

PRESS STATEMENT

ROLE OF SUPPLIES PRACTITIONERS IN PUBLIC PROCUREMENT AND ASSET DISPOSAL

Kenya Institute of Supplies Management (KISM) is established under Section 3(1) of the Supplies Practitioners Management Act, 2007 (the SPMA) to *inter alia*, register, license all supplies practitioners in Kenya and to regulate their practice.

It has come to our attention that Supplies Practitioners are increasingly being subjected to unfounded disciplinary actions, demotions, removal from office, harassment, civil suits, criminal investigations and prosecutions, based on perceptions, rather than duly investigated and audited and for performing their statutory functions in compliance with the law and or for declining to obey unlawful instructions. In some cases, Supplies Practitioners are being subjected to criminal and administrative actions over roles that are not assigned by law to them or to be performed by them. This unfortunate development is based on the perception and narrative that public procurement of goods, works and services are procured by Supplies Practitioners.

The architecture of the Public Procurement and Asset Disposal Act, 2015 (PPADA) is such that public procurement and asset disposal is **collegial** as per Section 45 of the PPADA 2015 and the roles are assigned as follows:

Board of Directors

Responsible for (a) approval of budgets and (b) oversight of its usage.

Accounting Officer

Draws mandate from Article 226 of the Constitution of Kenya, 2010; the Public Finance Management Act, 2012 (PFMA); and the Public Procurement and Asset Disposal Act, 2015 (the PPADA). S/he is responsible for ensuring compliance with the PPADA; the Public Procurement and Asset Disposal Regulations, 2020 (the PPADR); Guidelines and Directives issued by the National Treasury and the Public Procurement Regulatory Authority (PPRA).

From the foregoing, the functions of the Accounting Officer include: (a) ensuring budgets are approved by the Board of Directors and National Treasury or County Treasury; (b) ensuring that the consolidated procurement plans are in conformity with fiscal policy objectives; (c) approving purchase requisitions and technical specifications or terms of reference or scope of works; (d) approving tender documents and advertising/disseminating them; (e) appointing procurement and disposal committees (Tender Opening Committee, Evaluation Committee, Contract Implementation Team, Inspection & Acceptance Committee and Disposal Committee); (f) considering tender evaluation report, professional opinion and awarding or rejecting tenders; (h) issuing notifications of intention to enter into

contract; (i) signing of contract agreements; and (j) issuing Certificates of Final Acceptance.

Head of Procurement

A **Supplies Practitioner** for purposes of the Supplies Practitioner Management Act, 2007 (the SPMA) and draws mandate from Section 2, 47, 80(4) and 84 of the PPADA as read with Regulation 33(3) of the PPADR. The functions of the Head of Procurement can be summarized into three heads: (a) co-ordination of the procurement and disposal processes; (b) provision of secretariat services to procurement and asset disposal committees; and (c) advising the Accounting Officer.

User/technical department

Responsible for (a) preparation of departmental procurement & asset disposal plan and budget and ensuring approval by the Accounting Officer; (b) specifying technical requirements and technical evaluation criteria; (c) initiation of procurement through purchase requisition; (d) membership of evaluation committee; (e) contract implementation (supervision); (f) membership of inspection & acceptance committee (g) issuance of Goods Received Notes (GRN), Interim/Completion Certificates) and Certificates of Confirmation of delivery; and (h) membership of asset disposal committee.

Evaluation Committee

Appointed on *ad hoc* basis comprising heads of user and technical departments on the basis of expertise. Each member independently evaluates all tenders in accordance with the tender evaluation criteria, the Constitution, the PPADA and PPADR and ranks the tenders in the order of merit. Independent evaluation reports are submitted to the Head of Procurement who convenes a joint evaluation committee meeting for members to harmonize their findings and rankings and prepare a joint evaluation report. Head of Procurement sits in the joint evaluation committee meeting as secretary for purposes of recording deliberations.

Contract Implementation Team

A multi-departmental team that supervises and works with the contractor and is responsible for monitoring the performance of the contractor, to ensure that all delivery or performance obligations are met or appropriate action is taken by the procuring entity in the event ensuring that suppliers deliver in accordance with the law, the contract, technical specifications, standards, time, quality, quantity and price.

Inspection & Acceptance Committee

The committee is responsible for reviewing and testing all delivered goods, works and services to ensure compliance/ conformance to specification and that they are fit for the intended purpose. It is accepts goods, works and services by issuing

Goods Received Notes (GRN) or Interim/Completion Certificates. It has power to reject goods, works and services that are not fit for the intended purpose.

Conclusion

From the foregoing, it is our considered view that public procurement and asset disposal process is driven, directed and controlled by the Accounting Officer who is therefore accountable for any acts of omission or commission in the procurement of public goods, works and services. Accordingly, we urge that the Investigative Agencies led by the Director of Public Prosecutions, Ethics and Anti-Corruption Commission (EACC), the Inspector General of Police, Boards of Directors and Accounting Officers themselves to note the above segregation of duties and hold each public officer accountable for breach in their respective functions. This will mitigate against the generalized condemnation of Supplies Practitioners for mistakes that are committed or attributable to the Accounting Officers or the user/technical departments.

We unreservedly support the sanitization of the procurement and disposal of public goods and services and we commit to provide to the DPP, EACC, the Police, Auditor General, internal auditors, Boards of Directors and Accounting Officers technical assistance, expertise and capacity building on the procurement and disposal processes with a view to aiding them conduct criminal investigations and prosecutions of criminal, civil and administrative cases.

BY ORDER OF THE COUNCIL

John Karani
Chairman of the Council