



OFFICE OF THE DEPUTY  
PRIME MINISTER  
& MINISTRY OF FINANCE



# Reforms in Public Finance Management



Joseph Kinyua, PS Treasury

## CONTEXT

Government of Kenya launched a comprehensive programme - the Public Financial Management Reform Programme (PFMR) - to strengthen public financial management systems in 2006. The programme supported reforms and capacity building in ministries and agencies central to implementation of the broader economic reforms in Kenya. The objective of the programme was to make public financial management more transparent, accountable, and responsive to policy priorities. Essentially, it was a response to the realization that governance challenges in the public sector had for many years impacted negatively on Kenya's economic growth and development contributing to increased cost of doing business in the country, discouraging private investment, and was an obstacle to addressing widespread poverty and improving the quality of life of citizens. Previous reform initiatives to deal with these problems yielded only modest results, but starting after election in 2002, reform programmes became more effective. Several components undertook reforms to improve fiscal discipline, bring resource allocations in line with development priorities, improve budgeting preparation and execution as well as financial reporting and evaluation processes. Development Partners, including the World Bank, European Commission, JICA, DFID, DANIDA, Sweden, CIDA, GIZ, USAid and Norway worked closely with the Kenya Government in implementing the reforms. The first phase of the programme ended in June 2011.

This Dissemination Note reviews the programme's reform interventions and achievements at the Public Procurement Oversight Authority.

## THE PUBLIC PROCUREMENT OVERSIGHT AUTHORITY IN KENYA

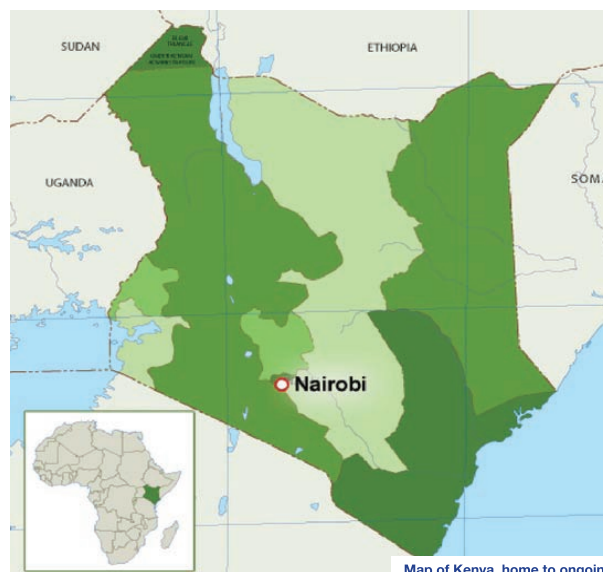
The Public Procurements Oversight Authority (PPOA) was created by an Act of Parliament in January, 2007. The Authority is mandated to among others, ensure that procurement procedures established under the Public Procurement and Disposal Act are complied with and to monitor the procurement system and report to the Government on its overall functioning. PPOA's other roles include initiating public procurement policy as well as assisting in the implementation and operation of the public procurement system by preparing and distributing manuals and standard tender documents. The Authority also offers advisory services to procuring entities as well as supporting training and professional development of procurement staff.

### Reforms within the Public Procurement Oversight Authority

#### Background to the Reforms

The Public Procurement System in Kenya has evolved overtime from a crude system with no regulations to the

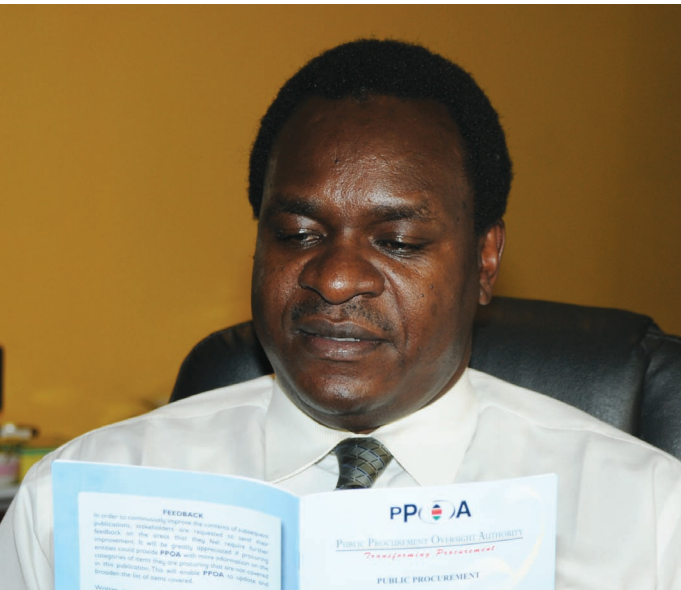
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Map of Kenya, home to ongoing PFM Reforms.

## DISSEMINATION NOTES [7]

This is the seventh note as part of a series of notes on Public Finance Management Reforms in Kenya



M. J. O. Juma, PPOA Director General

Among key achievements, PPOA has enhanced procurement capacity in the public procurement system. We've continued to professionalize public procurement through sensitization and via medium and long term training programmes.

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current orderly and legally regulated procurement system. Initial regulations on Government procurement were contained in the Supplies Manual of 1978 and supplemented by circulars that were issued from time to time by the Treasury. The Director of Government Supply Services was responsible for ensuring proper observance of the provisions of the Manual. The Manual created various tender boards for adjudication of tenders and their awards.

A review of the public procurement system carried out in 1999 unearthed a number of challenges. Among the key flaws noted was that there was no uniform procurement system for the public sector. Besides, the system that existed did not have sanctions against persons who breached the regulations in the Supplies Manual, other

than internal disciplinary action. Consequently application of the rules was not strict and many of the norms were not followed.

Moreover, the Supplies Manual did not cover procurement of works and the dispute settlement mechanisms relating to the award procedures as set out in the Manual were weak and unreliable for ensuring fairness and transparency. Records of procurement transactions in many cases were found to be inaccurate or incomplete or absent, which led to suspicions of dishonest dealings at the tender boards.

The prevailing public procurement system had other institutional weaknesses that not only undermined its capacity for carrying out its mandates effectively but also led to a public perception that the public sector was not getting maximum value for money spent on procurement.

In view of the shortcomings, it was found necessary to have a law to govern the procurement system in the public sector and to establish the necessary institutions to ensure that all procurement entities observed the provisions of the law for the purpose of attaining objectives of an open tender system in the sector. Consequently the Exchequer and Audit (Public Procurement) Regulations 2001 which created the Public Procurement Directorate (PPD) and the Public Procurement Complaints, Review and Appeals Board (PPCRAB) were put in place.

The PPD and PPCRAB, though largely independent in carrying out their activities, had been operating as departments in the Ministry of Finance on which they relied for staff, facilities and funding. Since the above institutional arrangements have a potential for undermining the impartiality of these bodies in the long run, it was found necessary to create an oversight body whose existence was based on law. The Public Procurement and Disposal Act, 2005 was thus enacted and it became operational on 1st January, 2007 with the gazettelement of the Public Procurement and Disposal Regulations, 2006.

The Public Procurement and Disposal Act, 2005 created the Public Procurement Oversight Authority (PPOA), the Public Procurement Advisory Board (PPAB) and the continuance of the Public Procurement Complaints, Review and Appeals Board as the Public Procurement Administrative Review Board (PPARB). The PPAB and PPARB are autonomous bodies.

### Major Reforms

In an effort to create order in public procurement, PPOA through the support of the Kenya Government and the Public Financial Management Reform (PFMR) Programme, has since its establishment in 2007 endeavoured to implement a new legal and regulatory regime to guide public procurement.



Eng. Chris Oanda, Chairman – Kenya Institute of Supplies Management

**The Authority has done a good job with professionalizing the procurement function within the public sector through increased training and sensitization of staff on the public procurement Act. A research we conducted recently indicated that the level of confidence by the business community in public procurement is low but rising, which is a good thing. A lot more however needs to be done to sensitize the Small and Medium Enterprises on the changes so that they do not develop ungrounded biases.**

The Authority has also worked to create a professional cadre in the public sector, establish workable institutional arrangements within procuring entities and provide support to Government Ministries, Departments and Agencies (MDAs) to implement their plans and budgets through procurement for better cash management. PPOA has made tremendous progress in meeting the above objectives.

Key achievement towards implementing a new legal and regulatory framework in public procurement is evident in the many guidelines PPOA has developed to guide procurement practises and pricing of common user items. The guidelines

include Public Procurement Market Price Index, General and Disposal Manual, Procurement Manual for Works, Procurement Manual for Information and Communication Technology, Procurement Manual for Insurance Services, Procurement Manual for Non-Intellectual Services, among others.

PPOA issued the first market price index in 2008 in accordance with the Procurement and Disposal Act, 2005. The index targeted common user items and continues to guide procuring entities to avoid over pricing. The Index also ensures procuring entities get value for money. Similarly, the Authority developed a comprehensive manual on procurement that sought to simplify the application of the Act and the Regulations. The Manual clarified provisions of the law while ensuring that there was consistency in its application in relation to the law. The manual was a product of joint effort between PPOA and its stakeholders.

With regards to creating a professional cadre for MDAs on public procurement, PPOA facilitated a number of sensitization and training programmes for procurement staff in six training regions in Kenya, namely: Coast, North Eastern, Central/Eastern, the Rift Valley, Nyanza/Western and Nairobi Provinces. The programmes were designed to create awareness and develop procurement expertise among staff. The training also introduced current practises for purchasing officers besides sharing newly updated standard bidding documents and the general and sector specific procurement manuals.

Towards the objective of establishing workable institutional arrangements, the Authority set up and trained the Public Procurement Advisory and Administrative Review Boards. The Administrative Review Board has deepened compliance to the procurement law by upholding the decisions of the procuring entities that have followed the law and nullifying tenders and contracts that have been done in violation of the Act and the Regulations.

Since coming into being, PPOA has conducted procurement assessments and reviews in about 100 major procuring entities. The principal goal of the reviews has been to help entities develop capacity building programs which enable them better apply the provisions of the Act and the Regulations. Procurement Assessments, on the other hand, have been carried out to check the level of performance of the procurement function in the selected entities

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**Hedwig Nyalwal**, Head of Secretariat –  
Kenya Institute of Supplies Management

**We give credit to the Authority for the many training and sensitization programmes rolled out for public sector officers. PPOA could also champion a mechanism to ensure public procurement process is shortened.**

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to establish their strengths, weaknesses and areas that require assistance and improvement. The assessments focus on key indicators such as institutional arrangements or structures, procurement process, mandatory reporting requirements, stores, inventory control and management.

Furthermore, an important accomplishment by the PPOA can be seen in the Authority's action to develop and implement an e-procurement strategy. The strategy has made it possible to post tenders online thus ensuring transparency

and accountability in public procurement. Moreover, e-procurement has also enhanced access to public procurement by vulnerable groups.

The Authority has also enhanced access to public procurement information by developing a modern and interactive website which provides important information to the public and stakeholders on public procurement. In addition, stakeholders consultative forums are held annually to share information on how to improve the public procurement system. Further, contract awards worth Ksh 5million and above reported by the procuring entities get posted on the Authority's website as are reports on finalized procurement reviews.

## NEXT PHASE OF REFORMS

For the next phase of the reforms, PPOA plans to deepen capacity building of public procurement staff to satisfy the needs of the County Governments envisaged to become operational after the next general elections.

Over the three years the procurement law has been in operation, several weaknesses have been identified. PPOA intends to review the law with a view to proffer amendments that will attune it to the new Constitution.

The structure of PPOA as currently obtains, does not conform to the new Constitution. The next phase of reforms will endeavour to align the structure to the supreme law.

Since the roll-out of the public procurement law, complaints have been raised with regards to its efficiency and effectiveness. Long delays in the procurement process have been noted and a study is required to identify causes of delay. This will be an important assignment for PPOA going forward.

The Authority also looks to strengthen its Monitoring and Evaluation (M&E) system to not only ensure procuring entities utilize public resources efficiently but also follow the law as they execute procurement work ■



**Jane Njoroge**, General Manager (Technical Services) – PPOA

**For the next phase, PPOA plans to deepen its capacity building initiatives to satisfy the needs of County Governments, review the procurement law in tune with the new Constitution and strengthen its monitoring and evaluation framework.**

**For further information on reforms, please visit;**

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