



**PPRA**

PUBLIC PROCUREMENT  
REGULATORY AUTHORITY

**SUMMARY OF THE PUBLIC PROCUREMENT AND  
ASSET DISPOSAL REVIEW REPORT FOR THE  
NATIONAL SOCIAL SECURITY FUND 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 *National Social Security Fund* (NSSF) was conducted from 9 April 2018 to 20 April 2018. The main objective of the review was to determine the extent to which NSSF 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 1 July 2016 to 30 June 2017. The areas of focus during the review were: the institutional arrangements, procurement and disposal processes and contract management. The reviewers examined a sample of 30 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 26 March 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 and documents on the procurement process as well as payment records. Due to lack of departmental procurement plans, the estimated plan cost in cases of request for quotation method were not readily accessible.

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

### **Institutional Arrangements**

NSSF had a procurement department staffed with qualified procurement staffs but was not positioned at an appropriate level. However, 9 out of the 16 staffs were not registered and did not have practice licenses from the Kenya Institute of Supplies Management. NSSF did not have a training plan to enable the staff gain the required correct training in procurement management. NSSF did not have a procurement and asset disposal manual to guide its operations. The procurement plan, although in the correct format, was approved four months late after the start of the financial year. There were no complete files for each procurement; some of the records were kept in user departments. NSSF prepared and submitted reports on disadvantaged groups to the PPRA but the reports on contract awards were not sent to the PPRA.

### **Procurement Process**

The procurement processes were carried out to an acceptable level, with some exceptions. The terms of reference were not prepared to a level of details to accord fair consultant selection. The tender documents were drafted by the user departments instead of the procurement department.

The tender documents were not prepared to an acceptable level of quality due to lack of proper customization to suit the specific procurement. The evaluation and qualification criteria were not set correctly, an issue rooted in lack of correct training of the procurement staffs. The professional opinions were prepared to a reasonable level of quality but in some contracts, weaknesses in the evaluation of bids and proposals were not highlighted. The Managing Trustee approved the award of contract as required. However, evaluation committees negotiated contract prices in cases where cost was a factor in the evaluation without a corresponding change in the scope of work. There should be no negotiation of the contract price where cost is a factor in the consultant selection when using the methods of quality and cost based selection, least cost selection, and fixed budget selection should

### **Contract Management**

A key weakness noted was that the signed contracts were completely different from the standard templates of general conditions of contract and special conditions of contract as contained in the issued tender documents in contravention of Section 135(6) of the PPADA 2015. As required, the open tender and restricted tender contracts were subjected to inspection and acceptance committee but those for request for quotation were not subject to the committee decision pursuant to Section 150(2) of the PPADA 2015. The NSSF should prepare a procurement policy manual to clearly spell out which kinds of procurement are subject of inspection and acceptance committee and which ones could be received and certificate issued by the user departments. The NSSF paid its suppliers in time, except for some of the contracts where the payment vouchers could not be traced during the review.

### **Compliance Level**

Upon conclusion of the review the overall compliance and risk rating of NSSF'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 National Social Security Fund attained a compliance level of 55%, which is a performance of *Average Compliance*.

Based on the key findings, NSSF should:

- 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, opinions and award, drafting of contracts and procurement of consulting services;
- The current system for procurement planning should be enhance to ensure that a draft plan is prepared before budget approval, adjusted after approved budget;
- 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;
- The point system should be used only in the evaluation of consultant proposals, intellectual services such as computer software development and non-standard goods, works and non-consulting services;
- The contract negotiations for professional services when using QBS shall be based on priced bid and not mere reference to the respective Acts of Parliament. When using QCBS, LCS, FBS, and other selection methods where cost is a factor in evaluation, the price of the proposal should not be negotiated; unless there is a reduction in scope of services per Section 129(1) of PPADA.
- The tender documents should be prepared correctly complete with the general conditions of contract and special conditions of contract using the template in the tender document. The signed contracts should be complete with records and documents required in Section 135(6) of the PPADA 2015;
- The Procurement Unit should maintain individual files for each procurement, containing all the records with folios for each process, including email correspondences and acknowledgements.

Detailed recommendations for addressing the weaknesses are captured in Section II of this report while the response of the Procuring Entity is in Annex 5. The procuring entity should implement the recommendations within the specified timelines and update the Authority on the same for purposes of follow up.