



**SUMMARY OF PROCUREMENT PERFORMANCE
CONTRACT AUDIT FOR ELGEYO MARAKWET
COUNTY ASSEMBLY FOR THE 2019-2020
FINANCIAL YEAR**

January, 2021

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 EMCA was conducted from 18th to 19th January 2021. The audit covered four 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 18th January 2021 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 went on smoothly as the PE was able to avail all the required documentation in a timely manner. The procurement files were not complete but a commendable job had been done to make them as complete as possible.

The audit revealed that the County Assembly of Elgeyo Marakwet prepared and maintained an annual consolidated procurement plan in line with Section 53 of the Act. Appropriate standard tender documents issued by the Authority for used by procuring entities were also used in the procurement of goods, works and service with evaluation and award criteria clearly specified in the tender document. Invitation to tender was done through notices placed in widely circulating newspapers and bidders were given adequate time for preparation and submission of bids. Further, the accounting officer appointed the various procurement committees specifically for tenders processed through open tender method. Similarly, for tender processed through open tender method tender opening process and evaluation process was conducted in accordance with the provision of the Act. Professional opinion was issued by the head of procurement in compliance with Section 84 of the Act and award made by the clerk within the tender validity period

Some of the weaknesses observed by the audit team in relation to the procurement processes included failure by the user to provide estimated cost in the purchase requisitions, not appointing tender opening committee and not observing opening procedures for tender processed through RFQ method contrary to the provision of Section 78 of the Act. Similarly, for tenders processed through RFQ method, evaluation of RFQ's were not subjected to independent evaluation by each committee member as required under Regulation 5 of Legal notice No. 106 and market survey was not conducted to inform the award decision by the AO.

In regard to contract management, the PE entered into contract agreements in accordance with Section 135 of the Act and the contracts awarded were reported to the Authority. Performance bond was issued by the successful bidders prior to contract signing. Further, the AO appointed a contract implementation teams and inspection and acceptance team respectively. Payment for the service rendered and works done was made in accordance with contractual terms and procurement contract files maintained.

However, the following were gaps were identified under contract management process. The entity did not publish all the contract awarded on their website neither did they publicize the same on their noticeboard as required under Section 138 of the Act. In addition, monthly progress reports were not prepared by the head of procurement contrary to the provision of Section 152 of the Act. This is an indication that the AO was not updated on the implementation status of the contract. Further, there were instances where records were not availed on the functioning of the contract implementation team/Inspection and acceptance committee and completion certificates confirming delivery and acceptance of goods works and services were not issue to the contractor.

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, Elgeyo Marakwet County Assembly has attained a compliance level of **73.7 %** and a risk rating of **26.3%** in respect of the indicators used in the audit. This is an indication of partial compliance and low risk level.

Detailed recommendations for addressing the weaknesses are captured in Section three 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.