



PPRA

PUBLIC PROCUREMENT
REGULATORY AUTHORITY

**SUMMARY OF THE PUBLIC PROCUREMENT AND
ASSET DISPOSAL REVIEW REPORT FOR THE
INFORMATION AND COMMUNICATIONS
TECHNOLOGY AUTHORITY FOR THE 2016-2017
FINANCIAL YEAR**

MAY, 2019

This report is a product of the Procurement and Disposal Review conducted by the Public Procurement Regulatory Authority (the Authority) pursuant to its mandate under the Public Procurement and Asset Disposal Act, 2015 (the Act). Section 9 of the Act bestows on the Authority the responsibility to monitor the public procurement system and report on the overall functioning and recommend any actions required for improvement. Part IV of the Act further requires the Authority to ensure that the procurement procedures established under the Act are complied with. Specifically, Section 43 of the Act gives the Authority powers to review procurement and disposal records and systems to monitor compliance with the Act.

In view of the above, a procurement and disposal review of the *Information Communications Technology Authority* (the ICTA) was conducted from 1 May 2018 to 18 May 2018. The main objective of the review was to determine the extent to which the ICTA as a Procuring Entity (PE) followed the procedures and rules established in the Act and the applicable regulations; circulars and directives issued by the Authority and other generally acceptable professional best practices, in conducting their procurement and disposal activities. The review also helps to identify strengths and weaknesses, as well as risks inherent in the procurement system and propose measures to mitigate any weaknesses and irregularities identified.

The review covered procurement proceedings for the period 1st July 2016 to 30th June 2017, and other years. The areas of focus during the review were: the institutional arrangements, procurement and disposal processes and contract management. The reviewers examined a sample of 32 contracts to verify their compliance with the Act, the attendant Regulations and other directives issued by the Authority and other relevant bodies from time to time.

An entry meeting with the PE's management team was held on 30th April 2018 to discuss the scope of the review, the review plan, the reviewers' and PE's expectations, access to documentation and other administrative issues. The contracts reviewed were sampled randomly but in a structured manner to include all item categories of goods, works, non-consulting services, consulting services and disposals; procurement methods and consultant selection methods. The review used qualitative and quantitative data collection methods. The methods included interviews, observation, confirmation, analysis and review of records.

The review was mainly limited or constrained by access to records, failure to maintain complete procurement and contract files and the filing of documents without following the prescribed manner and well as missing payment records.

The summary of the key findings based on the three broad indicators were as follows:

The ICTA compliance level on institutional arrangement was assessed as *non-compliant*. The main areas of weakness were the procurement policy manual, establishment of the procurement function, procurement planning, procurement record keeping and application of e-Procurement system.

The ICTA lacked a procurement policy manual to guide internal decisions making, leading to inconsistency in decision on procurement and disposals. Despite the ICTA being the leading agency with a mandate on information technology, it lacked an e-Procurement system to enhance efficiency in the procurement process and contract management.

The procurement function was established with five staff. The procurement function reported to the Director Corporate Services instead of reporting administratively and functionally directly to the Chief Executive Officer as prescribed in Section 2 of the PPADA. The department lacked at

least one senior procurement officer. The job descriptions for the procurement function required revision to align them to the PPADA. The staff had the relevant academic qualifications, but required more skills in practical skills in drafting tender documents, setting evaluation criteria and qualification criteria, preparing professional opinions, preparing contracts and contract monitoring and records-keeping.

The ICTA did not have an approved procurement plan in the required format for the period under review. However, in FY2017-2018, a procurement plan in the required format was prepared. The weakness however was that the plan was approved three months late into the financial year.

The ICTA did not publish contract award notices in its website and in the procurement portal. Moreover, most of the cancellations of the procurement processes were not reported to PPRA, which was inconsistent with Section 63(2) of the PPADA and the directives issued by the Authority vide PPRA circular Mo.1/2016 of 16 December 2016.

The compliance rating for contracts was 63%, corresponding to a compliance level of *Marginally Compliant*. The ICTA performed relatively better in procuring non-consulting services at a compliance rating of 63% compared with procuring goods at a compliance rating of 55%.

The procurement processes were not carried out to an acceptable level, with some exceptions. The estimated costs of the contracts as contained in the procurement plan were largely inaccurate, suggesting lack of proper market price survey to inform estimation of costs in procurement plans.

Weaknesses were observed in the preparation of tender documents. *First*, incomplete tender documents missing the form of tender or price schedules leading to unfair disqualification of bidders. *Second*, merit points were used in setting evaluation and qualification criteria in tenders for goods and non-consulting services, leading to unfair and subjective evaluation of bids. *Third*, lack of a distinction between the different forms of criteria: eligibility criteria, evaluation criteria, qualification criteria and award criteria; a weakness attributed to lack of proper and practical training.

Procurement proceedings were started and abandoned at the award stage without any justifiable reasons. This weakness was attributed to lack of proper advice to the accounting officer, who in turn was indecisive on the proper approach to the award decision. Appointment of substantive accounting officer with proper advice from the head of procurement should address this risk.

The procedure for inspection and receipt of procured items was weak. In large value contracts, neither the contract implementation teams nor the inspection and acceptance committee was appointed to inspect and receive the procured items.

Upon conclusion of the review the overall compliance and risk rating of the ICTA's procurement and asset disposal system was determined based on compliance and risk rating criteria defined in the Authority's Compliance Monitoring Manual. To this end the ICTA attained a compliance level of 54%, which is a performance of *Marginally Compliant*.

Based on the key findings, the ICTA should:

Prepare and disseminate to staffs, a Procurement Policy Manual acceptable to PPRA and approved by the Board of Directors that covers institutional arrangements, procurement planning, processing, contract, stores, disposal and assets management per the PPADA 2015. The entity should implement an e-Procurement system to serve the whole tender process in compliance with the PPADA.

The Procurement Unit should maintain individual files for each procurement, containing all the records with folios for each process, including email correspondences and acknowledgements.

Ensure that the procurement staffs receive correct and practical training in the preparation of tender documents, setting evaluation criteria and qualification criteria; evaluation of tenders, preparation of opinions and award, drafting of contracts and procuring consulting services.

The current system for procurement planning should be revised to ensure a draft plan is prepared before budget approval, based on market price, adjusted after approved budget. Moreover, the ICTA should enhance its current practices of estimating costs for goods, services and consulting services on the basis of which the budgets are prepared and approved.

Ensure that the Procurement Function prepares all the statutory reports in the required format and submit them to PPRA within the prescribed deadlines. Contract Award Notices should be published on the ICTA website and the procurement portal soon after contract signing.

Revise and customise the standard tender documents and request for proposal document to reflect required level of quality; provide for a section on evaluation and qualification criteria; and ensure the form of tender and price schedules are included in the complete documents.

The point system in setting criteria should be used only in the evaluation of consultant proposals and for intellectual services such as computer software development. The point system of rated criteria should not be used for evaluation of bids for goods, works and non-consulting services.

After receiving the recommendation for award, the CEO should make a decision to award or reject within reasonable timelines. Where the accounting officer rejects the recommendation, guidance should be provided on the next course of action. The notification to unsuccessful bidders should indicate the reasons for rejection of bids.

Detailed recommendations for addressing the weaknesses are captured in Section II of this report. The response of the Procuring Entity is in **annex 4** of the report. The procuring entity should implement the recommendations within the specified timelines and update the Authority on the same for purposes of follow up.