



When replying please quote:

PPOA CIRCULAR NO. 1/2013

27<sup>TH</sup> JUNE 2013

**TO: All County Accounting Officers  
All County Commissioners  
All CDF Account Managers,  
All Public Hospital Superintendents**

**RE: GUIDELINES ON THE PUBLIC PROCUREMENT AND DISPOSAL  
(COUNTY GOVERNMENTS) REGULATIONS, 2013**

---

On 5<sup>th</sup> April 2013 under Legal Notice No. 60, the Minister for Finance gazetted the Public Procurement and Disposal (County Government) Regulations, 2013 (herein referred to as County Governments Regulations) for the purposes of operationalizing the Public Procurement and Disposal Act, 2005 (the Act), promoting local industry and supporting socio-economic development in the 47 counties established by the Constitution. Consequently, public entities are required to conduct their procurement and disposal activities in accordance with the legislative framework governing public procurement.

The purpose of this Circular is to highlight key areas of the County Governments Procurement Regulations as follows:-

**1. County Public Entities**

Public entities within a county include:-

- (a) County Government,
- (b) Entity of the County Government;
- (c) County Assembly;
- (d) City;
- (e) Urban Area; and
- (f) County Service Delivery Coordinating Unit

**2. Procurement Plans, Corporate Decisions, Segregation of Responsibilities and Threshold Matrix.**

A county procuring entity is required to make its procurement and asset disposal decisions in a systematic, corporate and structured manner. All procurements and disposals shall be handled by different offices in respect of initiation, processing and receipt of goods, works or services. In addition, Public Entities are required to prepare and put in place their procurement plans and obtain the requisite approval prior to its implementation and use of the appropriate procurement method as guided in the threshold matrix contained in the Public Procurement and Disposal Regulations, 2006.

### **3. Establishment of Committees.**

The Accounting Officer of a Transition County Treasury referred to in Section 10 of the County Governments Public Finance Management Transition Act, 2013 as the Transition Principal Officer is required to establish the following standing committees from within its members of staff-

- (a) tender committee;
- (b) disposal committee; and
- (c) such other bodies as prescribed under the Act.

Alongside standing committees the Accounting Officer may establish on need basis the following *ad hoc* committees

- (a) Tender opening committee
- (b) Tender evaluation committee
- (c) Negotiation committee
- (d) Inspection and acceptance committee

Where a county procuring entity lacks capacity to comply with the above provisions due to its size or capacity, the accounting officer is required to seek advice from the Public Procurement Oversight Authority (the Authority).

### **4. Composition of Tender Committees**

The Accounting Officer of a county procuring entity is required to inform the Authority on the composition of its tender committee and the respective alternates within fourteen days from the date of appointment.

### **5. Responsibilities of County Accounting Officers**

In addition to the responsibilities set out under section 27(2) of the Public Procurement and Disposal Act, 2005, a County Accounting Officer will have powers to establish procuring entities within the counties which may be classified under thresholds matrix A, B or C as set out in the Public Procurement and Disposal Regulations, 2006.

### **6. Compliance with legislative framework on procurement**

A county public entity is required to ensure that the Act, the Regulations under the Act and any directions of the Authority and the Public Procurement Administrative Review Board (Administrative Review Board) are complied with in respect to each of its procurements and asset disposal activities.

### **7. County Preference And Reservations**

County Governments shall apply preference and reservations to small and micro enterprises and other disadvantaged groups such as enterprises owned by youth, women and persons with disability that are located and operate within the counties as specified in the Public Procurement (Preference and

Reservations) Regulations, 2011. County procuring entities are required to report to the Authority application of preference and reservation schemes on quarterly basis pursuant to Regulation 30 of the aforementioned Regulations.

## **8. Transfer Of Procurement And Contractual Records And Responsibilities**

All procurement and contractual records and responsibilities by local authorities under the repealed Local Government Act or District Commissioners under the Districts and Provinces Act shall be transferred to their respective County Government or county service delivery co-ordinating units.

## **9. Termination of Procurement and Disposal Proceedings**

Any procurement and disposal proceedings commenced but not finalized by any local authority, district, any health unit other than a referral hospital, the roads development fund, or any constituency development fund committee, before the coming into operation of the County Government Regulations are hereby terminated.

## **10. Deployment of Supply Chain Management Staff**

Any Procurement Officer or Supply Chain Management staff currently employed by the Public Service Commission and who is currently deployed in a local authority, district, a health unit other than a referral hospital, the roads development fund, or any constituency development fund committee shall report to the Interim County Head of Supply Chain Management for deployment upon commencement of these Regulations. There is need to have appropriate staffing complement comprising of procurement officers/supply chain management staff who will efficiently and effectively service the user departments/units in accordance with the Act and its attendant Regulations.

## **11. Use of Standard Tender Documents**

Section 29(4) of the Act provides that it is mandatory for Procuring Entities to use the Standard Tender Documents prescribed by the Authority. Standard Tender Documents are designed to enhance compliance and achieve the intended purposes of the procurement law. County Procuring Entities should use the appropriate Standard Tender Document specific to a particular procurement and customize it as appropriate. Copies of all documents and policy circulars used and referred to in public procurement are accessible and can be downloaded from the PPOA website [www.ppoa.go.ke](http://www.ppoa.go.ke).

It is imperative that those charged with the responsibility of spending public resources through public procurement familiarize themselves and comply with the provisions of Article 227 of the Constitution, the Public Procurement and

Disposal Act, 2005, all Regulations under the Act, the County Governments Regulations 2013, the directions of the Authority and the Administrative Review Board.

You are requested to bring the contents of this Circular to the attention of all officers under your jurisdiction to ensure its adherence when conducting all procurements and disposal undertakings.

Finally, you are advised to revert to the Authority in the event of any operational challenge in your procurement and disposal proceedings.

  
**M. J. O. JUMA**  
**DIRECTOR-GENERAL**

Copy to: **The Principal Secretary**  
The National Treasury  
Treasury Building  
**NAIROBI**

**The Principal Secretary**  
Ministry of Interior and Coordination  
of National Government  
Harambee House  
**NAIROBI**

**The Principal Secretary**  
Ministry of Devolution & Planning  
Treasury Building  
**NAIROBI**

**The Attorney General**  
State Law Office  
Sheria House  
**NAIROBI**

**The Auditor General**  
Kenya National Audit Office  
12<sup>th</sup> Floor, Anniversary Towers  
**NAIROBI**

**The Chief Executive Officer,**  
Transition Authority  
Extelcoms House, 5<sup>th</sup> Floor,  
**NAIROBI**