



**SUMMARY OF PROCUREMENT/CONTRACT AUDIT
REPORT FOR MOI UNIVERSITY - ACE II PTRE
PROJECT 2018-2020 FINANCIAL YEARS**

October, 2020

This report is a product of Procurement/Contract Audit 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, procurement/contract audit for Moi University ACE II Project was conducted from 19th to 23rd October 2020. The audit covered the institutional arrangement and eleven (11) contracts concluded during the period 1st July, 2018 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 19th October, 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 delay in retrieval of procurements records since the entity did not maintain individual procurement files.

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

Summary of Key findings on Institutional Arrangements

Moi University has an established procurement function headed by the Snr. Procurement Officer who reports functionally and administratively to the Accounting Officer. The function is staffed with twenty-one (21) procurement professional most of them being members of Kenya Institute of Supplies Management (KISM). The accounting officer in line with the Act, constituted a disposal committee to deal with disposal of unserviceable, obsolete and surplus assets. The University maintains procurement records in files that

are kept at the procurement department. The entity prepared procurement plans for the years under review and all the sampled procurements were in the plan however, the plan did not demonstrate reservation of the 30% procurement to AGPO businesses. Further, the plan had factored items like per diem that are not procurable. The University had secure tender and quotation boxes and stores are managed centrally with the university. In most case, the centre was procuring items that were immediately used. The PE recorded asset acquired in the asset register, which is updated regularly.

Some of the weaknesses noted under the institutional arrangement are that: the University does not have an Internal Procurement and Asset Disposal Manual to guide its procurement and asset disposal activities, procurement records were incomplete since some documents were not in the individual procurement files and the documents were not filed in sequence that allow easy paper trail and retrieval. Further, there was no records to show that the part in the procurement plan demonstrating application of reservations schemes was submitted to the Authority as required in procurement law. In addition there was no documentary evidence availed to indicate that the university submits mandatory reports to the authority as required and contract awards were not published and publicized in the university website and notice boards as required under section 138 of the Act.

Summary of Key Findings on Procurement Processes

The sampled procurements were planned for in the procurement plan for 2018-2019 and 2019-2020 FY respectively as required under Section 53 of PPADA and were initiated via purchase requisitions as required under Regulation 22 of PPDR. The entity selected different procurement methods considering the threshold for use of each method. Tender documents used by the procuring entity were the standard tender documents issued to procuring entities by the Authority. For tenders processed through open tender evaluation and award criteria was clearly stated in the tender document, Tender notices advertised on daily newspapers served as invitation for procurement processed under open tender method. On the other hand, Request for Quotations sent out to bidders served as invitation to tender for procurement processed through request for quotation method. Deadline for submission and qualification criteria indicated in the Request for Quotations.

The Accounting Officer appointed various procurement adhoc committees for most of the tenders sampled, however there were instances where the appointment of the committees did not meet the membership threshold provided in the Act. In the case of tenders processed through open tender method, the committees opened the tenders immediately after closing as required by law. However, the audit team observed that there was delay in opening tenders processed through RFQ method whereby the committee did not open the quotations received as scheduled as opening was done way after the closing date. In most cases during opening of tenders, Information on tender opening were recorded in tender opening registers and minutes prepared by the committee.

The entity evaluated tenders using the criteria provided in the tender document, recommendation of award made as per award criteria provided and evaluation report dully prepared as guided by law. However, there were instances where qualification criteria provided on tenders processed through RFQ method was not observed during evaluation as the committee only carried out price comparison for bid submitted by each bidder. In some procurements the evaluation committees did not prepare individual evaluation score sheets therefore, it could not be ascertained whether each member evaluated the tender independently as envisaged under Regulation 5(5) of the Public Procurement and Disposal (Amendment) Regulations, 2013. Further, there was no record to demonstrate that market survey was conducted to establish whether the prices quoted by the lowest bidder/s were within the market rates as required in Sections 106 (4) and 54(2) of PPADA.

Upon completion of the evaluations, the Senior Procurement Officer pursuant to Section 84 of PPADA issued professional opinions. The Accounting Officer as required awarded the tenders and both the successful and unsuccessful bidders were notified simultaneously. The University disclosed the successful bidder to the unsuccessful bidder, citing specific reasons for rejection of their tenders as required by Section 87(3) of the PPADA. The contracts were entered into between the University and the successful bidders in accordance with Section 135 of PPADA.

Summary of Key Findings on Contract Management

The University did not publish contract awards on their website and notice board and there was no documentary evidence to show that contract awards were reported to the Authority as required under Section 138 of the PPADA and PPRA Circularly No.1/2016 of 16th December 2016. The Accounting Officer dully appointed Inspection and acceptance committees for purposes of conducting the inspection of the deliverables. The committee carried out the inspections and reports were prepared and signed as required in procurement law. However, there were cases where inspections were done by different persons other than ones appointed by the Accounting Officer. The suppliers invoiced the University and payment done in accordance with contractual terms. However, there were a few instances where the audit team could not determine if contract were paid as per the contract terms as copies of payment vouchers were not maintained in the procurement file. The procurement function did not prepare progress reports for purposes of updating the AO and most of the contracts did not have a contract period. These contributed so much to delay in delivery of goods by the respective suppliers, as contract commencement and completion date were not expressly stated in the contract documents. In some procurements, the contractors were not required to avail performance security to cushion the University from the risks of non-performance by the contractors as required under Section 142(1) of PPADA.

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, the University has attained a partial compliance level of **45.6%** with a moderate risk rating at **54.4%** an indication that PE should put in place strategies to address weaknesses identified.

The procuring entity should ensure that the recommendations given in regard to institutional arrangements, procurement processes and contract management are implemented in order to improve the procurement system. Detailed recommendations for addressing the weaknesses are captured in Section two (2) of this report. The procuring entity should implement the recommendations contained in this report and update the Authority on the same for purposes of follow up.