



**SUMMARY OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL
ASSESSMENT REPORT FOR NATIONAL CEREALS AND PRODUCE
BOARD FOR 2017/2018 FINANCIAL YEAR**

AUGUST, 2018

This report is a product of a Procurement and Asset Disposal Assessment 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 this Act are complied with. Specifically, Section 43 of the Act gives the Authority powers to assess procurement and asset disposal records / systems as a way of monitoring compliance.

In view of the above, a procurement and disposal assessment of National Cereals and Produce Board was conducted from 28th August, 2018 to 30th August, 2018. The assessment covered procurement proceedings for the period 1st July, 2017 to 30th June, 2018. The main objective of the assessment was to determine the extent to which the Procuring Entity (PE) complied with 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 assessment also aimed at identifying strengths and weaknesses (if any), as well as risks inherent in the procurement system and propose remedial measures to address the weaknesses identified.

An Entry Meeting with the PE's representatives was held on 28th August, 2018 to discuss the scope of the assessment, the assessors' and PE's expectations, access to documentation and other issues relevant to the exercise. For purposes of assessing the procuring entity's compliance and risk levels, the assessors examined sampled contracts and focussed on two broad indicators namely: institutional arrangements, procurement and disposal processes. The sampling was done randomly but in a structured manner to include all item categories (i.e. goods, works, and services) and procurement methods used during the period under assessment. The assessment used qualitative and quantitative data collection methods. The methods included interviews, observation, confirmation and examination of records.

The assessment was mainly limited / constrained by incompleteness of procurement records (some records were missing in the procurement files), time limit since only three days were allocated for the assessment exercise.

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

Key Findings on Institutional Arrangements

Procurement Function (PF) is headed by the Ag. Manager Procurement who report directly to the Managing Director. The function was established with seven (7) officers. The Procurement Staff had qualifications in procurement and supply chain. However, out of the seven (7) staff only three (3) availed their memberships numbers from Kenya Institute of Supplies Management (KISM) but it could not be established whether their memberships were up to date since current membership certificates/cards were not availed. The PF had necessary working facilities for running their functions. The entity did not have an approved procurement and disposal manual. Instead, the procuring entity had a draft Standard Operating Procedures (SOPs). A disposal committee was established with the Ag. Manager Procurement as the secretary. However, there are disposable

assets/items within the PE's premises that had not been disposed off. The PF maintained individual procurement files but a few records not in the file. Tender and quotation registers were and a list of prequalified suppliers were also maintained.

An approved procurement plan with a total value of KES. 3,317,844,604.00 for 2017-2018 FY was in place. 30 % of the procurement spend was reserved for the groups under the AGPO category. The weakness was that there was no indication of the specific tenders reserved for each of the groups under the AGPO category.

The PE had been submitting mandatory reports to Authority as required under PPRA Circular No. 1/2016 of 16th December, 2016. However, reports were submitted using wrong formats and there were no evidence of publication and publicising of contract awards in line with the requirements of Section 138 of PPADA. Tender and quotation boxes had two locks and keys were kept in different offices (MDs office & Procurement Office). Bulk tenders are received at the Procurement Office and records documented. The entity had a secure and spacious storage facility. Stores ledger cards are maintained and an inventory control software for managing inventory/stores is in place. The weakness was that from a random sample of some items, it was established that the physical and systems balances for some items were not tallying and some of the items had expired on shelves.

Key findings on Procurement Processes

Most of the procurements assessed were in the procurement plan for 2017-2018 FY and were initiated through approved purchase requisitions. Estimated costs and description of requirements were provided in the requisitions apart from tender No. NCPB/FURNITURE/19/2017-2017 which could not be traced in the procurement plan. The choice of procurement methods was appropriate, except in restricted tender No. NCPB/PP/15/RT/2017-2018 where only one bidder was invited to participate in the procurement process instead of at least ten (10) bidders pursuant to Regulation 54(3) of Public Procurement and Disposal Regulations, 2006. Standard Tender Documents were used but some of them included wrong statements like *"the Board reserves the right to...without obligation to inform bidders of the reasons for their actions"*. This statement was inconsistent with Section 87 of PPADA. Evaluation and award criteria were specified in the tender documents except in RFQ method. Tender notices for the sampled procurements contained basic and relevant information required by bidders. However, the tender notices lacked some information such as the requirement for bidders to paginate/serialize their bid documents. However, for open tender Nos. NCPB/PMS/01/2017-2018 and NCPB/FURNITURE/19/2017-2018, thirteen (13) and ten (10) days respectively were allowed for preparation and submission of tenders instead of at least 14 days pursuant to Section 97(2) of PPADA.

Tenders were opened immediately after closing by duly appointed committee members other than for an RFQ where no record regarding appointment of a committee was available. Tender Opening Minutes and Tender Opening Registers in the sampled procurements were also maintained apart from where the choice of procurement method was RFQ. Opening minutes/records for financial proposals were also not maintained in some instances. The weakness was that the tender opening committee did not observe some of the tender opening procedures like recording the number of

pages of each tender received and initialing of each page of the tender opening minutes. Tender opening Minutes were prepared and signed by all the committee members.

In most of the sampled procurements, evaluation committees were appointed in writing by the MD. Evaluation criteria were adhered to as specified in the STDs. The evaluation committees did not conduct evaluation independently as required under Regulation 5 of Public Procurement and Disposal Amendment Regulations, 2013. The criteria in some of the tender documents were not specific. For instance, proof of similar works was not given a breakdown of scores.

Evaluations were completed within the prescribed period of 30 days except in tender No. NCPB/MAINT/04/2017-2018 which took 33 days. The committees prepared evaluation reports but some of them were not signed by all members as required by Section 80 (7) of PPADA. Secretarial comments and Professional Opinions were prepared for procurements the sampled procurements. However, the opinions did not give accurate situation on the tendering process. Due diligence, where applicable as specified in the STD, were not conducted in some of the procurements.

Contracts were awarded by the Accounting Officer. Most of the tenders were awarded within the tender validity period and to the bidder/s who quoted the lowest price. The successful and the unsuccessful bidders were notified simultaneously. The unsuccessful bidders informed the reasons their bids were unsuccessful. However, the name of the successful bidder/s and the value of contract awards were not disclosed to the unsuccessful bidders.

From the documents submitted for the sampled procurements, the successful bidders submitted performance bonds to the procuring entity before signing of the contract as required under Section 135 of PPADA. However, in some instances the performance bonds that were submitted were not valid for the entire contract period. Procurements contracts were entered into between the Accounting Officer and the contractor/s within the tender validity period and 14 days appeal window was observed before contract signing in line with the provisions of Section 135 of PPADA for majority contracts. However, some contracts for example tender number NCPB/PP/RT/2018-2018 was signed without observing the 14 days appeal window which was inconsistent with Section 135(3) of the PPADA. Another weakness was that documents forming part of the contract like notification of award and form of tender were not annexed to the contract document.

Inspection and acceptance committee/s were appointed for the sampled procurements apart from tender No. NCPB/MAINT/SERVICES/04/2017-2018. Contract implementation teams were not constituted as required under Section 151 of PPADA for purpose of monitoring complex and specialized contracts. Inspection and acceptance of the deliverables was conducted and inspection and acceptance certificates/inspection reports on deliverables were maintained and inspection and acceptance reports were signed by the members of the inspection committee/s.

Payments records for sampled contracts were not availed and hence the assessors could not establish whether payments were made as per the contractual terms and conditions. The head of Procurement Function did not prepare progress reports for purposes of contract monitoring as required under Section 152 of PPADA.

Upon conclusion of the assessment the overall compliance and risk rating of the PE'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 National Cereals and Produce Board attained a marginal compliance level of **65%** in respect of procurement processes with a moderate risk of **35%** which was an indication that the weaknesses in the procurement system which warrant timely and immediate management action.

The procuring entity should ensure that the weaknesses identified in the institutional arrangements and procurement processes are rectified, and recommendations given are implemented in order to improve the procurement system. The detailed recommendations for addressing the weaknesses are captured in Section Two of this report. The procuring entity should implement the recommendations within the specified timelines and update the Authority on the same for purposes of follow up.

