance bond raised before the contract is approved but not filed in the procurement file;
- Advance payment are not reflected in the procurement file;
- Inception report for projects delivered not filed in the procurement file;
- Progress reports/works complete/time period completed are produced but not filed in the procurement file;
- Final payment records made are not recorded in the file; and
- There is no contract register maintained by PU.

Recommendations

PU to enhance management and administration of procurement contracts as provided in Chapter 9 of the General Manual.

Response

The PU will enhance management and administration of procurement contracts.

4 SPECIFIC FINDINGS

4.1 Tenders without signed contracts.

4.1.1 Tender No. TB/2008/2009: Supply, Installation and Commissioning of Smart Card System.

Procurement Value: Ksh 22,842,279.20

Procurement Method: ONT

Findings

- The evaluation process took over 35 days in contravention Regulation 16(5)(b)(7) (b);
- The tender was awarded to M/s Smart Application International Ltd as per CTC minute No. 65/2009 of 09/04/2009;
- Notification of award was sent to the bidder on 14/4/2009;
- The secretary to CTC (Manager Procurement) in his memo dated 14/4/2009 requested the corporation secretary to prepare the contract after expiry of 14 days to be executed on or after 23/4/2009;
- There is no contract agreement prepared and signed by Accounting Officer in accordance with Section 68(3), Regulation 7(c), 8(3)(k). and General Manual Chapter 7.5(r)

4.1.2 Tender No. TB/18/2008/2009 – Spare parts for Secap Stamp Cancellling Machine

Procurement Value: Ksh 2,027,732.80

Procurement Method: OIT

Findings

- The tender was awarded to M/S Mailing & Business Automation Sales (PTY) Ltd SA as per CTC minutes No. 10/2009 of 27/1/09 for Euro 18,783.96 (Ksh 2, 027, 732.80)
- There is no contract agreement prepared and signed by Accounting Officer in accordance with Section 68(3), Regulation 7(c), 8(3)(k). and General Manual Chapter 7.5(r)

Recommendation:

The Procurement Unit should ensure that contract agreements are prepared for all procurement proceedings within the threshold as set out in the Act and regulations.

Response:

The PU will ensure all contracts are signed by both parties before execution in accordance with the Act and Regulations.

4.2 Variations of Contact without approval of the Tender Committee

4.2.1 Tender: PCK/PROC/13/08/09 –supply, installation, testing and commissioning of CCTV.

- The project was financed by Universal Postal Union (PU);
- The tender was awarded to M/S Bosqure Business System as per CTC minute No 96/2009 of 5/6/2009 at the cost of Ksh 14 380 530.00;
- The contract was signed on 23/6/09;
- The contractor on 23/10/2010 billed the corporation for additional Kshs2,926,800.00 for extra work done and items supplied for the project;
- There is no evidence that the additional cost was approved by the CTC and there is no evidence that the invoice have been settled;
- Besides, it was also observed that the contractor quoted for 183 cameras but only stalled 128 cameras and suggested that the balance be installed in the EMS and banking hall. This amounted to variation of specification and functionality of the original items; and
- The goods were not delivered within the period specified in the contract.

Recommendation:

The PE should address the deficiencies and also verify that the variation made without the approval of the Tender Committee did not substantially alter the performance and functionality of the equipment

Response:

The invoice was received but no payment was effected since there was no record of variation request or CTC approval.

4.3 Lack of response to or implementation of recommendations made on internal audit report findings:

We noted that recommendation made in various Internal Audit Reports on the procurement processes have neither been responded to nor actioned by the Procurement Unit as follows;

- Most of the bidders pre-qualified and invited to bid for tender No TB/PROC/11/2007-2008 (Repainting of the external surfaces of Posta headquarters building); Tenders No.TB/PROC/2007-2008. (Design and construction of data centre); Tender No.TB/PROC/08/2006-2007 (Refurbishment of Kakamega Post office) could not be traced through the given addresses and/or phone numbers. There was low response to bid solicitations.
- On tender No TB/PROC/30/2005-2006- for the supply of modern PABX, which was awarded to M/S Pegrume Ltd at a cost of Ksh 46,527,182.24, it was observed that 32 basic single line IP phones and 8 attendant console phone were not delivered;
- On internal reports Ref No. DF5004/nyz/2009/2007/2008 dated 30/5/08 and Ref.DF5004/audit/NYZ/10/2009/2010 dated 5/5/2010, it was observed that cash purchases of material and labour were made by the foreman of works without the

involvement of the Regional procurement officer and there was lack of records of material purchased; and

- On Audit report Ref DF: 5004/E/017/9/10 dated 29/6/2010 it was observed that the Eastern region lacks list-registered suppliers.

Recommendation:

The PE should ensure that the above deficiencies identified by the internal auditor are adequately addressed.

Response:

Future audit reports will be responded to as soon as they are received.

4.4 Poor response to request for quotation from bidders.

- The review team noted instances of poor response to request for quotation sent to bidders by the corporation. This may indicate that either quotations are sent non-existent firms or a proper process was not used in listing suppliers i.e.

RFQ No.	Bids collected	Response
PP3/22/08/09	8	1
PP1/70/08/09	6	2
PP3/69/08/09	6	2
PP3/59/08/09	7	1

- The review team noted internal audit observations that they could not trace many of the firms requested to quote.

Recommendations:

The Head of Procurement Unit should prepare and update the list of suppliers to ensure that accurate profile of suppliers is maintained.

Response:

The PE will endeavour to update the list of suppliers annually

4.5 Discrepancies noted in the appointment of members the evaluation committee for tender No. PCK/PROC/15/08/09.

- The evaluation committee approved by the Corporation Accounting Officer was composed of:- Jane Mutuha, Rosemary Barasa, Dick Rayori, Sorophina Ombati and Catharine Njeru;
- While procurement manager sent letters to Jane Mutuha, Catharine Njeru., Jean Nduati*, Mary Machina, Malik Issa* and Rosemary Barasa;

- The evaluation report was signed by Agnes Lempaka*, Sorophina Ombati, Dickson Royori and Rosemary Barasa;

The names marked with the star (*) were therefore not appointed by the Corporation Accounting Officer.

Recommendations:

The Accounting Officer must approve any changes to the tender evaluation committee membership.

Response:

The PU will ensure all future changes to the tender evaluation committee's membership are approved by the Accounting Officer.

5 COMPLIANCE RATING									
Item	Performance Indicator	Indicates aspect of the procurement	Scores				Max score	Actual score	
			3	2	1	0			
1	Functions of Accounting Officer (1)	The Accounting Officer is carrying out his responsibilities under Section 27 (2) of the PPDA and has ensured that the procuring entity fulfils its obligations by ensuring that all provisions of the PPDA, the PPDR and directives of PPOA are complied with		2			3	2	
2	Functions of Procurement Unit (3)	The key procurement officials have professional qualifications in procurement and supply management from a recognised institution.			1		9	3	
		The Head of Procurement Unit and key staff with procurement responsibilities have received training in PPDA, PPDR, and General Manual.	3				9	9	
		The key procurement officials are members of a recognised institute of purchasing and supply.				0	9	0	
		The functions of the Procurement Unit as set out in Regulation 8 of the PPDR are satisfactorily complied with		2			9	6	
3	Functions of Tender Committee (3)	Tender Committee is established in accordance with PPDA and PPDR and holds regular meetings with minutes that conform to Regulation 12	3				9	9	
		The functions of the Tender Committee as set out in Regulations 10 of the PPDR and Chapter 4.5 of the General Manual are satisfactorily complied with.		2			9	6	
		The approvals by Tender Committee conform to Regulation 11.		2			9	6	
4	Functions of Procurement	Procurement Committee is established in accordance with Regulation 13 and holds regular meetings with minutes	3				9	9	

	Committee (3)	that conform to Regulation 15						
		The functions of the Procurement Committee as set out in Regulations 14 of the PPDR and Chapter 4.4 of the General Manual are satisfactorily complied with.		2			9	6
		The Procurement Committee has submitted quarterly reports to the Tender Committee on contracts it has awarded				0	9	0
5	Functions of the Disposal Committee (3)	The Disposal Committee is established in accordance with Section 128 and holds regular meetings with minutes.	3				9	9
		The functions of the Disposal Committee as set out in the PPDA, PPDR and Chapter 12 of the General Manual are satisfactorily complied with.		2			9	6
6	Functions of Evaluation Committees (3)	Evaluation committees have been appointed as and when required within the threshold of the Tender Committee		2			9	6
		The evaluation committees have undertaken technical and financial evaluation of tenders or proposals strictly in accordance with the compliance and evaluation criteria set out in the tender documents			1		9	3
		No person has been appointed to serve in the Evaluation Committee if that person is a member of the Tender Committee of the procuring entity			1		9	3
		Each member of the technical evaluation committee has evaluated independently from the other members prior to sharing his or her analysis in accordance with Regulation 16 (6)				0	9	0
		Evaluation committees have prepared a report analysing the tenders received and final ratings assigned to each tender and submitted the report to the Tender Committee in accordance with Regulation 16 (9)		2			9	6
		Tender evaluation has been completed within 30 days of tender opening (with a further 5 days allowed where there is separate financial evaluation)		2			9	6
7	Functions of	The Inspection and Acceptance Committee has been		2			9	6

	Inspection and Acceptance Committee (3)	established and undertakes its functions in accordance with Regulation 17 of PPDR and Chapter 4.7 of the General Manual and makes appropriate use of quality assurance organisations or specialists where appropriate.							
8	Systems and procedures for implementation of the procurement law and regulations (3)	There are comprehensive and written operational procedures and systems which are updated regularly, setting out how the PPDA, PPDR and directives are being implemented in the PE, as stipulated in Section 26(1)				0	9	0	
		The Head of the Procurement Unit is generally aware of updated publications, directives, manuals, and standard documents prepared and distributed by PPOA			1		9	3	
		The procurement publications are in a central location that is accessible to all persons who want to refer to them, as provided in Chapter 1.8 of the General Manual				0	9	0	
		Manuals including the General Manual and guidelines are available to all persons involved in procurement related functions				0	9	0	
9	Threshold matrix and segregation of responsibilities (3)	The threshold applied conforms to Section 26 of PPDA and the category determined by Gazette Notice No. 719 of 24 January 2007 and the First Schedule of Regulations.		2			9	6	
		The person responsible for procurement initiation for each procurement method and threshold is as provided for in the First Schedule of the PPDR		2			9	6	
10	Record keeping of the procurement activities (3)	Adequate and comprehensive procurement records are maintained in accordance with relevant provisions of PPDA, PPDR and the Procurement Records Management Procedures Manual throughout the procurement process and provide sufficient information to enable an audit or independent review			1		9	3	
		The procuring entity maintains a comprehensive and individual file for each procurement requirement containing all information, documents and communications relating to that procurement proceeding				0	9	0	

		with such files being marked with the relevant procurement reference number.						
11	Procurement planning (3)	All procurements have been undertaken within the approved budget of the procuring entity and have been planned by the procuring entity through an annual procurement plan, as stipulated in Section 26 of PPDA		2			9	6
		The Heads of User Departments have submitted annual departmental plans to the Accounting Officer at least thirty days before the close of each financial year as stipulated in Regulation 20 (4)		2		0	9	6
		Where appropriate every significant procurement has an individual procurement plan in accordance with Chapter 6.5 of General Manual				0	9	0
		All procurements are undertaken on the basis of the consolidated procurement plan which is regularly updated and linked to the approved budget of the procuring entity and approved by the Head of the procuring entity and where applicable by the board of directors or a similar body			1		9	3
12	Purchase requisition (2)	Each procurement proceeding is initiated using an official procurement requisition form containing all necessary information pertaining to the procurement in accordance with Regulation 22			1	0	6	2
		The requisitions are generated from the consolidated procurement plan				0	6	0
13	Prequalification and registration of suppliers (3)	There is a standing list of registered suppliers prepared in accordance with Regulation 8 (3) (a)			1	0	9	3
		Prequalification for works, goods and services of complex and specialized nature is carried out in accordance with the procedures in Section 32 and Regulations 23-25 and the PE has ensured that tenders are sent to all pre-qualified suppliers and contractors			1	0	9	3

		Qualification to perform a contract is determined based on possession of the necessary qualifications, capability, experience, resources, equipment and facilities to provide what is being procured				1	9	3
		The PE has ensured a 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).				0	9	0
14	Specifications (3)	The procuring entity uses clear, objective, neutral and functional or technical specifications and in accordance with Section 34	3				9	9
15	Choice of procurement method (3)	Open tendering is the main procurement procedure as stipulated in Section 29	3				9	9
		Alternative procurement methods used by the PE are chosen in accordance with the criteria in Part VI of the PPDA		2			9	6
		Procurements are not split to evade the appropriate procurement method, in accordance with Section 30	3				9	9
16	Preference and reservations (3)	The PE has applied preferences and reservations in accordance with Section 39 and Regulation 28 and any Guidelines which may be issued				0	9	0
17	Standard Tendering Documents (3)	The prescribed procurement documents are used in accordance with Section 29 (4), Regulation 33 and the Third Schedule of the PPDR		2			9	6
18	Advertisement of tender opportunities (3)	The procuring entity has taken such steps as are reasonable to bring the invitation to tender to the attention of those who may wish to submit tenders, in accordance with Section 54	3				9	9
		Advertisements indicate the closing date, and time, with an invitation to bidders to attend the bid opening	3				9	9

19	Modifications to tender documents (2)	Any modification to tender documents are set out in an addendum which is promptly provided to each person who obtained the tender documents, as required by Section 53 (3)					N.A.	NA
20	Submission and receipt of bids (2)	A secure facility for the receipt of tenders has been provided at the designated tender location, with two locks with keys for each lock kept by a different officer and box remaining locked until the time for tender opening.	3				6	6
		Tender opening procedures are carried out in accordance with Section 60 and Regulation 45	3				6	6
21	Formation of contract (2)	Notification of acceptance of tender is given to successful and unsuccessful tenderers in accordance with Section 67		2			6	4
		Written contract is entered into in accordance with Sections 68-70		2			6	4
		Bond security released and recorded in procurement file			1		6	2
		Performance bond raised and recorded in procurement file			1		6	2
		Any advance payment is adequately secured by the performance bond or bankers guarantee and recorded in procurement file				0	6	0
22	Termination of proceedings (2)	Any termination of procurement proceedings has been carried out in accordance with Section 36 and approved by the Tender Committee		2			6	4
23	Notification to PPOA (1)	Notification is provided to PPOA of Contracts over Ksh 5 million		2			3	2
		Direct procurement over Ksh 500,000		2			3	2
		Termination of procurement proceedings		2			3	2
		Disposals to employees					NA	N/A
24	Enquiries and Complaints mechanism (1)	There are systems and procedures for handling bidders' enquiries and complaints				0	3	0
25	Follow up of ARB decisions and	The PE has taken adequate remedial action on any ARB decisions and observations made following appeal					N.A.	NA

	recommendations (2)							
26	Value for money (3)	The PE has sought to maximize economy and efficiency and to obtain value for money in its procurements			1		9	3
							471	239

Compliance level $239/471*100=50.7\%$

6 ACTION PLAN

TASK	BY	TIMELINE
Recruit substantive Head of Procurement Unit	AO	Currently the unit is headed by a professional on secondment on acting capacity.
The PE should upgrade the filing systems and records management to conform to the provisions of Section 45, Regulation 34(3), General Manual, Procurement Records Management Procedures Manual and recommendations of in the associated Report on the Management of Records of the Postal Corporation of Kenya, prepared by ARD. Where possible the record keeping system should be computerised.	AO/PU	By end of FY 2011/2012
Prioritise their training to include the following: <ul style="list-style-type: none"> • Sensitization of new personnel of the PE in requirements of the procurement law and regulations; and • Advanced training to improve skills of senior procurement practitioners in specialized aspects of procurement for those involved in procurement management. • Specialized training on specific aspects including Works and Framework Contracting 	AO/PU	Commencing Financial Year 2011-2012
PE should improve on the deficient areas identified in PU functions	PU	FY 2011-2012
PE to address all the identified weaknesses in TC operating procedures	PU/PC	By end of FY 2011-2012
PE to address all the identified weaknesses in PC operating procedures	PU/PC	By end of FY 2011-2012
PE to address all the identified weaknesses in evaluation committee appointments and operating procedures. Evaluate all tenders within the time limits set out in the Regulations	PU/PC	By 30/06/2011
Update consolidated procurement plan regularly	PU	Immediately
Prepare individual procurement plans as provided in the General Manual	PU	In force
Prepare a disposal plan for the Corporation	PU	By 30/06/2011
PU in conjunction with the user department should conduct a supplier evaluation to validate the information provided by the bidders or pre-qualified bidders and to assess whether suppliers' performance meets the expectation or does not meet the expectation in terms of quality of goods and services;	PU	By 31 st December 2011
Undertake a 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).	PU	Immediately
Develop systems and procedures that will produce measurable value for money in the procurement systems		By 31 st December 2011
Compare prices of common user items with the PPOA price index	PU	1 st February 2011

where appropriate		
Initiate consultation with PPOA on the current procurement operational procedures manual to ensure that it conforms to the requirements of the PPDA and PPDR.	PU	1 st February 2011
The Corporation should put in place appropriate systems and procedures that ensure regulatory procurement information including manuals, guidelines and directives from PPOA are distributed to the appropriate people.	PU	1 st July 2011
Develop interim certificates that conform to the requirements of the PPDA and PPDR, to be certified by the inspection and acceptance committee members after inspection of the complex goods, works and services.	PU	1 st July 2011
Introduce the use of the recommended standard bidding documents and procurement forms as provided in the Third Schedule of the PPDR.	PU	In operation
The procurement publications from PPOA should be placed in a central location that is accessible to all persons who want to refer to them.	AO/PU	Commencing Financial Year 2011-2012
The PE should appoint specific inspection and acceptance as and required whose members have reasonable knowledge of the commodities or services being inspected. Whenever appropriate the committee should undertake test for goods to determine their functionality instead of visual and physical evaluation.	AO/PU	Currently in compliance
The secretary should develop standard template for TC submissions and reporting with comprehensive pertinent information including budget lines to guide the members in making informed decisions conforming to the Act and regulations.	PU	1 st February 2011
Open comprehensive contract filing systems and control registers.	PU	Commencing Financial Year 2011-2012
Introduce documented systems and procedures for handling bid complaints and keep a complaints/protest log for providing necessary information internally as well as to all interested stakeholders		Immediately
The PC should start submitting quarterly reports to the tender committee as required by the PPDR.	PU	1 st report to be made for 3 rd quarter by 15 th April 2011
Introduce the use of preference and reservations schemes as provided in the PPDA	A0/PU	In compliance and to improve on it
Submit all notification reports for procurement and disposal proceedings to PPOA as required by the PPDA, PPDR, and directives from PPOA.	PU	In compliance

6 CONCLUSION

We have reviewed procurement functions and procedures to verify whether they conform to the Public Procurement and Disposal Act 2005 and the related regulations. We have also assessed whether the functions comply with generally accepted good practices. We have identified deviations in general areas and procurement stages and attached ratings to them.

The review team identified the following challenges faced by PCK in respect of the implementation of the procurement law and regulations:

- Inability to translate procurement law and regulations into everyday language, so that management sees and understands the impact to their compliance;
- Inadequate records management and filing systems. Retrieving records for review purposes was slow, time consuming and even for the files made available, some records pertaining to fulfilment of the procurement process were incomplete, limiting the review scope;
- Lack of operating ICT systems and applications covering all aspects of procurement;
- Insufficient training in procurement law for the persons involved in the procurement related functions;
- Inadequate contract management and
- Insufficient communication and coordination between the user departments and Procurement Unit on procurement planning.

We have included an action plan for follow-up in our recommendations to ensure that the corrective measures are carried out in order to improve compliance, efficiency, and effectiveness in procurement management.

The office of the internal auditor needs to be strengthened through capacity building to verify, examine, and determine that individual transactions comply with the Act and regulations.

We are pleased that the Postal Corporation of Kenya management welcomed the review exercise as a mechanism to identify and address any shortcomings and weaknesses in the compliance with Act and associated regulations.

Overall, PCK have demonstrated unsatisfactory level of compliance at 50.7% (against the expected of 60%) with relevant PPDA, and the regulations and guidelines in respect of sampled procurement transaction.

Although the PCK has taken a number of reasonable steps to comply with the provisions of the procurement law, there remain a number of issues that need to be addressed. The issues raised are important and warrant immediate attention by the procuring entity.



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