

## DEVELOPMENT AND REFORM OF THE KENYAN PUBLIC PROCUREMENT SYSTEM

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**ABSTRACT.** The Public Procurement System in Kenya has evolved from a crude system with no regulations to a legally regulated procurement system in line with International Standards. Since the beginning of the millennium, Kenya has undertaken efforts to reform and modernize its Public Procurement System. The evolution was through a system regulated by Treasury Circulars in the 1970s, 80s and 90s and further to an orderly legally regulated procurement system since March, 2001 under the Exchequer and Audit (Public Procurement) Regulations. Efforts made as part of the overall Public Finance Reform, a result of the implementation of this reform agenda a Public Procurement and Disposal Act (herein after referred to as PPD Act) was approved by parliament in 2005. In 2007 the PPDA Act became into force and established the Public Procurement Oversight Authority (herein after referred to as PPOA) as regulatory body for development and oversight of the Kenyan Public Procurement System. This paper will herein describe the development of the Kenyan public Procurement system from the independence of Kenya until the beginning of the millennium. The second section of the paper deals with the reform efforts the government of Kenya has undertaken since the beginning of the century and outlines in addition the way forward as part of an overall Public Finance Reform Strategy until the end of 2014.

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## THE HISTORICAL BACKGROUND

### ***1. The Pre-Independence Set-Up of the Public Procurement System***

The main institution in public procurement during Kenyan colonial times was the Central Tender Board (herein after referred to as CTB). It was established through a Treasury circular issued in 1955. However, in 1959 a defined form of procurement and supplies system was set-up where the Supplies and Transport Department was established in the Ministry of Works of Kenya, which dealt with Purchasing and Supplies Services hence being Public Procurement. The Treasury gave each Ministry a vote to order their requirements from the Department and the Government Printer.

In 1960 the Treasury for the purpose of providing common-user services issued the Ministry of Works, Stores and Services Fund Regulations. These Regulations established the Supplies Branch as a division that deals with procurement of common-user items for Government Ministries, Departments and Agencies. The Supplies Branch still exists to-date under the Ministry of Public Works while the Government Press exists under the Office of the President and continues to provide printing services to the government. The Department also established other sections that included:

- a) Market Research;
- b) Inspector of Materials Section; and
- c) Central Tender Board.

### ***2. The Central Tender Board (CTB)***

The CTB was responsible for procurement and awards and had three sections namely:

- a) Local Purchases;
- b) Overseas Purchases; and
- c) Colony-wide Contracts.

Government organization was small and therefore the procurement and supplies was centralized. The services covered purchasing and

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storage as distinct functions. The functions were headed by a Chief Purchasing Officer and a Chief Storekeeper, respectively. The chief storekeeper had the responsibility of controlling all the common-user items.

The CTB had no formal structure until 1960 through a Treasury Circular, Ref. No. 12/57/02, of 19<sup>th</sup> January 1960. The Chief Storekeeper was appointed the Chairman while the Chief Purchasing was the Secretary. Members were at the level of assistant secretary or higher drawn from various Ministries. The Purchasing Division formed the Secretariat. The CTB underwent many changes on its location, format, structure and responsibilities until when it was abolished in 2001.

### ***3. The Post-Independence Set-Up of the Public Procurement System***

Kenya achieved its independence in 1963 from the British Empire. Nevertheless at independence the supplies services continued as during pre-independence days in the colonial period whereby Crown Agents organised procurement for the government until the seventies. The first major shift came in 1974, through a Treasury Circular, whereby the functions of the Central Tender Board Secretariat were transferred from the Ministry of Works to the Treasury. Membership remained inter-ministerial but the level was raised to that of deputy secretary with alternates remaining as Under-Secretaries. The Chief Executive Officer was the Secretary and the Secretariat was managed by supplies officers.

### ***4. The District Focus for Rural Development Strategy***

In 1980 the CTB was transferred from the Treasury to the Office of the President and placed under the Cabinet Affairs docket. The move witnessed the re-union of the CTB and the Supplies Branch. The role played by the two independent departments was greatly boosted by being answerable to the same Accounting Officer. The chairmanship was under the Chief Secretary (Equivalent to Head of Public Service) and membership was drawn from stipulated ministries. The secretary

was the Chief Supplies Officer and the Secretariat was staffed with supplies officers.

In 1982 the Government issued the “*District Focus for Rural Development Strategy*” Document. The Strategy made the districts as centres for planning, implementation and management of rural development. The strategy set thresholds for procurements to be conducted by three bodies being; Districts Tender Committees which superintended over small tenders, Ministerial Tender Committees was a level above the District Tender Committees and it dealt with tenders that could not be handled at the District Tender Committees level, lastly there was the Central Tender Committees that dealt with tenders valued at Twenty million (20,000,000) Kenya Shillings (Ksh) and above. The Central Tender Committees was the overall Board that governed procurement. This marked the beginning of the devolution and decentralization process of the public procurement system.

Further restructuring took place in 1983 when the CTB was returned to the Treasury and the Supplies Branch to the Ministry of Works. This culminated into the beginning of the major restructuring in the CTB. CTB’s central role was that of award of contracts and their contract management. The CTB’s importance was underscored in a 1985 Treasury Circular. The Circular elevated membership level to that of deputy secretary with alternates as under-secretaries. It had a bigger procurement budget.

Subsequently, in 1999 the CTB was eventually restructured by raising its membership to the level of Permanent Secretaries. During this time the Chairmanship was placed in the hands of the Private Sector and the Financial Secretary was the CTB Secretary and the removal of the supplies personnel from the headship of the secretariat. This was a great departure from the normal role of the Board. Reforms in the supplies services and the emergence of the procurement reforms abolished the CTB in March 2001 when its duties and responsibilities were devolved to individual procuring entities, e.g. the ministerial tender committee

##### **5. The Supplies Manual of 1978**

In 1978 the Government issued the Supplies Manual. The manual supplemented by occasional Treasury Circulars governed the public procurement system in Kenya traditionally based on 1978 Supplies Manual. The Director of Government Supply Services which post was established in the 1978 Supplies Manual, was responsible for ensuring proper observance of provisions of the manual.

The manual created various tender boards for adjudication of tenders and their awards. In 1999 a review of the country's public procurement systems was undertaken and from the review, the following was discovered:

- i) There was no uniform procurement system for the public sector as a whole.
- ii) The system did not have sanctions or penalties 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.
- iii) The Supplies Manual did not cover procurement of works.
- iv) The dispute settlement mechanisms relating to the award procedures as set out in the Manual were weak and unreliable for ensuring fairness and transparency.
- v) 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 systems had other institutional weaknesses that not only undermined its capacity for carrying out their mandates effectively but also led to a public perception that the public sector was not getting maximum value for their money which was being spent on the public procurement transactions.

## **THE PUBLIC PROCUREMENT REFORMS IN KENYA**

### ***1. The World Bank Review of the Public Procurement System***

The reform of the public procurement system started in 1997 after the World Bank had conducted a Country Procurement Assessment Review which identified weaknesses in the public procurement system that reduced effectiveness of financial management and Government's ability to deliver services. The Review identified the following weaknesses in procurement system:

- reduced effectiveness of the public financial management,
- Government's inability to deliver services efficiently,
- obscure rules not based on a sound and transparent legal framework, and
- the system did not promote fair competition, thereby rendering it to serious abuse.

### **2. The Exchequer and Audit (Public Procurement) Regulations 2001**

Based on the findings from the review by the World Bank, the Public Procurement Reform Programme was officially launched on 25th November, 1998 to forestall the weaknesses. Initial results of the reforms were witnessed when Public Procurement Regulations were issued in the year 2001 under the Exchequer and Audit Act. These Regulations unified all the circulars that had governed the public procurement system, abolished the Central Tender Board and heralded the establishment of Ministerial Tender Committees, Procurement Appeals Board (herein after referred to as PPCRAB) and the Public Procurement Directorate (herein after referred to as PPD) as oversight agencies. The PPD and PPCRAB, though largely independent in carrying out their activities, were operating as departments in the Ministry of Finance on which they relied for staff, facilities and funding. Since these institutional arrangements had potential for undermining the impartiality of these bodies, in the long run it was found necessary to create an oversight body which could act more independently and whose existence was based on a law.

Though the promulgation of the Exchequer and Audit (Public Procurement) Regulations of 2001 was a great milestone, the then Regulations could not forestall problems such as:

- uncontrolled contract variations,
- overpricing (buying at inflated prices),
- lack of a structured authorization of expenditure levels,
- lack of fair and transparent competition,
- inappropriate application of procurement methods,
- air supply (meaning the non delivery of goods),
- uncontrolled low value procurement of items,
- poor procurement records and documentation,
- excessive delays in the procurement process,
- conflict of interest among players in the procurement system, and
- lack of legal permanence and enforcement.

With a new Government in place in 2002, which committed itself in the beginning more towards a policy of implementation of Good Financial Governance principals and Anti-corruption measures, work on the drafting of a new public procurement legislation started. As a main pattern for the new public procurement legislation the UNICITRAL Model Law on Procurement of Goods, Construction and Services with Guide to Enactment (1995) was used by the drafters.

### ***3. The Public Procurement and Disposal Act, 2005***

After an intensive discussion of the drafts with the relevant stakeholders the Public Procurement and Disposal Act (PPD Act) was approved by Parliament and gazetted in 2005. In order to have additional regulations and the new institutions, which had to be created according to the provisions of the Act, the PPD Act became only operational by 1st of January, 2007. After the approval of the PPD Act by Parliament the Public Procurement and Disposal

Regulations (PPD Regulations) were developed. In 2006 the regulations were approved by the Minister of Finance and gazetted.

The Act of Parliament on public procurement and the regulations of the minister of Finance established a legal basis for transparent, fair, equal, efficient and competitive public procurement procedures and for the disposal of unserviceable, obsolete or surplus stores, assets and equipment by public entities and to provide for other related matters. The PPD Act sets forth the general procurement rules, system of committees and units within each procuring entity to carry out procurement processes.

With Section 8 of the PPD Act new key institutions in the public procurement system of Kenya were established, such as the Public Procurement Oversight Authority (PPOA), the Public Procurement Advisory Board (PPAB) and in continuance of the Public Procurement Complaints, Review and Appeals Board the Public Procurement Administrative Review Board (PPARB). The objective of the creation of those institutions was, to ensure public procurement procedures are complied with and the bid protest system through the PPARB is further strengthened.

PPOA started operating in January 2007. During the first four years, the members of staffs were seconded from the Ministry of Finance to the authority. This situation with understaffed personal of little more than 40 persons and a Director General, who was only installed as so called acting interim without full powers lasted until the end of 2010. With the beginning of 2011 The Director General of PPOA was approved by Parliament and became fully installed by the Government. Then he was able to recruit new members of staff. From the beginning of 2011 to the beginning of 2012 PPOA's number of staff members has increased to almost 70 persons. This enables the authority to fulfil most of its tasks now. According to the provisions in the PPD Act the roles of PPOA are:

- i. ensuring that procurement procedures established under the Act are complied with;

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- ii. monitoring the procurement system and reporting on its overall functioning;
- iii. initiating public procurement policy; and
- iv. assisting in the implementation and operation of the public procurement system by:
  - preparing and distributing manuals and standard tender documents,
  - providing advice and assistance to procuring entities, and
  - develop, promote and support training and professional development of staff involved in procurement

The PPOA exercises all of its duties as a Semi-Autonomous Government Agency which reports to the Ministry of Finance.

In order to support PPOA in the execution of its tasks an Advisory Board was established under Section 21 of the PPD Act. The Public Procurement Oversight Advisory Board (PPOAB) consists of nine members appointed by the minister and approved by parliament. The chairman and the members of the board are appointed for a term of three years. It is not possible to serve more than two terms as a member or a chairman of the PPOAB. The Director general of PPOA is an additional member of the Advisory Board. The roles of the PPOAB are:

- to advise the Authority generally on the exercise of its powers and the performance of its functions;
- to approve the estimates of the revenue and expenditures of the Authority;
- to recommend the appointment and/or termination of the Director-General in accordance with the Act; and
- to perform such other functions and duties as are provided for under the Act.

Apart from the PPOAB another board exists within PPOA. The PPCRAB was already established under the Exchequer and Audit (Public Procurement) Regulations, 2001, and was part of the Ministry of Finance. Under the PPD Act it is provided for under Section 25 that the PPCRAB was to continue under the PPD Act as the Public Procurement Administrative Review Board

(PPARB) within PPOA. The PPARB consists of nine members selected and appointed by the Minister of Finance for a period of 3 years, with the possibility of a second term.

The Secretary to the PPARB is selected by the Director General of PPOA from members of staff of PPOA. Currently the secretary general is the manager of the Public Procurement Administrative Review Department of PPOA. The roles of the PPARB are:

- handling of bidder complaints, and
- reviews and appeals stemming from procurement practices.

The PPARB is quite a successful tribunal in public procurement. In average it deals with 60 to 70 cases a year and in round about 50% of the cases it rules in favour of the bidder who has launched the complaint. According to the Act PPARB has to make its decision within 30 days after the launch of the complaint. Over the years PPARB accomplished to deliver a writing ruling within 24 days in average. With its fast decisions PPARB ensures that the public procurement review mechanism is not an obstacle for supplying procuring entities in time with works, goods and services in Kenya.

#### ***4. The Public Procurement and Disposal Regulations, 2006***

As part of the Government reform agenda, the need to strengthen and streamline the procurement process was given prominence and thus the enactment of the PPD Act and the PPD Regulations. The composition and membership of the PPARB is set out in Regulations 67-72 while procedures in reviews are set out in Regulations 73-88.

The First schedule of the Regulations sets out the thresholds matrix for the three classes of procuring entities, these classes are divided into class A, B and C. The second schedule sets out the structure and guidelines for the composition of tender committees. The third schedule sets out the required standard tender documents and lastly

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the fourth schedule sets out the standard structure and lay out for the forms for review.

The PPD Regulations further sets out the different types of procurement procedures; Regulations 35- 64 provide for Open Tendering, which shall be the standard procurement procedure in Kenya, Restricted tendering, Request for Proposal, Direct procurement, Low value procurement and Specially permitted procurement procedures by PPOA .

On the basis of the PPD Act and PPD Regulations the PPOA has introduced over the last five years of its existence quite a number additional regulations and other tools, like guidelines, manuals and documents to improve and strengthen the Public Procurement system of Kenya. The activities undertaken are as follows:

***5. The Public Procurement and Disposal (Public Private Partnerships) Regulations, 2009***

The Public Procurement and Disposal (Public Private Partnerships) Regulations, 2009, gazetted on 10<sup>th</sup> March ,2009, aim to enhance economic stimulation; promoting investment and creation of value for money, which is a collection of several factors. The most important factors for the value for money drivers are; the transfer of risk, the output based specification, the long-term nature of contracts, the performance measures, the increased competition and the private sector management. Other important aspects of the regulations targets quicker delivery of projects, the improved incentives to market forces, the cost efficiencies, the broad support for Public-Private-Partnerships and the improved cost calculations by the public sectors.

***6. The Public Procurement and Disposal (Preference and Reservations) Regulations, 2011***

The Public Procurement and Disposal (Preference and Reservations) Regulations, 2011, were gazetted on 8th June, 2011 and are aimed to facilitate the promotion of local industry and economic

development by setting preference and reservation schemes that allows public entities to reserve certain procurements to target groups identified under the Regulations. The identified target groups are small and medium size enterprises, micro enterprises, disadvantaged groups, citizen contractors, local contractors and citizen contractors in joint-venture or sub-contracting arrangements with foreign suppliers. Under the disadvantaged group, the regulations target persons perceived to be denied, by mainstream society access to resources and tools which are useful for their survival in a way that disadvantages them, or individuals who have been subjected to prejudice or cultural bias because of their identities as members of a group, without regard to their individual qualities and includes enterprises owned by women, the youth and persons with disabilities.

#### ***7. The Public Procurement Manuals and Standard Tender Documents***

As an important measure to enhance the Public Procurement system PPPOA has developed a General Procurement Manual, eight sector specific manuals, a code of conduct for procurement officers and a set of standard tender documents. The General Procurement Manual deals with the procurement and disposal of goods and supplies. It is intended to assist participants in public procurement procedures in the application of the PPD Act 2005 and the Public Procurement and Disposal Regulations 2006. It also plays an important role in the standardization of the public procurement practices across all procuring entities in Kenya. In addition to the General Procurement Manual a Works Manual and different other specific manuals, e.g. for the health or education sectors were introduced.

The PPOA introduced also a set of Standard Tender Documents to standardize the procurement procedures. The manuals, the standard tender documents together with the code of conduct give guidance and help to ensure a sound, transparent, fair, equal, efficient and value for money orientated practice of procurement procedures and integrity of the persons involved with those procedures.

### **8. The Tenders Portal of PPOA**

In order to enhance transparency and competition in public procurement system of Kenya PPOA installed a tenders portal as a publication platform for information of tenders notices and contract awards. It is a point of access to retrieving stored information from diverse sources on tenders and contract awards.

The PPOA has first launched the tenders portal in 2008 as a link under its website, whose domain name is [www.ppoa.go.ke](http://www.ppoa.go.ke). Today the portal can be reached under [www.tenders.go.ke](http://www.tenders.go.ke). The tender portal acts as a database storage for tender advertisements and contract awards only worth (Kshs. 5,000,000/=) five million and above. It serves as an online archive for all government tenders and further enables procuring entities to advertise their tenders online and suppliers both locally and internationally are able to access the advertisement and participate in the tender.

The tender portal was launched with the intention of:

- acting as a database for tender advertisement and contract awards worth five million and above;
- aiming to improve access to government tenders and other any other Procuring Entities advertising tenders;
- aiming at Suppliers being able to view tender documents online before purchasing;
- aiming to encourage effective competition; and
- aiming at enhancing the implementation of e- procurement.

Over the years procuring entities and potential bidders are using the portal more and more as the increasing numbers of posted tender notices and contract awards are proving. Nevertheless, since not every procuring entity or potential bidder in Kenya has internet access, PPOA also publishes tender opportunities and contract awards on a monthly basis in three nationwide circulated daily newspapers.

### **9. The IFMIS Re-Engineering Framework**

The Ministry of Finance has developed an Integrated Financial Management Information (IFMIS) re-engineering framework aiming to improve systems for management and reporting of financial data and information for the Government of Kenya. PPOA takes part in the aforesaid re-engineering process and a business process review was conducted by the partners. Its main objective was to evaluate the current structure with the aim of eliminating some of the steps that are redundant in readiness of procuring an e-procurement system.

### ***10. The Implementation of e- Procurement***

As part of its e-Government program, PPOA proposes to implement an e-procurement system. The Government of Kenya aims to achieve the following objectives through the implementation of an e- procurement system:

- Transparency: Introduce the maximum extent of transparency in public procurement by making the required information available in the internet.
- Cost Savings through higher competition: A result of wider publicity to Government procurement opportunities.
- Cost savings through demand aggregation: the ability to aggregate Government departments' demand to leverage buying power with then supply market.
- Reduced inventory costs: Improved planning and management of inventory leading to lower levels of inventory.
- Internal arbitrage: Ensuring consistency in goods and services costs at the best price across all departments at item level.
- Consistent and sustainable contractor development: Enabling pre-qualified vendors the opportunity to access other government departments.
- Transactional effectiveness: Eliminating or automating non-value adding steps within the procurement to enable efficient and effective processes.

So far PPOA has developed a strategy which will guide the implementation of e- procurement to all public entities. The

implementation of an e-procurement system will be part of the IFMIS re-engineering framework.

### ***11. Procurement of Common-User Items***

Recently a Reform Taskforce was constituted to review the current status of the Supplies Branch, being a strategic institution for the procurement of common user items, and to make recommendations on how to transform it into a viable Government institution that applies modern information technology in its procurement systems. Preliminary findings of the Taskforce indicated that operations at the Supplies Branch are inefficient, ineffective and do not take cognizance of international best practice and legal requirements. Consequently, the taskforce recommends a complete overhaul of the institution to bring it back to life starting with name change and then transforming it into a full-fledged state corporation reflecting a structure that accommodates a business model that is financially sustainable as well as staffed with professional procurement personnel. These changes are expected to save public institutions up to 40% of their budget on procurement of common-user items.

### ***12. The Constitution of Kenya, 2010***

The 2010 Constitution of Kenya currently in force, replaced the 1969 Constitution, that itself had replaced the 1963 Independence Constitution. The new Constitution came about after the intervention of the African Union through a mediation team headed by Kofi Annan, following the outbreak of serious post-election violence in early 2008. It was presented to the Attorney General of Kenya on April 7, 2010, officially published on May 6, 2010, and was subjected to a referendum on August 4, 2010. The new Constitution was approved by 67% of Kenyan voters and was promulgated on 27 August 2010.

The new Constitution of Kenya commits the Government to the principles of Good Financial Governance (transparency, target-orientation and cost efficiency), which are laid down and regulated in its Twelfth Chapter. Part of Good Financial Management is the budget

execution and budget spending. Therefore it was consequent to also introduce an Article on Public Procurement in the new Constitution. Under Part XII Public Finance, Article 227 the Constitution deals with procurement of public goods and services and stipulates as follows:

*(1) When a State organ or any other public entity contracts for goods or services, it shall do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective.*

*(2) An Act of Parliament shall prescribe a framework within which policies relating to procurement and asset disposal shall be implemented and may provide for all or any of the following—*

- a) categories of preference in the allocation of contracts;*
- b) the protection or advancement of persons, categories of persons or groups previously disadvantaged by unfair competition or discrimination;*
- c) sanctions against contractors that have not performed according to professionally regulated procedures, contractual agreements or legislation; and*
- d) Sanctions against persons who have defaulted on their tax obligations, or have been guilty of corrupt practices or serious violations of fair employment laws and practices.*

Article 217 of the Constitution of 1996 of the Republic of South Africa served as a model for the text of the Kenyan provision. The wording of the first paragraph is almost identical in both Constitutions and also the rest of the Articles are very similar. By copying the Article 217 of South Africa's constitution, the Kenyan constitution also missed out to mention works in Article 227, paragraph 1, which creates some uncertainty, if works contracts have also to be awarded in a system that is fair, equitable, transparent, competitive and cost-effective or not.

Apart from that most of the provisions provided by Article 227 of the new Constitution are already incorporated in the PPD Act and the three regulations. Therefore the PPD Act only needs to be restructured in alignment to the constitution, the major challenge being working on the improvement of the legal framework. Further based on these provisions among others, PPOA conducted a study to determine the impact of the new constitution in public procurement in November, 2010 and developed a compendium of proposed amendments to the Public Procurement and Disposal Act, 2005. The process of preparing a parliamentary bill is underway since the end of 2011. According to the fourth schedule of the new Constitution, procurement of public goods and services has to be looked into and steps taken to reform it, together with the PPD Act which has to be amended by an Act by Parliament within four years after the enactment of the constitution, which means by the middle of 2014.

## **THE WAY FORWARD**

### ***1. Amendment of the Act and Regulations***

Besides the amendment of the PPD Act and the aligned of the regulations in accordance with the new Constitution, the successful implementation of a sound, transparent, fair, equal, competitive, effective and value for money orientated public procurement system on the level of county governments, which are newly created through the 2010 Constitution, is the most challenging task for the next couple of years to come.

PPOA together with other stakeholders, like PPD and the Commission for the Implementation of the Constitution (CIC) for example, is currently working on the preparation of a draft for a parliamentary bill of an amendment to the PPD Act. The same applies to the amendments to the PPD Regulations. The drafts of those documents will be presented and discussed with the professional public on a number of national and regional stakeholder forums throughout the country in the upcoming months. At the same time the proposals for amendments will be also discussed with all Ministries and other relevant institutions for the preparation of new legislative documents,

like the Kenya Law Reform Commission for example. This coordination and discussion process will take most likely a year's time, before Treasury will be able to submit an amendment bill on the PPD Act to a then new Kenyan Parliament in 2013.

## **2. Capacity Building**

Having a sufficient legislative framework in place is not enough in order to build up a sound, transparent, fair, equal, cost effective and competitive public procurement System. In general Kenya has quite number of good laws and regulations in place, but one of the weaknesses is that the implementation of those rules is not always ideal. In order to avoid non-compliance with the procurement rules, regulations, guidelines and documents it needs great efforts to build up capacity in the public and in the private sector, which are both equally important for the executing of good and smooth award procedures.

Therefore PPOA has come up early with a strategic plan which runs for the period of 2010-2014, to assist it in its role in the development, implementation and regulation of the public procurement system so as to ensure that:

- The government gets value for money.
- Loss of public funds on procurement is minimised.
- There is optimized resource allocation for the various prioritized government projects.
- Procured goods, works and services are delivered on time.

With the new devolved system in place after the next general elections, the strategic plan needs to be adjusted to the new structure of Government in Kenya and updated to the new challenges. One measure to meet the challenges of a devolved system with county governments is that PPOA plans to set up branches in six different regions of the country for example, in order to fulfil its oversight function in a sufficient manner in all parts of the country.

Another step is to adjust and to update also the Capacity Development in Public Procurement Strategy (2010-2014) of PPOA. The strategy was developed in 2009 and covers elements like policy and system development, organizational and operational development, human resource development and awareness rising and network building. During the elaboration of the strategy the devolved structure of the Kenyan government was not foreseeable. Therefore the strategy didn't cater for the challenges of public procurement by county governments.

From 2009 until the beginning of 2012 PPOA together with other stakeholders and development partners has sensitized and trained mostly in one and two days seminars round about 13.500 procurement professionals from procuring entities and from the side of suppliers. Since 2011 PPOA together with partners focuses in regard to training activities more on one, two and in the future also three weeks training courses in public procurement. The objective is to offer those longer trainings in all of Kenya's 47 counties, which is not an easy venture, since not all county capitals provide for adequate training facilities.

Especially for procurement officers in those regions where trainings didn't or couldn't take place due to lack of adequate facilities or insecurity, PPOA has developed with the help of development partners an e-learning system, which was launched in the beginning of 2011 and which is promoted through induction workshops all over the country. The system, which gets constantly improved and updated, is used by almost 1.000 learners since its launch.

Apart from the above mentioned training activities the syllabuses of the public procurement trainings of the Government Training Institutes are revised and adjusted to the new legislative set up and the needs of a new financial management system in line with the standards of the new Constitution. In addition also the existing Train-the-Programme, the Training Manuals and the Training Materials are in a process of review and update in order to meet the needs of the upcoming challenges and changes in the public procurement system of Kenya

## CONCLUSION

Since the beginning of the millennium the Government of Kenya is committed to reform and improve on the public procurement system. The reforms have supported essential concepts and values as follows:

- Accountability to establish clear lines of responsibility in decision-making structures.
- Responsiveness to citizens of the country.
- Professionalism to improve individual and systems performance.
- Transparency to ensure that procedures and policies are understood and accepted by procuring entities.
- Competition to attract high quality national and international partners investing in meeting government needs through contracts, and
- Appeal rights to redress meritorious grievances of suppliers.

Main actors in the Kenyan public procurement system, like PPOA, PPARB, PPD and KISM (Kenya Institute of Supplies Management, the professional body of procurement officers) have build up their capacities to an extent that they are able to perform their duties in accordance with their legal obligations and in line with best international standards. Those institutions are also prepared to meet the challenges of the next reform steps due to the implementation of the new Constitution and they work on the further improvement of the public procurement system of Kenya.

The general weaknesses in Kenya like the insufficient implementation of laws and regulation in daily administrative actions, the culture of impunity and the wide spread culture of corruption are the main obstacles for a sweeping success of the reforms efforts so far. Therefore one hopes that the next Government of Kenya will not

only be committed to the strengthening of the public procurement system, but also will focus more on the implementation of rule of law and the fight against corruption.

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