



**SUMMARY OF THE CONTRACT AUDIT REPORT FOR
COUNTY ASSEMBLY OF NYERI FOR THE FINANCIAL YEAR
2019/2020**

NOVEMBER, 2020

This report is a product of Contract Audit(s) conducted by the Public Procurement Regulatory Authority (the Authority) pursuant to its mandate under the Public Procurement and Asset Disposal Act, 2015 (the Act). Part IV of the Act requires the Authority to ensure that the procurement procedures established under this Act are complied with. Specifically, Section 43 (2) of the Act bestows on the Authority the responsibility to conduct audits on contracts during tender preparation, contract execution and after contract completion.

In view of the above, contract audit of *County Assembly of Nyeri* was conducted from **5th to 6th November, 2020**. The audit covered eight (8No.) contracts signed during the period **1st July, 2019 to 30th June 2020**. The main objective of the audit was to determine the extent to which the 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 processes and contract management activities with reference to selected contracts. In addition, the audit helped to identify strengths and weaknesses, as well as risks inherent in the procurement and contract management system and propose measures to mitigate weaknesses and irregularities identified.

An entry meeting with the PE's management team was held on **5th November, 2020** to discuss the scope of the audit, the audit plan, the auditors' and PE's expectations, access to documentation and other administrative issues. The audit exercise involved examination of relevant procurement and contract management records from the selected 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. The auditors used qualitative and quantitative data collection methods including interviews, observation, confirmation, analysis and audit of records.

The audit was mainly limited / constrained by poor record keeping. For instance, Procurement documents were not filed in each individual subject procurement files and hence retrieval of relevant document was difficult and time consuming. Not all the documents were provided in the subject file contrary to Section 68 (6) of the Act and were not folioed.

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

Key findings on procurement processes

Evidence of CAPP for the FY 2019/2020 prepared by HoP and approved by the Accounting Officer was provided dated 1st October, 2020. The format of the plan was not in compliance pursuant to 53 (2) of the Act. The 30% of the annual procurement budget to Preference group was not demonstrated in the procurement plan which was contrary to Section 53 (6) of the Act.

It was noted that most of the estimated costs provided in the requisitions were above the amount approved in the procurement plan. For example, the tender for procurement of ten (10) laptops was awarded at Kshs. 1, 796, 000.00 which was above the estimated cost by more than 10%. This was an indication that the estimate was not realistic as envisaged by Section 53 of the Act. Though some procurements were initiated with the user requisition, most of the purchase requisitions were not provided and therefore it could not be verified whether such procurements were initiated

through purchase requisitions pursuant to Section 73 of the Act and PPDR 22 of the PPDR. This was evidenced by the procurements of cleaning and legal services.

Occasionally, open tender was used as a method of procurement which is the most preferred pursuant to Section 91 of the Act. The STDs were used place however, not properly customized i.e. some referred to PPOA instead of PPRA. The use of direct procurement method for procurement of Legal services and training on leadership, strategic Management and Human Resource Management was not justifiable having prequalified several firms for the provision of the same services and no evidence of meeting the requirement of use of Direct procurement was provided. In addition, there was no proof that the Assembly used bid document in the direct procurements was provided contrary to 58 and 70 of the PPADA.

Open tenders were advertised in the Daily Newspapers and tender documents were accessible from the PE's website www.nyeriassembly.go.ke at no cost. On the other hand, Quotations were issued through IFMIS portal to bidders who were selected from the list of prequalified suppliers. The detailed specifications and the mandatory requirement of the tenders were provided in the tender documents. Bidders were given adequate time to prepare the bid documents. However, the tender notices did not have an instruction on serialization as required by Section 74(1) (i) of the PPADA.

In some instances, tenders were opened and evaluated by a committee appointed by the Accounting Officer; however, no persons were designated as chair or secretary amongst the members. Further, there was no evidence of preparation of tender opening minutes or evaluation report as required by Section 78 and 80 of the PPADA 2015 for example for Tender No. No. 812550-2 for Supply and Delivery of Laptops. Individual independent evaluation of the tenders was not provided contrary to Regulation. 5(4) - Legal Notice No.106 of 2013.

The successful and unsuccessful bidders were notified on the awards, but unsuccessful bidders were not informed of the reason/s for rejection of their respective tenders contrary to Section 80(7) of the PPADA. In some circumstance, the HoP did not prepare professional Opinion contrary to Section 84 of the PPADA, 2015.

The evaluation committee did not conduct due diligence as envisaged by Section 83 of the PPADA and the tender document for the provision of Medical Insurance.

Key findings on contract management

In some occasions, the Accounting Officer appointed an Inspection and Acceptance Committee. Most contracts had no evidence of deliverables provided by the I&AC or the Project Implementation team, no records were availed to demonstrate that the performance of the service provider was being monitored to ensure that the service provider had been performing as per the contract. No evidence of monthly progress report provided contrary to Section 152 of the Act.

Key findings on post implementation audit

Partial evidence of payment Voucher was provided. Most of the procurement files were in place but incomplete and not folioed.

Upon conclusion of the audit the overall compliance and risk rating of the PE's procurement and contract management system was determined based on compliance and risk rating criteria defined in the Authority's Compliance Monitoring Manual. To this end County Assembly of Nyeri has attained a compliance level of **44.76%** which is **Non-compliant**.

The procuring entity should ensure that: The CAPP should be in the format provided under Regulation 42 of the PPADR and approval of the same done before commencement of any procurement activities, at least 30% of the annual procurement budget to Preference group should be demonstrated in the CAPP as outlined under Section 53 (6) of the PPADA. The actual award price should be within the realistic budget estimates and procurement plan. All procurements should be initiated through purchase requisitions pursuant to Section 73 of the PPADA and 71 of the PPADR. Ensure full customization of the standard tender documents as per the specific procurements. Notifications of unsuccessfulness should be disclosed pursuant to Section 80(7) of the PPADA. Also, the head of Procurement Function should prepare professional opinions should be provided as per Section 84 of the PPADA.. The entity should ensure that regular market surveys are done for standard goods, services and works as required by Sections 106 and 54(2) of the PPADA and Regulation 33(a) of the PPADR. Further all contract awards should be publicized and reported to the Authority in accordance with Section 138 of the PPADA and PPRA Circular No 1 of 2021.

The Accounting Officer should ensure that the internal procurement policy or manual is updated and aligned with the PPADA to guide procurement. The manual should be approved by the County Assembly Service Board. Ensure proper filing of procurement document for ease of retrieval.

The detailed findings and 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.