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SUPPORT FOR REFORMING THE PUBLIC PROCUREMENT SYSTEM PHASE II (RPPS II) FINAL REPORT



MARCH 2011

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COVER PHOTO:

Kenya Medical Supplies Agency (KEMSA) offices/warehouses in Industrial Area, Nairobi. Photo courtesy of Teddy Brown, House of Photography.

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The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

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ACRONYMS AND ABBREVIATIONS

| | |
|--------|---|
| ARB | Administrative Review Board |
| AWSB | Athi Water Services Board |
| CCK | Communications Commission of Kenya |
| CEO | Chief Executive Officer |
| CSO | Civil Society Organization |
| FAQ | Frequently Asked Question |
| GOK | Government of Kenya |
| GIZ | Deutsche Gesellschaft für Internationale Zusammenarbeit (German Society for International Cooperation) |
| ICT | Information and Communications Technology |
| IPAR | Institute for Policy Analysis and Research |
| JKIA | Jomo Kenyatta International Airport |
| KACC | Kenya Anti-Corruption Commission |
| KARI | Kenya Agricultural Research Institute |
| KCAA | Kenya Civil Aviation Authority |
| KEMSA | Kenya Medical Supplies Agency |
| KENET | Kenya Education Network Trust |
| KENGEN | Kenya Electricity Generating Company |
| KISM | Kenya Institute of Supply Management |
| KRA | Kenya Revenue Authority |
| MCCTP | Millennium Challenge Corporation Threshold Program |
| NEMA | National Environmental Management Agency |
| NHIF | National Hospital Insurance Fund |
| NGO | Nongovernmental Organization |
| NSSF | National Social Security Fund |
| OAB | Oversight Advisory Board |

| | |
|---------|---|
| PCK | Postal Corporation of Kenya |
| PE | Procuring Entity |
| PPDA | Public Procurement and Disposal Act 2005 |
| PPDR | Public Procurement and Disposal Regulations 2006 |
| PPOA | Public Procurement Oversight Authority |
| PPP | Public-Private Partnership |
| RPPS I | Millennium Challenge Corporation Threshold Program, Support for Reforming the Public Procurement System and Improving Delivery of Health Services |
| RPPS II | Support for Reforming the Public Procurement System, Phase II |
| SB | Supplies Branch of the Ministry of Works |
| STD | Standard Tender Document |
| TSC | Teacher's Service Commission |
| USAID | United States Agency for International Development |
| YEF | Youth Enterprise Fund |
| YMCA | Young Men's Christian Association |

I.0 EXECUTIVE SUMMARY

The overall objective of the Support for Reforming the Public Procurement System Phase II Task Order was to support Kenya's Public Procurement Oversight Authority (PPOA) to carry forward the implementation of reforms in the public procurement process and achieve greater transparency and accountability in the procurement system.

The public procurement system is an important component of effective financial management. Approximately one-third of Kenya's gross domestic product is accounted for by public expenditure, of which about 35 percent is channeled through the procurement system. Annual wastage from the poor management of procurement resources has been estimated at 30 billion shillings (US\$400 million) or some 24 percent of government expenditures.¹ Loss on this scale represents a serious setback to Kenya's ability to fund its

development needs. Procurement is a key area where corruption takes place. The Kenya Anti-Corruption Commission has indicated that some 80 percent of the cases referred to them for investigation have a public procurement element. The work of the PPOA in improving the procurement practices of central government ministries, state corporations, and local government authorities is an important aspect of the fight against corruption.

In 2003, the Government of Kenya (GOK) began a comprehensive reform program designed to address inefficiencies in the use of public resources and weak institutions of governance. Key aspects of this reform



Pictured above are drugs and other medical supplies procured by the Kenya Medical Supplies Agency (KEMSA) using improved procurement procedures. The RPPS Program provided training to KEMSA officials on procurement and delivered procurement manuals to the Agency.

Photo courtesy of Teddy Brown, House of Photography

¹ Article in *Sunday Nation*, August 30, 2009, with interview of Assistant Minister of Finance, Oburu Oginga.

program included the development of strategies to facilitate the fight against corruption and the enactment of the Public Officer Ethics Act 2003, the Anti-Corruption and Economic Crimes Act 2003, the Financial Management Act 2004, and the Public Procurement and Disposal Act 2005 (PPDA). The PPDA established a decentralized public procurement system but made it subject to central oversight and control by a new regulatory body, the PPOA. The PPDA was also designed to make the public procurement process more transparent, ensure accountability, and reduce wastage of public resources.

The PPOA's statutory functions are set out in Section 9 of the PPDA and may be summarized as (1) ensuring that the procurement procedures established under the PPDA are complied with; (2) monitoring the public procurement system and report on its overall functioning; (3) assisting in the implementation and operation of the public procurement system by preparing and distributing manuals and standard documents for use by public entities and by providing training and advice to procuring entities; and (4) initiating public procurement policy and proposing amendments to the PPDA or Regulations.

The PPDA and the associated regulations, which took effect on 1 January 2007, apply to procurements and disposals carried out by any department of government, local authorities, co-operative societies, schools, universities, and various other public bodies.



ICT equipment in use by students. These were procured by Kenya Education Network Trust (KENET) after attending the workshop on the ICT Manual.

Photo courtesy of Teddy Brown, House of Photography

The Millennium Challenge Corporation (MCC) selected Kenya for Threshold Program (TP) assistance in September 2004. In February 2007, the board of the MCC approved the Kenya Threshold Country Proposal, the objective of which was to support public procurement reform, with a special focus on the Ministry of Health, and to improve the capacity of civil society institutions to effectively monitor and report on public procurement practices.

To support the Government of Kenya (GOK) to achieve its public procurement reform goals, the MCC and USAID awarded Tetra Tech ARD the Reforming the Public Procurement System (RPPS) I project in 2007. The project commenced on 22 October 2007, and was completed on 30 September 2009. Through this project, Tetra Tech ARD helped the PPOA create a framework for better regulation of procurement activities by the various Procuring Entities (PEs), and improved awareness of the law and understanding of good practice and the rights of bidders to fair treatment within transparent procedures.

Some of the key results of RPPS I include:

- RPPS I **trained PE staff** involved in procurement activities from 79 key PEs on the requirements of the PPDA, and the Public Procurement and Disposal Regulations, 2006 (PPD Regulations). This introductory training has been supplemented by in-depth workshops on technical aspects of procurement for Heads of Procurement Units and senior technical staff of key procuring entities and by other specialized training events. This training, which involved over 2,000 participants in total, substantially improved understanding on the part of PE staff of the Kenyan procurement law and of good procurement practices.

- RPPS I **developed manuals and guidelines on difficult areas of procurement practice**, including records management, framework contracts, procurement of public-private partnerships (PPPs) and procurement in special sectors, including health, schools, information and communications technology, non-intellectual services, insurance, public works, and the procurement and management of projects.

RPPS I prepared a further sector manual on procurement by cooperative societies, for PPOA's consideration, which is awaiting publication. In addition, RPPS I published a User's Guide and developed standard bidding documents for use by the PEs. RPPS I sponsored study tours to Tanzania, the U.S., and Canada with the aim of improving knowledge and understanding of how procurement is regulated in other countries.

- As a further measure to improve efficiency within the PPOA, RPPS I **supported the development of an internal web site** (Intranet) which is now being used as a principal means of communication and information-sharing between the various departments of the PPOA.
- RPPS I **prepared a booklet on *Guidelines for Potential Bidders*** and presented it to the business community through a series of workshops with the aim of generating more competition within public procurement and of increasing bidders' awareness of their rights.
- RPPS I **launched a public awareness campaign** with a view to increasing awareness among the general public about the work of the PPOA and the benefits of the procurement reform program.
- RPPS I **conducted procurement reviews of 10 key PEs**, identified weaknesses, and made recommendations for improvement, with a schedule for implementation. RPPS I prepared a *Procurement Review Manual* to provide a standard format for reviews carried out by different consultants. RPPS I recorded the progress made by reviewed entities in implementing the recommendations in the action plan in the review reports.



Public Procurement Oversight Authority (PPOA) Office Entrance on the 10th Floor, National Bank Building, Harambee Avenue.

Photo courtesy of Teddy Brown, House of Photography

- RPPS I strengthened the records management practices in six PEs plus PPOA itself, prepared a *Procurement Records Management Procedures Manual* as a guide to good practice, and trained and mentored the PEs on how to improve records management, monitoring and recording progress made.

Further details of the activities carried out under RPPS I and their impact on the public procurement system can be found in the *Final Report* that was submitted to USAID in September 2009.

In RPPS II, Tetra Tech ARD built upon the successes achieved under RPPS I to assist the PPOA to:

- Increase the number of procurement reviews carried out by the PPOA annually;
- Provide the necessary follow-up on the recommendations from the procurement reviews;
- Improve the collection of information about the procurement activities of PEs;
- Develop new manuals, guidelines, and standard tender documents, including a Code of Ethics;
- Provide a blueprint for more effective procurement of common-user items;
- Increase public understanding of the procurement reforms and the role of the PPOA in it; and
- Build the capacity for effective oversight and support of the procurement process from civil society.

RESULTS ACHIEVED

RPPS II trained some 928 officials from procuring entities, and a further 676 young people under the Youth Enterprise Scheme were familiarized with requirements to compete for government contracts. Training topics included advanced procurement, framework contracting, health procurement manual, sensitization for youth entrepreneurs, procurement for schools and colleges, and sensitization for district commissioners, among other areas. RPPS II conducted training courses in Eldoret, Garissa, Kakamega, Kisumu, Nairobi, Nakuru, Nyeri, Malindi, and Mombasa. RPPS II training reached 76 PEs in Nairobi and 402 PEs outside of Nairobi, making a total of 478. The project exceeded the target of 150 PEs trained by 223 percent. RPPS II endeavored to achieve a gender balance for training events that was representative of the gender balance in the civil service of Kenya. Approximately 31 percent of all trainees were female.



Mr. Jeffrey Woodhams, Senior Procurement Training Specialist conducting a workshop for youth entrepreneurs in Eldoret.

Photo courtesy of Nigel Shipman

According to an Evaluation of Training on Staff of Procuring Entities prepared by Pan-African Research Services, Ltd., 100 percent of those polled who had been trained by RPPS II indicated that the training increased their level of knowledge on the procurement law and good practice. Respondents to the training evaluation indicated that the general level of professionalism in PEs has improved as a result of RPPS II training. The evaluator found that prior to RPPS II training, the level of awareness of procurement officers in procuring entities was 3.3 out of 5 (with 5 being the highest level of awareness); after training, the level of knowledge in procurement law and regulations increased to 4.2 out of 5. Ninety-seven percent of those asked who were trained by RPPS II claimed to have implemented the content learned in their job.

As part of the procurement review process, RPPS II measured the number of recommendations that PEs acted upon. In Year 1, PEs showed a 63 percent improvement by acting upon recommendations. This trend continued in Year 2 of the project, with a 60 percent level of improvement.

During the implementation of RPPS II, 10 PEs received technical assistance and mentoring on improved records management. RPPS II carried out additional procurement reviews at eight PEs.

RPPS II carried out a number of additional activities to support the PPOA. For example, the RPPS II team drafted a code of ethics for the PPOA, standardized the system by which PEs should report key procurement information to PPOA, developed procedures leading to the debarment of unsatisfactory suppliers and contractors, revised the procurement review manual, and facilitated a PPOA / civil society roundtable. RPPS II also developed and submitted recommendations for reorganizing the Supplies Branch to become an effective instrument for procuring common-user items for all PEs, provided support to the PPOA for their public relations function, developed an interactive web-based training program for PEs, and revised a number of procurement manuals.

As a result of RPPS II technical assistance, the PPOA is better able to carry out its mandate. During RPPS I and throughout Year 1 of RPPS II, the PPOA had an acting interim Director General, and staff were seconded from the Ministry of Finance. In November of 2010, the Government of Kenya appointed a

Director General and dedicated permanent PPOA staff. PPOA's visibility as a government institution has increased, and issues of procurement practice and abuse are regularly reported in the national press.

During the project term, the team worked closely with the PPOA's other main donor partner, Deutsche Gesellschaft für Internationale Zusammenarbeit (German Society for International Cooperation) (formerly GTZ), which provided a Technical Advisor, Mr. Mathias Mühle, to PPOA. Some events were supported by both the project team and Mr. Mühle. As the GIZ project is expected to continue until 2016, it will take over some of the activities after project close-down.

Several attempts were made during the final visit of the Senior Technical Advisor in January–February 2011 to arrange a meeting with the Director General of PPOA to obtain his assessment of the benefits that PPOA has derived from the project, the successes and shortcomings, and his view of priorities for future donor assistance. However, as it was not possible for this meeting to take place, the meeting was held instead with his deputy, Mrs. Jane Njoroge, General Manager (Technical Services). She considered that all departments of PPOA had benefited from the project and particularly welcomed the capacity building within PPOA among staff of PEs and among potential bidders. The support given to developing capacity to carry out procurement reviews was especially beneficial, as this monitoring of performance acted as a challenge to corruption in procurement. She was disappointed that the project was ending so soon, particularly in view of recent staff turnover, as the newly recruited staff would not have the benefit of this support. She also made suggestions on continuing activities for donor support which have been reflected in Section 6.



Procurement of security services at the Jomo Kenyatta International Airport (JKIA). Kenya Airport officials attended the Tetra Tech ARD workshops on Procurement Services and Framework Contracts.

Photo courtesy of Teddy Brown, House of Photography

2.0 INTRODUCTION



Procurement of windmills by Kenya Electricity Generating Company (Kengen). Kengen staff attended both the Works and Projects Manuals workshops.

Photo courtesy of Teddy Brown, House of Photography

The Support for Reforming the Public Procurement System Phase II project commenced in October 2009 and continued until March 2011. It followed immediately upon Component One of the Millennium Challenge Corporation Threshold Program, Support for Reforming the Public Procurement System and Improving Delivery of Health Services (RPPS I), which ran from October 2007 to September 2009. A Final Report on the Threshold Program project was prepared in September 2009.

This Report, by following the requirements in the Task Order:

- Provides an overall description of the activities of the Phase II project and assesses the significance of these activities;
- Describes the methods of assistance used and the pros and cons of these methods;

- Presents life-of-project results towards achieving the performance indicator targets (these will be supplemented by the Performance Monitoring Report which will be submitted separately);
- Summarizes the project's accomplishments and makes recommendations regarding unfinished work and project follow-on;
- Discusses the issues and problems that emerged during project implementation and the lessons learned in dealing with them;
- Contains an index of all reports and information products produced under the contract (see Appendix A); and
- Includes a budget spreadsheet that contains final expenditures under the project broken down by budget line item.²



Tetra Tech ARD Project Team.

Photo courtesy of Ella Shipman

² Template with final expenditure figures to be provided.

The project team in Nairobi consisted of:

- Nigel Shipman, Chief of Party;
- Jeff Woodhams, Senior Procurement Training Expert;
- James Okello, Enforcement/Audit Specialist;
- Joseph Rembe, Records Management Specialist;
- Jennifer Boit, Monitoring and Evaluation Specialist;
- Judith Otieno, Accountant/Office Manager;
- Anne Njuguna, Receptionist/Office Assistant;
- David Muzambe, Driver/Office Assistant.

U.S. support to the project team was provided by Mr. Stephen Carpenter (Senior Technical Advisor), Mr. Dimitri Obolensky (Project Manager), Ms. Karen Wingate (Accountant), and by others in the Tetra Tech ARD offices in Burlington, Vermont. Mr. Edward White came from the USA to Nairobi to support revisions to the PPP Guidelines and to prepare the standard tender document on concessioning. Mr. Jeff Saussier came over to prepare the Performance Monitoring Plan, and Mr. John Mason reviewed achievements under it. This has been included as a separate report.

In addition, the following were engaged to support particular activities:

- Tom Onono, for procurement reviews;
- Peter Mbugua, for training workshops;
- Mbuba Mbungu, for training workshops;
- Anthony Moire, for training workshops;
- George Mboya, for training workshops;
- Leakey Maina, for IT aspects of the reorganization of the Supplies Branch;
- Festus Githaiga, for updating the Suppliers Guide;
- Sylvia Aluoch, for legal support to Mr. White.

In addition to these individuals, subcontractors were engaged for particular activities:

- Crown Agents (USA), which was Tetra Tech ARD's partner on the project; Mr. Woodhams, Mr. Okello, and Mr. Onono were engaged through them. They also provided a consultant, Meryl Bengtsson, for review of the Supplies Branch;
- The Institute for Public Policy and Research (IPAR), for strengthening community monitoring of procurement activities;
- Soluhisho Software Solutions Ltd., for development of an interactive training program;
- Neat Wide Systems Ltd., for the public awareness campaign;
- Real Time Enterprises Ltd., for improvements to the tenders website and the PPOA Intranet; and
- Carl Vinson Institute of Government at the University of Georgia, for a program of study and visits for some PPOA staff.

Lisa Whitley (Cognizant Technical Officer) and Joseph McGee (Contracts Officer) provided valuable support to the project from USAID/Kenya.

The Director General and his colleagues in PPOA provided essential guidance and support to the project.

Opens the Door for Business

Tetra Tech ARD, in conjunction with the Youth Enterprise Fund has trained over 600 youth entrepreneurs in public procurement. The course was designed to create awareness among the youth potential bidders of what public procurement entails, explain the pre-qualification process and registration requirements, and navigate them through the tendering process.

Like many youth in his neighborhood, having grappled with years of unemployment and idleness, Joshua Gitau decided to start off as volunteer at the District Hospital's Voluntary Counseling and Testing (VCT) Center and also tried his hands at shop keeping, but realized that he could not make an adequate living by just running his kiosk. He decided to register with the Youth Enterprise Fund (YEF) having heard about it from his fellow peers who had obtained loans from the enterprise but had nothing to show for it.



Mr. Joshua Gitau, a beneficiary of the Youth Sensitization workshop conducted in Thika narrates his success story to Ms. Jennifer Boit, Tetra Tech ARD's M&E Specialist.

Photo courtesy of Teddy Brown, House of Photography

He noticed milk traders were doing good business within his neighborhood and started off by selling milk to passers-by who came by his kiosk. It was around this time that the YEF invited him to attend the workshop for youth entrepreneurs and he has never regretted having attended the workshop. During the workshop facilitated by Tetra Tech ARD, he discovered that he could borrow money at very low interest rates. He also learned that he could participate in government procurement like any other businessman by visiting different entities to find out what they had advertised on their notice boards or what low-value items were required. As a result of the workshop, he was able to introduce himself formally and get himself onto the list of registered suppliers at the District Hospital's VCT Center and the Prisons Headquarters as he discovered the hawkers' buying milk from his kiosk were suppliers to the two entities.

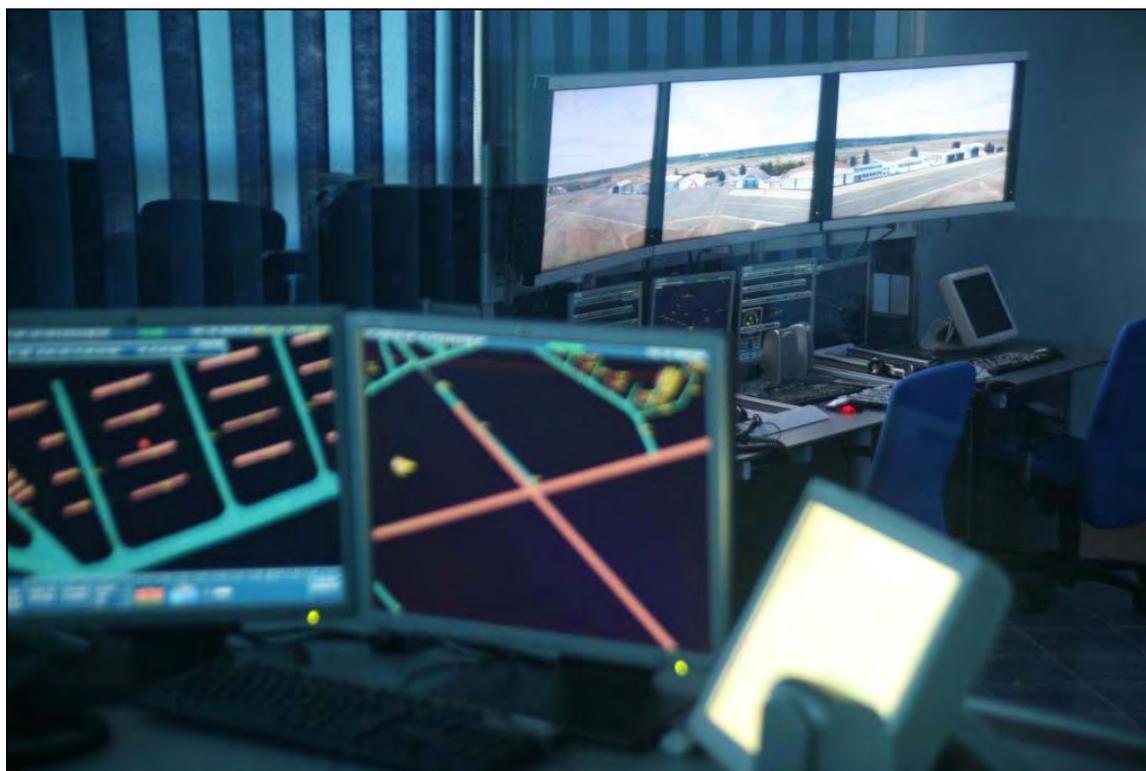
He recalls borrowing a friend's bicycle for his first few deliveries and was able to buy his own three months later with proceeds from the milk deliveries while still re-paying the loan he obtained from the YEF. He now finds it uneconomical to make small deliveries and instead sells small quantities directly from his kiosk and only makes deliveries for larger quantities.

He now has his own milk supplier account number with the Prisons department and the District Hospital VCT Center, and delivers over 50 liters of milk daily with the help of two assistants.

Gitau proudly explains that the Tetra Tech ARD course was a real eye opener. Many do not believe that he started off with a tiny kiosk selling vegetables. His wife now concentrates on the kiosk while he grows the milk side of the business. He only recently bought his first two dairy cows but plans to buy many more in the future.

Gitau says there are many unemployed youths out of school who are doing nothing and he will encourage them to enroll themselves with the YEF as that is where they will find opportunities like the training he received. He also says that his success has made him a mentor to his fellow youth out of school who seek his advice on how to start small. "Thanks to Tetra Tech ARD's assistance, my kiosk has been of assistance to my community."

3.0 PROGRAM OVERVIEW



Procurement of new equipment for air traffic controllers by the Kenya Civil Aviation Authority (KCAA) KCAA staff attended the workshop on the general manual.

Photo courtesy of Teddy Brown, House of Photography

Following completion of RPPS I, Tetra Tech ARD was invited by USAID to prepare proposals for a follow-on program that would be financed directly by USAID. The activities under the program were designed to assist the beneficiary client, Public Procurement Oversight Authority (PPOA), to achieve the following key results:

- Procurement practices of GOK procuring entities comprehensively monitored and evaluated;
- Mechanisms implemented within procuring entities that can lead to greater efficiencies in procurement, as well as increased transparency;
- Procuring entities trained in key skill areas of procurement; and
- Enforcement powers granted to the PPOA under the Public Procurement and Disposal Act effectively utilized.

3.1 GENERAL WORK PLAN

A two-year program of activities was prepared to achieve these results. However, for budgetary reasons it was decided to curtail the program to 18 months. This program was then set out in a General Work Plan that detailed the activities that would be carried out to achieve each result. The General Work Plan was submitted to USAID and to PPOA in December 2009, and was endorsed at a meeting of the Project Steering Committee at which both parties were represented. In order to maintain flexibility to meet changing needs and requirements, new activities have been added to the program—in addition to or in substitution for—activities that could not be carried out. The General Work Plan was revised in June 2010 to take account of these activity changes, and other activities have been added since then.

The activities listed under each key result in the revised General Work Plan were as follows.

Procurement practices of GOK procuring entities comprehensively monitored and evaluated

- *Continuation and strengthening of procurement reviews:* This activity included procurement reviews of eight procuring entities (PEs), follow-up action on the 10 PEs reviewed under RPPS I, revision of the Procurement Review Manual, and training on review procedures for PPOA staff and other consultants engaged by them.
- *Strengthening of the procurement reporting system:* This activity required Tetra Tech ARD to devise a standardized reporting format for PEs that would include the information needed to enable the PPOA to monitor effectively the workings of the procurement system.
- *Strengthened community monitoring of the procurement system:* This activity required identification of areas where greater monitoring by civil society and community organizations would be effective, and how this monitoring might be achieved.

Mechanisms implemented within procuring entities that can lead to greater efficiencies in procurement, as well as increased transparency

- *Reorganization of the Supplies Branch:* This activity provided for an expert to prepare a report on how the Supplies Branch might be reorganized as a state-owned corporation capable of arranging effective framework contracts on behalf of all GOK institutions.
- *Development of the Code of Ethics:* Section 139 of the Public Procurement and Disposal Act (PPDA) requires all procurement and disposal to be carried out in accordance with codes of ethics that may from time to time be specified by the Authority. This activity was designed to assist PPOA to meet this obligation by preparing and promulgating a Code.
- *Revision of existing manuals:* The manuals prepared under RPPS I were to be kept up-to-date.

Procuring entities trained in key skill areas of procurement

- *Focused training program:* A training program covering staff of PEs, youth entrepreneurs, PPOA boards and staff, and community leaders was to be designed and implemented.
- *Study/internship program:* A program of study and visits for PPOA staff would be arranged through an American university.

- *Interactive procurement training program for the PPOA website:* This activity involves the development of content, installation, and technical and administrative support training for an interactive training program on the procurement law and good practices, to be delivered through the PPOA website.

Enforcement powers granted to the PPOA under the Public Procurement and Disposal Act effectively utilized

- *Continuation of the public awareness campaign:* The public awareness campaign that began under RPPS I was to be extended.
- *Records management:* the assessment of records management practices that began under RPPS I was to be extended to a further 10 PEs.
- *Debarment of unsatisfactory suppliers:* this activity required preparation of a standard reporting format for PEs to use when reporting unsatisfactory performance on the part of suppliers or contractors that warrants debarment, together with guidelines for PPOA to present the new system to PEs.
- *Review of Kenya procurement legislation:* this activity involved consultation with the World Bank and other stakeholders leading to preparation of a compendium of proposed amendments to the PPDA and the Public Procurement and Disposal Regulations (PPDR).

Supplementary Activities

The following supplementary activities that were not part of the original Task Order were agreed upon with PPOA and USAID to meet needs that arose during the period of program performance:

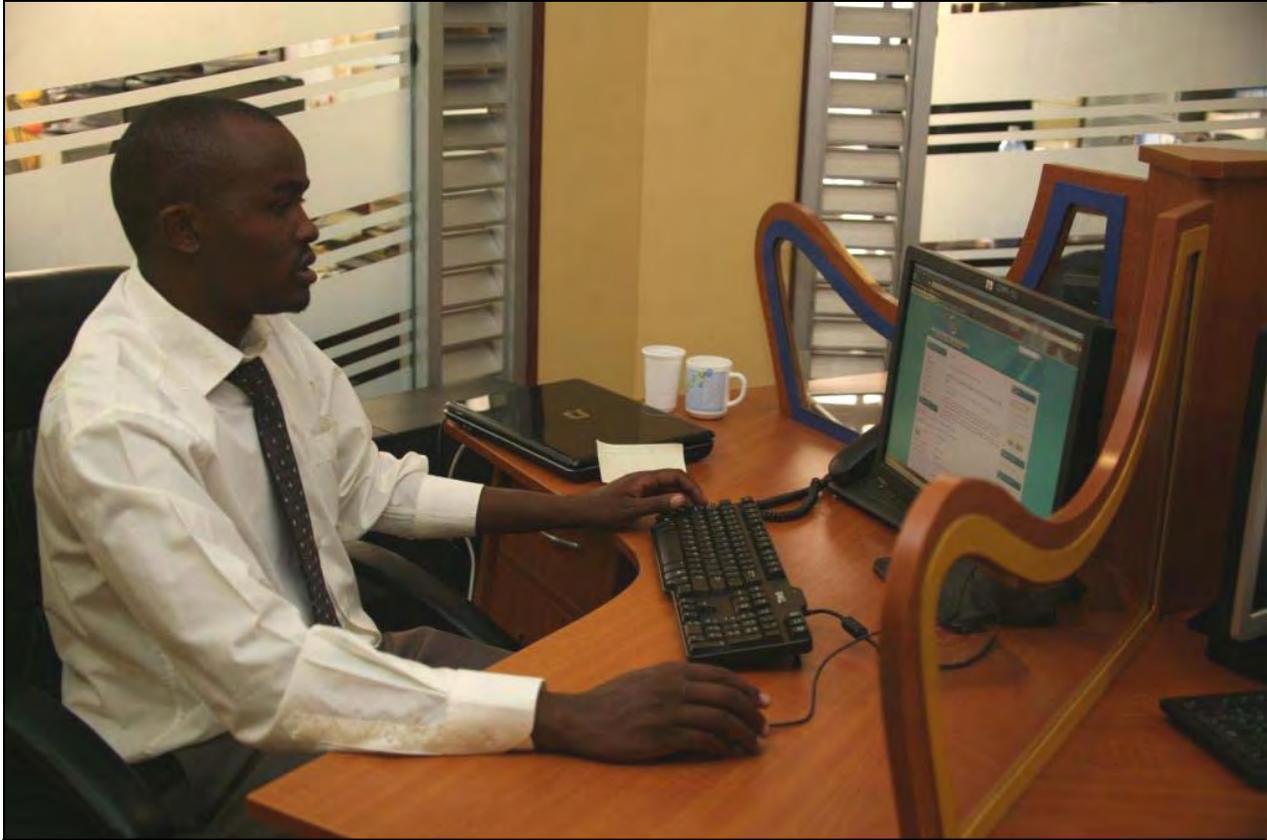
4.5.1: *Redesign of the PPOA Intranet and Tenders' website:* It was agreed that a subcontractor be engaged to improve the functionality of the tenders site (www.tenders.go.ke) and the PPOA's Intranet. This activity was subsequently extended to include an entry registration module and a reporting module.

4.5.2: *Evaluation of training impact:* PPOA requested, with USAID's support, that the evaluation of training that has taken place at the end of each workshop should be supplemented by a study of whether participants feel a continuing benefit on their job performance some three to six months after the training event.

4.5.3: *Review of Guidelines for Procurement of Public Private Partnerships (PPP):* PPOA requested the services of a consultant to assist with integrating the PPP Guidelines prepared under RPPS I with guidelines on other aspects of PPP and to prepare a Standard Tender Document on Concessioning.

Efforts also were made to complete work from RPPS I that remained outstanding because the validation process had not been completed or for other reasons PPOA approval had not been obtained. This work included:

1. Finalizing the reports of the procurement reviews of the Ministry of Education, Office of the President, and Kenya Ports Authority, so that all procurement review reports carried out under RPPS I were placed on the PPOA website;
2. Validation of the Public Procurement Manual for Cooperative Societies;
3. Validation of the standard tender documents and forms;
4. Validation of the Guidelines on Framework Contracting; and
5. Validation of the Guidelines on Procurement of PPPs.



Mr. Lawrence Kanyinyi of PPOA's ICT department monitor's the PPOA intranet 'Sebule'.

Photo courtesy of Teddy Brown, House of Photography

3.2 PERFORMANCE MONITORING PLAN

A Performance Monitoring Plan was prepared by a visiting expert and submitted in December 2009. Progress against the outcome and output indicators in the Performance Monitoring Plan has been monitored by quarterly reports that were submitted to USAID and PPOA. A full report on the monitoring and evaluation activities that took place throughout the program will be made separately.

3.3 METHODS OF ASSISTANCE

Most activities were performed directly by Tetra Tech ARD staff and by its subcontractors. Attempts were made to involve PPOA staff in some activities, particularly the training workshops and the procurement reviews as a capacity-building measure, but PPOA staff felt that they were too busy with other activities to be involved directly in the workshops and the review fieldwork. However, they issued invitations for the workshops and led the review team to the entry and exit meetings for the procurement reviews. Some staff participated in some of the later workshops and the General Manager (Technical Services) attended the final 5-day Advanced Procurement workshop.

A Steering Committee was formed under the chairmanship of the Director General or his Deputy to review progress of activities. USAID was also represented on the Steering Committee.

3.4 GENDER POLICY

The letter of invitation to PEs to nominate participants to training workshops requested that gender balance be taken into account and participation by gender was monitored. Participation broadly reflected the gender make-up of the Kenya public service.



Mrs. Jane Njoroge, General Manager, Technical Services, PPOA, confers a certificate of completion to a participant at the end of the Advanced Procurement Workshop in Nakuru.

Photo Courtesy of Nigel Shipman

Youth Spring to Action

For 'Operation Save the Youth', their high school scores did not allow them to fulfill their life's desires of attending University, but they did not stop seeking other options. They heard about Tetra Tech ARD's course on Youth Entrepreneurship from the District Youth Enterprise Fund Office in Nyeri District that teaches participants how to start their own business and obtain government tenders. This opportunity was a beacon of hope for the three young men as poverty and unemployment rates were rising fast in the district.



Ms. Jennifer Boit, Tetrattech ARD's M&E Specialist interviews some of the beneficiaries of the Youth Enterprise Workshop carried out in Nyeri.

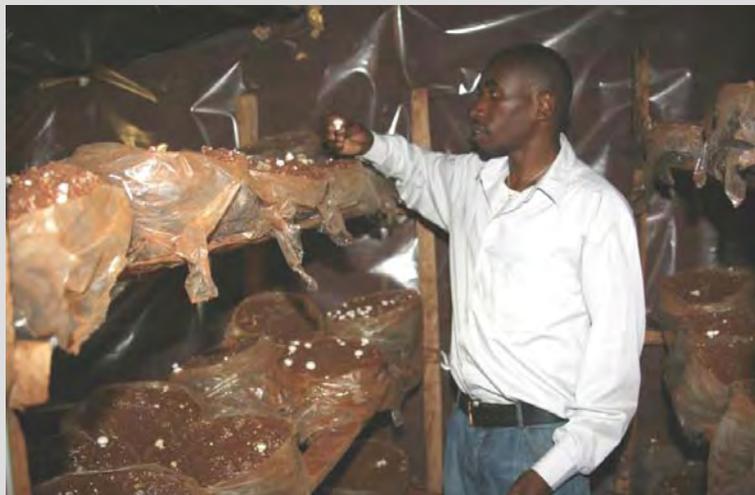
Photo courtesy of Teddy Brown, House of Fotography

They attended the workshop and realized that entrepreneurship was the practical solution to boost employment and increase their income. Having been volunteers at the district Young Men's Christian Association (YMCA) offices, they decided to apply for a loan from the local Youth Enterprise Fund (YEF) office in Nyeri District. Their application was successful and they were awarded a loan of KShs 50,000 to start keeping chickens. Initially, their customers for the chickens were a few kiosks around the area who did not buy much, at most four chickens a day. After the training, the youth group realized that it was possible to place a tender for low-value procurements to a public entity and, as a result, decided to make door-to-door visits to as many entities as possible

seeking inquiries of their requirements and also reading the notices advertised on their notice boards. By undertaking this challenge, they were contributing to changing the stereotypical image that only the rich and chosen few could get government tenders and that the youth were capable of participating in public procurement.

As a result of their door-to-door visits, they won the tender to supply chickens to the staff canteen at the District Commissioner's office, which plays host to most Ministries in the district. They have not only grown from poultry farming, but are now growing mushrooms, keeping rabbits, and at the same time have been able to repay their loan.

They claim that the training brought new creative ideas, and has helped them gain respect and credibility among their fellow youth. "Now we are motivated to apply for government contracts as we now realize it is possible to get there by starting small and we now encourage other youth groups that even without University education, we can obtain tools to open ourselves up."



Mushroom farming by the youth group in Nyeri.

Photo courtesy of Teddy Brown, House of Fotography

4.0 PROGRAM IMPLEMENTATION



The new Terminal at Jomo Kenyatta International Airport. Kenya Airports Authority staff participated in the workshop on projects and works.

Photo courtesy of Teddy Brown, House of Photography

4.1 OUTSTANDING WORK FROM THE MCCTP

4.1.1 Finalization of Outstanding Procurement Review Reports

Outstanding issues relating to the three procurement review reports were resolved and the reports were placed on the PPOA website.

4.1.2 Validation of the Public Procurement Manual for Cooperative Societies

A revised draft was prepared to meet changes requested by the PPOA, who were then to arrange a validation meeting with the Ministry for Cooperative Development. However, despite many reminders at meetings of the Steering Committee and on other occasions, this meeting did not take place and the draft manual was not

finalized. It is understood that there are differences of view between the Ministry and PPOA over the extent to which cooperative societies are subject to the PPDA.

4.1.3 Validation of the Standard Tender Documents and Forms

Validation workshops were held with the PPOA and works professionals on the works-related standard tender documents (STDs) and forms on December 17-18, 2009; the small works STD was subsequently placed on the PPOA website and was made the subject of various training programs run by Tetra Tech ARD. For large works, the draft prepared by Tetra Tech ARD was submitted for validation, but the works professionals requested separate STDs for civil works, roads, and buildings, and considered that professional fees should be fixed according to the professional associations' by-laws and not be subjected to competition during the procurement process. A further workshop with the works professionals and PPOA was arranged by GIZ on May 21, 2010, to resolve outstanding issues, but the works professionals asked to be paid professional fees to carry out a review of the draft STD. As neither GIZ nor USAID felt able to meet this request, no further work on the large works STD has been undertaken.

Validation workshops on the draft STDs and forms for goods and various services that Tetra Tech ARD had prepared were held on February 24-26, 2010, and on March 17-19 with PPOA and other procurement professionals. Revised drafts were prepared to meet the changes requested and were agreed to by the PPOA. However, despite several reminders at meetings of the Steering Committee and on other occasions, the revised STDs and forms have still not been placed on the PPOA website, although the PPOA has indicated that they are satisfied with them and want to make a final review. Nonetheless, training was carried out on the revised STD and forms.

4.1.4 Validation of the Guidelines on Framework Contracting

These Guidelines were validated and approved by the PPOA and printed and distributed in June 2010. They were also placed on the PPOA website. Standard Tender Documents for framework contracting were also prepared as a supplementary activity.

4.1.5 Validation of the Guidelines on Procurement of PPPs

These Guidelines were agreed upon with the PPOA and made ready for issue in February 2010. However, the PPP Steering Committee then indicated that they wished to review these Guidelines together with guidelines they were preparing on other aspects of PPPs. As the matter had still not been resolved by February 2011, arrangements were made to bring over a U.S. expert (see Section 4.6.3 below).

4.1.6 Program Achievements

1. Procurement reviews from MCC program fully completed.
2. Draft Manuals, Guidelines, and Standard Tender Documents prepared that will aid the PPOA to carry out its responsibility under S. 9(c)(i) of the PPDA “to prepare and distribute manuals and standard documents to be used in connection with procurement by public entities.”

4.2 PROCUREMENT PRACTICES OF GOK PROCURING ENTITIES COMPREHENSIVELY MONITORED AND EVALUATED

4.2.1 Continuation and Strengthening of Procurement Reviews

Reviews of the following eight PEs were undertaken and reports submitted to PPOA. The procedure was as follows:

1. An entry meeting was held with the Accounting Officer and senior management of the PE to explain the review procedures and to solicit their cooperation;
2. Fieldwork was carried out, consisting of a review of procurement documents and interviews with key members of staff;
3. A draft report was submitted to the PPOA for review and submission to the PE; it included a rating of the PE's overall performance against a target of 60 percent and an action plan for implementation of the recommendations;
4. The PE's responses to the findings and recommendations were obtained and incorporated into the report;
5. An exit meeting was held with the Accounting Officer and senior management of the PE to discuss the findings and recommendations, and to obtain the PE's commitment to implement the recommendations according to the action plan;
6. The report was finalized and placed on the PPOA website; and
7. Three to six months after finalization of the report, a follow-up assessment was made of the extent to which the recommendations in the action plan were.

TABLE A: THE PROCUREMENT REVIEW PROGRAM

| Procuring Entity | Draft report submitted to PPOA | Exit meeting | Final report submitted to PPOA | Rating obtained | Report placed on PPOA website |
|---|--------------------------------|--------------|--------------------------------|-----------------|-------------------------------|
| Ministry of Justice, Constitutional Affairs and National Cohesion | 1/7/2010 | 8/31/2010 | 9/23/2010 | 20.75% | 11/19/2010 |
| Ministry of State for Development of Northern Kenya and Other Arid Lands | 6/18/2010 | 9/7/2010 | 9/28/2010 | 42.1% | 2/2/2011 |
| Teachers Service Commission (TSC) | 4/13/2010 | 7/27/2010 | 10/12/2010 | 30.5% | 2/2/2011 |
| National Social Security Fund (NSSF) | 11/23/2010 | 1/25/2011 | 3/3/2011 | 50.3% | No |
| Communications Commission of Kenya (CCK) | 4/23/2010 | 1/11/2011 | 1/24/2011 | 60.7% | No |
| Kenya Agricultural Research Institute (KARI) | 7/23/2010 | 9/8/2010 | 9/29/2010 | 53.2% | 11/19/2010 |

| Procuring Entity | Draft report submitted to PPOA | Exit meeting | Final report submitted to PPOA | Rating obtained | Report placed on PPOA website |
|--|--------------------------------|--------------|--------------------------------|-----------------|-------------------------------|
| Postal Corporation of Kenya (PCK) | 10/1/2010 | 11/30/2010 | 1/13/2011 | 50.7% | No |
| National Hospital Insurance Fund (NHIF) ³ | 1/3/2011 | 1/25/2011 | 2/22/2011 | 72.1% | No |



Kenya Medical Supplies Agency (KEMSA) medical stores.

Photo courtesy of Teddy Brown, House of Photography

Thus, only four of the procurement review reports have been finalized to the extent that the review reports incorporating the PE's responses have been placed on the PPOA website. Moreover, the reviews revealed serious weaknesses in compliance with the procurement law, in that only two of the eight PEs reviewed have achieved a rating of above 60 percent for their procurement activities, which was the threshold set for a satisfactory level of compliance with the procurement law. Three PEs obtained a rating of between 50-60 percent, indicating that they are close to achieving a satisfactory level of compliance, but the remaining three were well below 50 percent, indicating that their procurement practices are seriously non-compliant.

³ It was agreed with the PPOA that the NHIF should be substituted for the Office of the Vice-President, as the latter did not consider that it was ready for a procurement review.

The following were among the challenges encountered when carrying out the reviews:

1. Fieldwork became protracted because documents relating to procurement transactions were not available or took substantial time to produce.
2. PPOA took excessive time to complete their contribution to the reviews, including submitting the draft report to the PE, arranging exit meetings, and placing the final report on the website. This delayed completion of the whole review program, so that there was insufficient time for the review team to carry out follow-up assessments of the entities reviewed during RPPS II before project close-down.
3. Many PEs did not have their responses ready for consideration at the exit meeting and requested more time to prepare their responses.

Other activities carried out to strengthen procurement reviews included:

1. The Procurement Review Manual prepared under RPPS I was revised to take account of current review practices, including the introduction of a performance rating system. The Manual seeks to guide PPOA staff and other reviewers on the procedures to be carried out and the criteria to be deployed during the course of the reviews, with a view to setting standards and ensuring that the findings and recommendations of different reviews are comparable no matter which party carries out the review and, in particular, to ensure uniform application of the compliance rating and scoring system. A training session for PPOA staff and consultants whom they have engaged was held on January 14, 2011.
2. Follow-up assessments were made of the 10 PEs reviewed during the MCCTP. As the former Ministry of Health had been split into two PEs, both successor bodies were assessed. Some of the functions of the Ministry of Roads had been devolved to the Highways Authority and Rural Roads Authority, and both Authorities were assessed together with the parent Ministry. The following assessment was made of progress in implementing the recommendations in the action plan.

**TABLE B: FOLLOW-UP ASSESSMENTS OF REVIEWS
CARRIED OUT UNDER THE MCCTP**

| Procuring entity | Date of assessment | No. of action points | Fully impl'd | Partially impl'd | Not acted upon | No longer applicable | percent fully or partially impl'd (excluding those no longer applicable) |
|---|--------------------|----------------------|--------------|------------------|----------------|----------------------|--|
| Kenya Medical Supplies Agency (KEMSA) | 8/31/2010 | 19 | 9 | 9 | 1 | | 94.7 percent |
| Ministry of Medical Services | 8/28/2009 | 37 | 11 | 10 | 15 | 1 | 58.3 percent |
| Ministry of Public Health and Sanitation | 10/7/2010 | 35 | 5 | 7 | 22 | 1 | 35.3 percent |
| Ministry of Energy | 8/26/2009 | 18 | 11 | 4 | 3 | | 83.3 percent |
| Ministry of Roads | 2/22/2010 | 19 | 4 | 3 | 12 | | 36.8 percent |
| Highways Authority | 2/22/2010 | 18 | 9 | 3 | 6 | | 66.7 percent |
| Rural Roads Authority | 2/22/2010 | 18 | 4 | 2 | 12 | | 33.3 percent |
| National | 8/31/2009 | 11 | 6 | 4 | 1 | | 90.9 percent |

| Procuring entity | Date of assessment | No. of action points | Fully impl'd | Partially impl'd | Not acted upon | No longer applicable | percent fully or partially impl'd (excluding those no longer applicable) |
|---|--------------------|----------------------|--------------|------------------|----------------|----------------------|--|
| Environmental Management Agency (NEMA) | | | | | | | |
| Ministry of Education | 2/8/2010 | 15 | 0 | 6 | 8 | 1 | 40 percent |
| Kenya Institute of Education | 10/28/2009 | 13 | 6 | 3 | 3 | 1 | 75 percent |
| Kenya National Examinations Council | 10/27/2009 | 19 | 8 | 1 | 9 | 1 | 50 percent |
| Office of the President | 10/22/2009 | 23 | 7 | 11 | 5 | | 78.3 percent |
| Kenya Ports Authority | 5/6-7/2010 | 14 | 5 | 6 | 3 | | 78.6 percent |
| Overall | | 259 | 85 | 69 | 100 | 5 | 60.6 percent |

While it is encouraging that over 60 percent of action plan recommendations have been implemented, with most PEs having implemented most of the recommendations that applied to them, there were significant shortcomings and some entities, particularly the Ministry of Public Health and Sanitation, the Ministry of Education, the Ministry of Roads and the Rural Roads Authority, made little effort to implement the recommendations and accordingly their procurement and disposal practices remain seriously non-compliant with the law.

4.2.2 Strengthening of Procurement Reporting System

Tetra Tech ARD prepared a standardized reporting format for PEs to report procurement activities to the PPOA, together with a draft circular to promulgate the new requirements. The reporting format was validated at a stakeholders' workshop on May 18, 2010, which was attended by heads of procurement units invited by PPOA, and revisions requested were incorporated into an amended version submitted on May 19. However, the PPOA considered that validation by a wider group of stakeholders was necessary and after several attempts to find a suitable date, this second workshop was held on January 18-20, 2011. The further changes requested at this workshop were incorporated into a final version that was submitted to the PPOA on January 21 and, following approval, has been printed. It is intended that the forms for recording procurement activities be downloaded electronically from the PPOA website and submitted electronically to the PPOA.

4.2.3 Strengthened Community Monitoring of the Procurement System

The Institute for Public Policy and Research (IPAR) was engaged to identify in consultation with non-governmental organizations (NGO) areas where greater monitoring of procurement activities by civil society and community organizations would be effective and the measures needed to strengthen their role. A roundtable for stakeholders was held on December 3, 2010, and the Final Report was submitted on December 16, 2010 and distributed to PPOA, NGOs and donor partners. It was recommended in the report that:

- The Public Procurement and Disposal Act 2005 should be amended to make it more user-friendly and less complicated and to provide for more effective stakeholder participation, especially the civil society.
- Civil society organizations (CSOs) involved in monitoring public procurement should focus on the entire public procurement process (from conception of development projects, or services, to when final payments are made).

- Greater networking and cooperation among CSOs monitoring public procurement would be more beneficial and cost-effective.
- Increased sensitization of the wider citizenry on the PPDA should be accorded priority. This will enhance the sustainability of the reforms.
- To avoid past pitfalls, CSOs should regularly take stock of strategies that have worked and seek ways to improve the approaches. For example, CSOs can have a regular forum where they share experiences on monitoring public procurement and learn from best practices—what is working and what is not.
- There is need for a national survey on community monitoring of public procurement in Kenya given the current prominence of devolved funds. This becomes even more urgent given the passage of the new constitution that provides for increased devolved financing, yet does not provide for the mechanisms for monitoring the huge funds that will be at the disposal of the County governments.

4.2.4 Achievement of Required Results

Through the present project and the preceding one, Tetra Tech ARD has carried out detailed reviews of a representative sample of PEs with high-value procurements. It has established procurement reviews as a key mechanism for monitoring and enforcement and, through the Procurement Review Manual and the training program, has provided the tools to carry this work forward.

The new reporting format provided to the PPOA will enable a broader and more effective monitoring system to be introduced, providing more complete information on key aspects of PEs' procurement activities.



RPPS II trained 928 government officials on procurement practices. Pictured above, Chief of Party Nigel Shipman confers a certificate of completion to PPOA General Manager Ms. Jane Njoro for the workshop on Advanced Procurement held in Nakuru.

Photo courtesy of Merica Hotel photographer, Nakuru

The findings and recommendations in the IPAR study of civil society and community organizations should help them to play a more effective part in scrutinizing procurement activities and to act as a safeguard against malpractices.

4.3 MECHANISMS IMPLEMENTED WITHIN PROCURING ENTITIES THAT CAN LEAD TO GREATER EFFICIENCIES IN PROCUREMENT, AS WELL AS INCREASED TRANSPARENCY

4.3.1 Reorganization of the Supplies Branch

Through its partner, Crown Agents, Tetra Tech ARD engaged a human resource and organizational change specialist to come to Kenya from November 8-19, 2010, to advise how the Supplies Branch (SB) of the Ministry of Works might be reorganized as a state-owned corporation capable of arranging effective framework contracts on behalf of all GOK institutions. To support this work, GOK convened a Steering Committee under the chairmanship of a senior official from the Ministry of Works, which met the consultant to discuss the assignment and considered and accepted the report that the consultant submitted on December 1. Legislative amendments are also envisaged that will provide for a mandate for the SB within the PPDA.

The consultant's report endorsed the recommendation of a previous review in 2004 that the SB should become a State Corporation under the Ministry of Finance and be given the full mandate with the support of the amended PPDA to procure common user items for all PEs. The structure should reflect that of a professional procuring body and be headed by a senior supply chain management professional. The old debts of the SB should be absorbed by the government so as to give the new organization an opportunity to immediately focus on the way forward. E-Procurement should be adopted, with goods being ordered directly from suppliers who would deliver directly to the PE, thus obviating the need to have warehousing and logistics as part of the SB's responsibilities. The mandate of the new organization would focus on framework contracting; supplier management; and maintaining an e-catalogue of available items, prices, and other terms of supply. The organization would also build up a sales function where they would actively promote their products and services to government departments to assist them in becoming financially viable as an independent organization. An independent implementation team, well versed and experienced in change management, was recommended to be engaged to carry out the transformation of the SB.

4.3.2 Development of a Code of Ethics

Section 139 of the PPDA states that all procurement and disposal shall be carried out in accordance with the codes of ethics that may from time to time be specified by the Authority. To assist the PPOA to meet its obligations under this section, Tetra Tech ARD prepared a draft Code setting out the ethical standards that should apply individually and collectively to employees of PEs in the course of their involvement in procurement, with separate sections that would apply to Accounting Officers, Procurement Officers, and other employees. It was intended that employees who serve as members of Tender Committees, Procurement Committees, Tender Opening Committees, Evaluation Committees, Inspection and Acceptance Committees, or Disposal Committees, and staff of user departments who prepare the technical specifications, as well as payment officers and internal auditors should be given copies of the Code. They should be asked to sign on the enclosed loose page as acknowledgement that they have read and fully understand the contents of the Public Procurement Code of Ethics and their responsibilities under the Code. Staff should be made aware that breaches of the Code may constitute a disciplinary offense. The Authority may ask to be provided with a list of signatories to the Code.

The draft Code was submitted to the PPOA in November 2009. It was validated at a workshop held on May 18, 2010, and a revised version incorporating amendments proposed was submitted to PPOA on May 19. The PPOA decided that validation by a wider group of stakeholders was necessary and after several attempts to find a suitable date, this additional workshop was held on January 18-20, 2011 and was again endorsed. A final version incorporating amendments agreed to at the workshop was submitted to the PPOA on January 21 and was approved by the Director General on February 14. Copies (100,000) of the Code have been printed and sent to PPOA for distribution. By this stage, it was too late to include the Code in training programs.

4.3.3 Revision of Existing Manuals

New editions were produced of the Procurement Review Manual and the Public Procurement Records Management Procedures Manual. The Guidelines for Potential Bidders were reprinted with minor updating.

4.3.4 Achievement of Required Results

A blueprint has been prepared that would provide a meaningful role for the SB within framework contracting and would enhance efficiency in procurement of a broad range of supplies. It was not possible to provide greater detail on the requirements of the new organization until GOK commitment to the proposals has been obtained. The PPOA has been provided with a Code of Ethics that would reinforce integrity and transparency. The manuals produced under the MCCTP have been kept in supply. Efficiency and transparency have been enhanced also through the activities in other sections, such as the strengthened reporting system and community monitoring and by publishing the findings and recommendations of the procurement reviews.

4.4 PROCURING ENTITIES TRAINED IN KEY SKILL AREAS OF PROCUREMENT

4.4.1 Focused Training Program

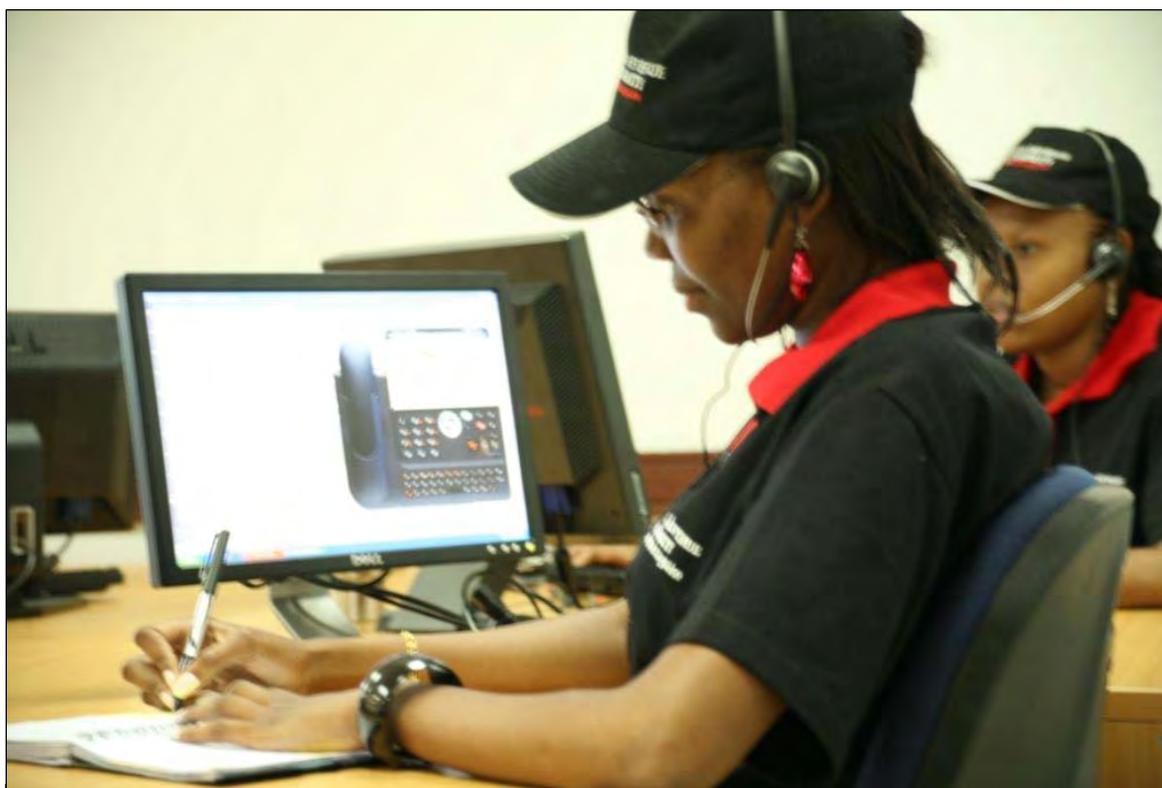
While the focus of training under RPPS I was to sensitize PEs and the business community with the main requirements of the procurement and disposal law, more specialized training was developed under RPPS II, including Advanced Procurement workshops and workshops that focused on particular aspects of procurement as covered by the manuals and Standard Tender Documents. Workshops for staff of PEs have been held in Nairobi, Eldoret, Kisumu, Nyeri, Nakuru, Kakamega, Mombasa, Malindi, and Garissa.

In response to criticism made of some of the workshops in RPPS I that the time allowed was too brief to cover the subjects in depth, most workshops in RPPS II were three-day events. Moreover, the Advanced Procurement Workshops were extended to five days and covered all stages of the procurement cycle under the PPDA and under World Bank procedures, with the latter subject being presented by a recently retired senior Bank official. Unlike the basic sensitization program covered under RPPS I, the Advanced Procurement Workshops were intended for Heads of the Procurement Unit and others with experience of high-value tendering at a reasonably senior level under GOK and World Bank projects. Following are the details of the workshops held for PE staff.

TABLE C: WORKSHOPS FOR PROCURING ENTITIES

| Subject | No. of workshops | PEs attending | No. of participants | | Evaluation | | | |
|--------------------------|------------------|---------------|---------------------|----|------------|------|------------|------|
| | | | M | F | Excellent | Good | Acceptable | Poor |
| Health Manual | 3 | 49 | 77 | 40 | 60 | 36 | 5 | 1 |
| District Commissioners | 1 | 33 | 31 | 33 | 6 | 10 | 3 | 0 |
| GM/Works/Projects Manual | 4 | 103 | 131 | 55 | 80 | 65 | 7 | 1 |
| Schools/Colleges | 2 | 32 | 44 | 20 | 33 | 29 | 3 | 0 |

| Subject | No. of workshops | PEs attending | No. of participants | | Evaluation | | | |
|-----------------------------|------------------|---------------|---------------------|------------|------------|------------|------------|----------|
| | | | M | F | Excellent | Good | Acceptable | Poor |
| Manual | | | | | | | | |
| GM/NIS/ICT Manual | 4 | 100 | 122 | 48 | 62 | 49 | 11 | 1 |
| Framework Contracts | 2 | 52 | 76 | 41 | 45 | 40 | 7 | 0 |
| Advanced Procurement | 4 | 106 | 115 | 62 | 59 | 16 | 6 | 0 |
| Procurement Review | 1 | 3 | 23 | 10 | 13 | 16 | 4 | 0 |
| TOTAL | 21 | 478 | 619 | 309 | 358 | 261 | 46 | 3 |



Procurement of ICT equipment for their call center by the Kenya Revenue Authority (KRA) after attending the ICT workshop.

Photo courtesy of Teddy Brown, House of Fotography

Regarding training for the business community, it was agreed that Tetra Tech ARD would provide workshops for youth entrepreneurs on the lines of the workshops that were arranged for other potential bidders under RPPS I. These workshops were held in conjunction with the Youth Enterprise Board.

TABLE D: WORKSHOPS FOR YOUTH ENTREPRENEURS

| Date | Location | No. of participants | | Evaluation | | | |
|---------------|----------|---------------------|------------|------------|------------|------------|----------|
| | | M | F | Excellent | Good | Acceptable | Poor |
| Feb. 4, 2010 | Eldoret | 54 | 14 | 22 | 27 | 5 | 1 |
| Feb. 5, 2010 | Eldoret | 54 | 13 | 20 | 21 | 4 | 0 |
| Feb. 11, 2010 | Kisumu | 45 | 13 | 30 | 25 | 4 | 1 |
| Feb. 12, 2010 | Kisumu | 45 | 32 | 27 | 17 | 5 | 1 |
| March 2, 2010 | Nyeri | 55 | 33 | 35 | 29 | 7 | 2 |
| March 3, 2010 | Nakuru | 47 | 27 | 25 | 27 | 4 | 1 |
| April 8, 2010 | Thika | 52 | 37 | 32 | 33 | 16 | 1 |
| May 10, 2010 | Malindi | 39 | 11 | 22 | 16 | 7 | 1 |
| May 14, 2010 | Mombasa | 47 | 26 | 35 | 23 | 7 | 1 |
| June 15, 2010 | Garissa | 23 | 9 | 13 | 8 | 2 | 0 |
| TOTAL | | 461 | 215 | 261 | 226 | 62 | 9 |

The Oversight Advisory Board (OAB) and the Administrative Review Board (ARB) completed their terms in September 2010 and October 2010, respectively. So far, only the ARB has been reconstituted. An offer was conveyed to arrange a workshop for each Board on subjects that they were interested in, but no response was received on behalf of the OAB before its term was completed. A workshop for the ARB was held on February 16-18, 2011 based on the subjects that were indicated to be of interest to members. It was attended by seven Board members.

TABLE E: WORKSHOP FOR ADMINISTRATIVE REVIEW BOARD

| No. of workshops | No. of participants (including PPOA staff) | | Evaluation | | | |
|------------------|---|---|------------|------|------------|------|
| | M | F | Excellent | Good | Acceptable | Poor |
| 1 | 11 | 6 | 11 | 5 | 1 | 0 |

Regarding training for PPOA staff, it was proposed that staff should attend one of the four Advanced Procurement workshops, at which the whole procurement process for GOK and World Bank projects would be discussed. The General Manager (Technical Services) participated in the final Advanced Procurement workshop in Nakuru on January 31-February 4, 2011, and another member of the PPOA staff attended an earlier workshop in Mombasa. Ten PPOA staff also attended the Administrative Review Board workshop. It was agreed also that Tetra Tech ARD would support an induction/team-building workshop for newly recruited PPOA staff, which took place from February 8-12, 2011, with accommodation and conference costs being met by GIZ.

4.4.2 Study/Internship Program

It was agreed that a program of study and visits should be arranged through the Carl Vinson Institute of Government at the University of Georgia for some PPOA staff. This visit took place from February 18-March 4, 2011. The participants were:

1. Mr. M.J.O. Juma, Director General;
2. Mr. James Kihara, Manager, Human Resources;
3. Mr. Christopher Gichanja, Officer, Compliance; and
4. Ms. Pamela Ouma, Officer, ARB Secretariat.

The University has prepared a report on the visit and participants have reported that most of the sessions have benefited them in the course of their work..

4.4.3 Interactive Procurement Training Program for the PPOA Website

While workshops are likely to remain the principal means of training, it was agreed that such conventional training methods should be supplemented by an Internet-based training program, which would be particularly useful for staff of PEs working away from the main population centers who may find difficulty in attending training workshops. Tetra Tech ARD worked with the PPOA through a subcontractor, Soluhisho Software Solutions Ltd., to devise an interactive training course for installation on the PPOA website that will enable procurement practitioners to learn about the requirements of the law and good procurement practices. The course provided for responses to questions and testing of participants' knowledge. It was launched on February 15, 2011 at a ceremony officiated by the Director General of the PPOA. Newspaper publicity on the availability of the new system has also been issued.

The need to determine the contribution of this program and of other training workshops that have been provided in terms of achieving and maintaining the status of a procurement professional has been raised both with the PPOA and the professional body, the Kenya Institute of Supply Management (KISM).

4.4.4 Achievement of Required Results

The workshops were designed to meet the needs of PEs for more advanced-level training, including training focused on documents relating to specialized areas. They were favorably evaluated at the conclusion of the workshops, and the medium-term impact has been the subject of a separate assessment by independent consultants, which found that those trained by Tetra Tech ARD considered the training they had attended increased their level of knowledge of the procurement law and good practice. The interactive procurement training program will be a useful tool for extending the reach of training opportunities.

It was stated in the Task Order that "PPOA has identified the need to increase awareness of the specifics of the Act among chief executives of state corporations and members of Parliament." Training for both these groups was included in the program and several dates were identified, but the necessary authority to carry out these workshops was not obtained.

4.5 ENFORCEMENT POWERS GRANTED TO THE PPOA UNDER THE PUBLIC PROCUREMENT AND DISPOSAL ACT EFFECTIVELY UTILIZED

4.5.1 Continuation of Public Awareness Campaign

During RPPS I, Tetra Tech ARD engaged a public relations company to carry out a public awareness campaign on behalf of the PPOA. These activities included media campaigns and the production of a regular bulletin entitled the *Kenya Procurement Journal*. Under RPPS II, Tetra Tech ARD continued this program through Neat Wide Systems Ltd., a specialized public relations firm, to raise public understanding of the purpose and nature of the public procurement reforms and of the work of the PPOA. Various publicity measures were taken, including a TV and radio campaign, as part of which the Director General was interviewed on *Good Morning Kenya*. Neat Wide also provided media support at PPOA events, including the annual stakeholders' workshop, and they will also support the launch of the interactive training program. The *Kenya Procurement Journal* was produced at quarterly intervals and distributed to PEs. To promote corporate identity, shirts bearing the PPOA logo were provided to PPOA staff. A 2011 calendar was produced. In order to attract favorable attention to the PPOA, two Braille machines were purchased for donation to the Kenya Society for the Blind, but it has not proved possible so far to arrange the handover ceremony and the Braille machines remain in the PPOA's offices. To facilitate understanding of procurement requirements, a list of Frequently Asked Questions (FAQs) was prepared from questions asked at training workshops and on other occasions. It was intended that 30 FAQs should be selected from the list for inclusion in a booklet and for placing on the PPOA website, but the selection was never made.

The engagement of Neat Wide for the public awareness campaign was continued up to February 2011. The PPOA has recruited a Public Relations Officer, and it is therefore hoped that the public awareness campaign will be sustained. GIZ will take over support for publication of the Kenya Procurement Journal.

4.5.2 Records Management

Under RPPS I, Tetra Tech ARD carried out various activities to strengthen records management practices in procuring entities. These activities were extended under RPPS II:

- Baseline assessments (with scores) were prepared on 10 major entities. The reports on each entity were considered at the same exit meeting that considered the procurement review report.
- The *Public Procurement Records Management Procedures Manual* prepared under the MCCTP was revised to include greater coverage of electronic record keeping.
- Mentoring was carried out to assist entities in improving their recordkeeping practices.
- A follow-up study was undertaken in February on the improvements made by the reviewed entities in records management over the period of the project.
- In the baseline assessments, a target score of 40 out of 65 (62 percent) was set as the threshold for satisfactory recordkeeping. The same assessment methodology was adopted as that under RPPS I, so the findings from the two studies could be compared.



BEFORE... February 2010, disorganized TSC records. "Filing racks have not been erected and thousands of files in sacks are lying on the floor. File retrieval is extremely difficult" (Finding in the Report on Management of TSC Records, 17 February, 2010).

Photo courtesy of Teddy Brown, House of Fotography



... AND AFTER: February, 2011, TSC files sorted, organized, and shelved in recently purchased steel bulk filing racks. Following the appointment of a TSC Records Management Improvement Task Force as recommended in the Report on Management of TSC Records, the files were sorted, arranged, and shelved in modern high-density steel bulk filers.

Photo courtesy of Teddy Brown, House of Photography

TABLE F: RECORDS MANAGEMENT ASSESSMENTS

| PE | | Improvements | Initial Score | Final Score | Comments |
|----|--|--|---------------|-------------|---|
| 1 | Ministry of Justice National, Cohesion and Constitutional Affairs | <ul style="list-style-type: none"> Records management taskforce was appointed to sort and clear files in the Procurement Unit; Records management requirements were captured in the budget and procurement plan; Closed procurement files were sorted and organized in a store; An officer was appointed to be in charge of procurement recordkeeping; and The Procurement Unit was making efforts to ensure compliance with regulation 34 (3): a complete file for each procurement action. | 49 % | 60% | Modest improvement. Still falls below the threshold score of 62 percent. |
| 2 | Ministry of State for the Development of Northern Kenya and other Arid Lands | <ul style="list-style-type: none"> Procurement record keeping responsibility was assigned to an officer in the Procurement Unit; A records management improvement committee was appointed in November 2010; The Procurement Unit had started complying with Regulation 34 (3): complete file for each procurement action. | 40% | 54% | Inadequate support for records management improvement from PE's senior management. |
| 3 | Teachers Service Commission | <ul style="list-style-type: none"> Records management improvement taskforce was appointed; Procurement master list and classification scheme for all procurement files were prepared; Sorting, arranging, and filing all finalized tender documents period Guiding the procurement unit in complying with Regulation 34 (3) of the PPDA on maintenance of a complete and comprehensive file for each procurement action; Purchase of bulk filing racks for Procurement Unit was proposed in the budget; A request for appointment of a records management officer for the Procurement Unit was submitted; Records Management division and staff was upgraded; Records management division is providing technical advice to the Procurement Unit; Records management policy was completed, approved, and circulated for use; All files that were in hundreds of sacks and strewn on the floor in the Records Center have been sorted, arranged, and shelved; Some space in the TSC records center was set aside for the storage and preservation of procurement documents; and The Microfilming Unit was transferred to the Records Management Division. | 46% | 65% | TSC is very committed to improve records management system. |
| 4 | Communications Commission of Kenya | CCK asked for the mentoring program to be deferred. | 66% | 66% | CCK requested a deferral of mentoring program set for 28/1/2011. Follow-up assessment not done. |
| 5 | Kenya Agricultural Research Institute | <ul style="list-style-type: none"> Procurement sub-registry was set up; Procurement recordkeeping duty was assigned to the procurement registry. Procurement records management improvement team was appointed; Sorting of closed older procurement files and documents in progress; and Compliance with Regulation 34(3) complete file for each procurement action. | 55% | 61% | Nothing done to address the wider records management issues in the report. |

| PE | | Improvements | Initial Score | Final Score | Comments |
|----------------|----------------------------------|--|---------------|-------------|---|
| 6 | Postal Corporation of Kenya | <ul style="list-style-type: none"> Records Management Taskforce was formed in September 2010; Procurement recordkeeping was assigned to an officer in the Procurement Unit; Post of records manager was created-recruitment in process; Procurement records storage space was created in the Procurement Unit; Procurement filing cabinets for procurement documents to be procured from July 2011; and The Procurement Unit had started complying with Regulation 34 (3) maintenance of complete procurement file. | 47% | 60% | PCK management committed to improvement of records management. |
| 7 | National Aids Control Council | No progress noted. | 54% | 54% | PE indifferent to the findings in the Report NACC. PE requested deferral of presentation of the report. Management had not seen the report at time of exit meeting. |
| 8 | Ministry of Special Programs | <ul style="list-style-type: none"> Records management improvement committee was appointed in February 2010 to restructure records management along the lines suggested in the baseline assessment report; Records management policy being prepared; Procurement recordkeeping duty assigned to two officers; PE complying with regulation 34 (3): a complete file for each procurement; E-records management: a file server was installed and records staff underwent training in Integrated Records Management System software developed by the Ministry of State for Public Service; and Revision of the records management procedures manual in progress. | 47% | 66% | PE committed to improving records management practices. |
| 9 | National Social Security Fund | <ul style="list-style-type: none"> Little progress noted; PE now compliant with Regulation 34 (3): a complete file for each procurement action; and Records management division was abolished. | 52% | 57% | Minimal improvement in procurement recordkeeping. NSSF senior management not committed to improved records management. Records management division abolished. |
| 10 | National Hospital Insurance Fund | <ul style="list-style-type: none"> Records management policy, records management procedures manual, and records retention and disposal schedule finalized but awaiting senior management and Board approval. | 73% | 78% | NHIF management very committed to improving records management practices. |
| Average | | | 52.9% | 62.1% | |

Only two PEs met the threshold target in the baseline assessments. However, there has been some improvement in recordkeeping when compared with the findings of the baseline assessments under RPPS I, as the average score of 52.9 percent compares with 26.8 percent obtained by the PEs in RPPS I (which rose to 32 percent in the final assessment that followed the mentoring program). The scores in most of the PEs has continued to improve following the mentoring program of RPPS II and it is pleasing to note that, on average, the threshold target of 62 percent has been met. While substantial improvement has been made through the present support program, recordkeeping in PEs remains seriously deficient, and further monitoring and training efforts are needed.

4.5.3 Debarment of Unsatisfactory Suppliers

Part IX of the Act sets down procedures leading to debarment from participation in procurement proceedings of persons who have committed an offense relating to procurement, breached a contract, given false information about qualifications, or refused to enter into a written contract. However, no cases of debarment have been approved by the PPOA so far. To facilitate debarment, Tetra Tech ARD drafted guidelines for debarment proceedings, including a standard format by which a recommendation for debarment should be submitted. The draft Guidelines were submitted to PPOA on November 24, 2009, were validated at a stakeholders' workshop on May 18, 2010, and a revised version taking account of the changes recommended was submitted to the PPOA on May 19. The PPOA decided that further validation for this and other documents by a wider group of stakeholders was necessary and this took place at a workshop held on January 18-20, 2011. A final version incorporating amendments agreed upon at the workshop was submitted to PPOA on January 21, 2011 and, following approval, has been printed. It is intended that the guidelines be placed on the PPOA website, with PEs' downloading the forms for completion electronically if they wish PPOA to debar any of their suppliers.

4.5.4 Review of Kenya Procurement Legislation

One of the statutory functions of the PPOA is to initiate public procurement policy and propose amendments to the PPDA, 2005, and the PPD Regulations, 2006. While the Act and Regulations represent a major improvement over previous law, operational experience has revealed certain weaknesses that need to be addressed. Tetra Tech ARD also initiated consultations with the World Bank on the changes that were needed to bring the Kenyan law up to international standards of best practice and which might persuade the Bank and other leading donors to make greater use of the national system for procurement of goods and services under donor-sponsored projects. A compendium of proposed amendments to the Act and Regulations was submitted to the PPOA on March 1, 2010. The PPOA drew upon this compendium when preparing its own list of amendments, which was validated at a workshop held on January 18-20, 2011. Tetra Tech ARD submitted to the PPOA on January 21 a revised compendium incorporating the proposed amendments. GIZ has also engaged a consultant to consider the impact of the new constitution on the procurement law and this will provide an opportunity for further amendments to be considered.

4.5.5 Achievement of Required Results

Important public relations initiatives were taken. While these were not on a sufficient scale to enable the full impact to be measured, they have helped to create awareness of the PPOA and the importance of the procurement reforms. For these initial measures to be sustained, it is important that senior management of the PPOA should be prepared to engage more with the media.

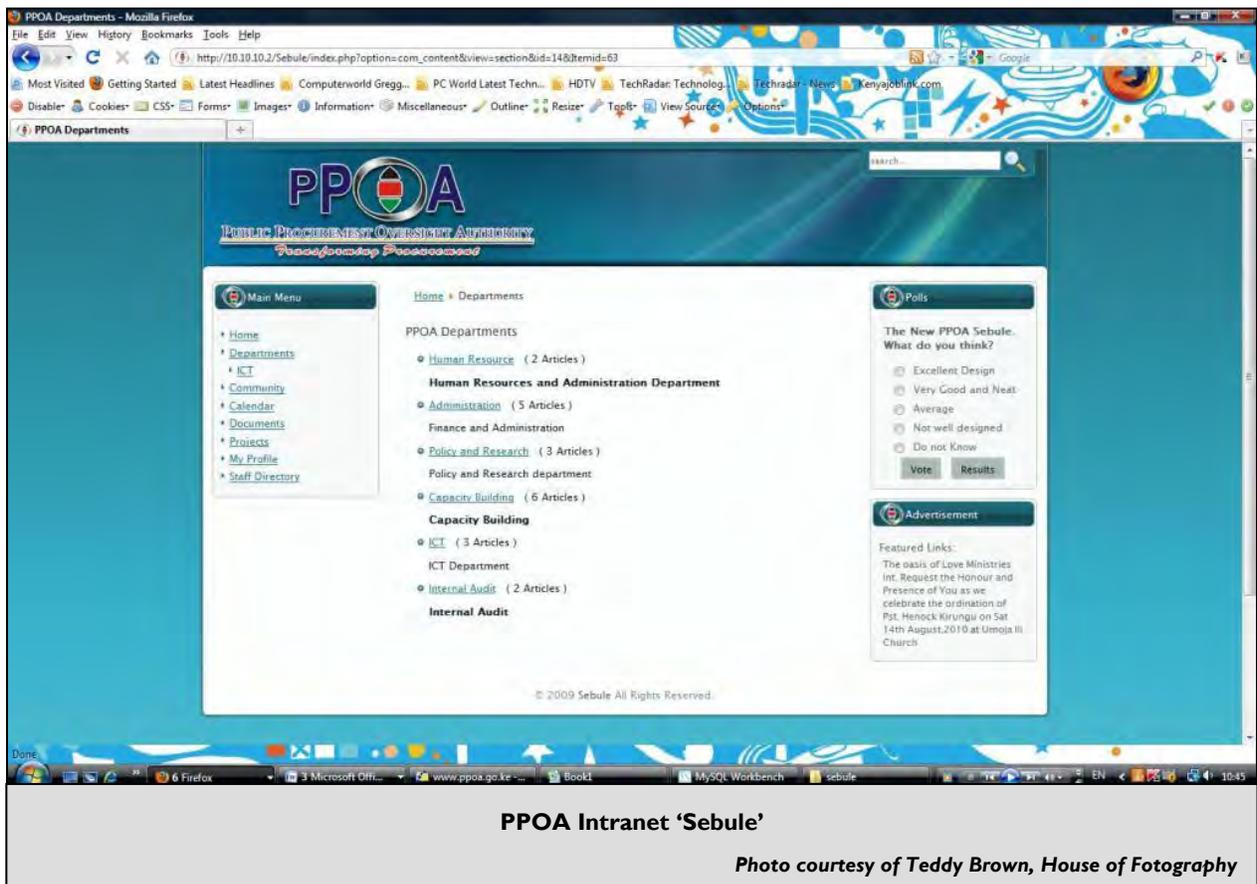
The efforts to improve records management were directed towards a key aspect of enforcement and have been well received. The proposed procedures for the debarment of unsuitable suppliers, if implemented,

should lead to better contracting standards. The proposed legislative amendments, if enacted, should also strengthen enforcement.

4.6 SUPPLEMENTARY ACTIVITIES

4.6.1 Redesign of the PPOA Intranet and Tenders Website

The PPOA runs two websites under the domain name www.ppoa.go.ke (PPOA site) and www.tenders.go.ke (tenders site). PEs are able to post tender opportunities and high-value contracts on the tenders site. The PPOA was also provided with an Intranet, known as Sebule, under RPPS I. A subcontractor, Real Time Enterprises Ltd., was engaged to enhance the interface of the tenders site to make it more user-friendly and to correct various coding errors in Sebule. This work was completed on October 15, 2010. Under a contract extension, the subcontractor also provided the tenders site with an Entity Registration Module to facilitate the registration of PEs that wish to advertise their tender opportunities on the site, and with a Reporting Module for the collection of data globally and case-specific to generate reports as required. This work commenced on January 12, 2011 and was completed by February 24.



4.6.2 Evaluation of Training Impact

At the PPOA's request, a study was made by Pan-African Research Services Ltd. of the impact of the training program on medium-term job performance, to establish whether participants felt a continuing benefit on their job performance some 6-12 months after the training event. A three-tier research methodology was used to gather information, including literature review (desk research), qualitative research through individual in-depth interviews, and quantitative research (telephone interviews and face-to-face interviews).

The draft report on the study was received on January 17, 2011 and validated together with the PPOA and USAID on January 26. The final report was submitted to the PPOA on February 8. According to the training participants interviewed, procurement skills' training is important for effective job performance, together with other factors such as availability of work equipment, good work environment, effective supervision, good remuneration, and teamwork. Respondents claimed to have increased their level of knowledge of the procurement law and procedures following the Tetra Tech ARD and PPOA training. Prior to the training, the level of awareness was rated at 3.3 out of 5.0. After training, the level of knowledge in procurement law and regulations increased to 4.2 out of 5. However, the level of compliance with the law was rated at only 3.4 out of 5.0. There was a general view that the level of professionalism in PEs has improved following the training by Tetra Tech ARD and the PPOA. However, there are a few factors that affect the level of professionalism, including problems of time management, resulting in procedures not being followed due to urgency in procuring goods. Another problem is interference from senior management and other colleagues.

4.6.3 Further Work on the PPP Procurement Guidelines

These Guidelines were made ready for issue in February 2010 but deferred because it was considered within the Ministry of Finance that these guidelines should be integrated with guidelines on other aspects of PPPs that were being prepared within the Ministry. At the PPOA's request, Tetra Tech ARD engaged a specialist consultant who was one of the parties to the 2007 *Report on Consolidation, Strengthening and Harmonization of the Policy, Legal and Institutional Framework for the Public Private partnership (PPP) Program in Kenya*. The consultant has reviewed the advice given previously on policy and procedures for establishing PPPs in Kenya in light of subsequent events, provided advice on how the various Guidelines should be integrated so that the terms relating to procurement would be acceptable to all relevant parties in the Government of Kenya. He has also assisted the PPOA to meet its obligation under the Third Schedule of the 2006 Regulations to prepare a Standard Tender Document for concessioning.

USAID Training Opens Many Doors

The Public Procurement Oversight Authority recognizes that efficient public procurement is crucial when building and sustaining public and investor trust in government. Transparent procurement procedures not only contribute to more efficient allocation of resources through increased competition, but also result in higher-quality procurements, budgetary savings for governments and taxpayers, and reduction of corrupt behavior. In order to contribute to this environment, Tetra Tech ARD developed short-term training courses to make the procurement process in Procuring Entities more efficient and the services more convenient to the public. Mrs. Grace B. Mulisho, Deputy Town Clerk, Nakuru County Council, when interviewed on one of the workshops she attended, said that the course increased her skills in preparing and issuing calls for bids and bidding documentation.

She has been able to share the theoretical and practical knowledge she gained with the relevant stakeholders involved in the procurement process, including her staff, the Town Clerk, and the Council's Tender Committee to ensure higher quality goods and services are procured by the Council in a more professional and transparent manner.



Mrs. Grace Mulisho, Deputy Town Clerk, Nakuru peruses through one of the manuals distributed at the Advanced Procurement workshop in Nakuru.

Photo courtesy of Teddy Brown, House of Photography

She further said that “well educated and professional public procurement officers who are proficient in preparing high-quality public tenders will contribute to more transparency in the public procurement process and in the spending of taxpayers’ funds.” Prior to attending the USAID/Tetra Tech ARD workshop on the General/Non-Intellectual Services and ICT manuals, she faced challenges relating to procurement procedures, which she claimed were not being carried out in accordance with the law. This she attributed to ignorance of the law as a majority of the procurement officers had not received any formal training/sensitization in the new law. “Thanks to USAID/Tetra Tech ARD, with their assistance that included manuals, training materials, and CDs, I have been able to single-handedly train our Tender Committee. I refer to the manuals as often as possible and in particular the ICT manual was very useful during the procurement of our new accounting software. Procedures for pre-qualification are now clear and the concept of fair and equal rotation of bidders was very well explained at the workshop as it was unclear in the regulations and therefore led to misinterpretation.” She was also more confident now in dealing with political interference and ‘instructions from above’ as they were handled very well.

She attributes her promotion to the fact that she has been able to create a culture where proper procedures are being followed. She also gets support from her superiors who are also keen to see change in the way the Council affairs are run. She believes that in the near future, Nakuru County Council will achieve total compliance as many ideas she received at the workshop are now being adopted.

5.0 LESSONS LEARNED



Procurement of ambulances by the National Hospital Insurance Fund (NHIF). NHIF staff attended the Tetra Tech ARD workshops on Procurement of Services and on Framework Contracts.

Photo courtesy of House of Photography

The RPPS II project was undertaken at a difficult time for the PPOA. The Interim Director General left Kenya in August 2008 and it was not until November 2010 that the post of Director General was filled substantively. Moreover, staff had been on secondment from the Ministry of Finance since the time the PPOA was set up in 2007, and it was only in December 2010 that confirmation of appointment was obtained. New staff were recruited in January 2011. Prior to receiving contracts for permanent positions in the PPOA, many staff were uncertain about their future and morale was low. Some felt that, on account of staff shortages, they were unable to support the project fully. There was poor response to capacity-building opportunities, and some planned workshops had to be deferred or cancelled because the PPOA had not made the necessary arrangements. It took an excessively long time for responses to be obtained to work that

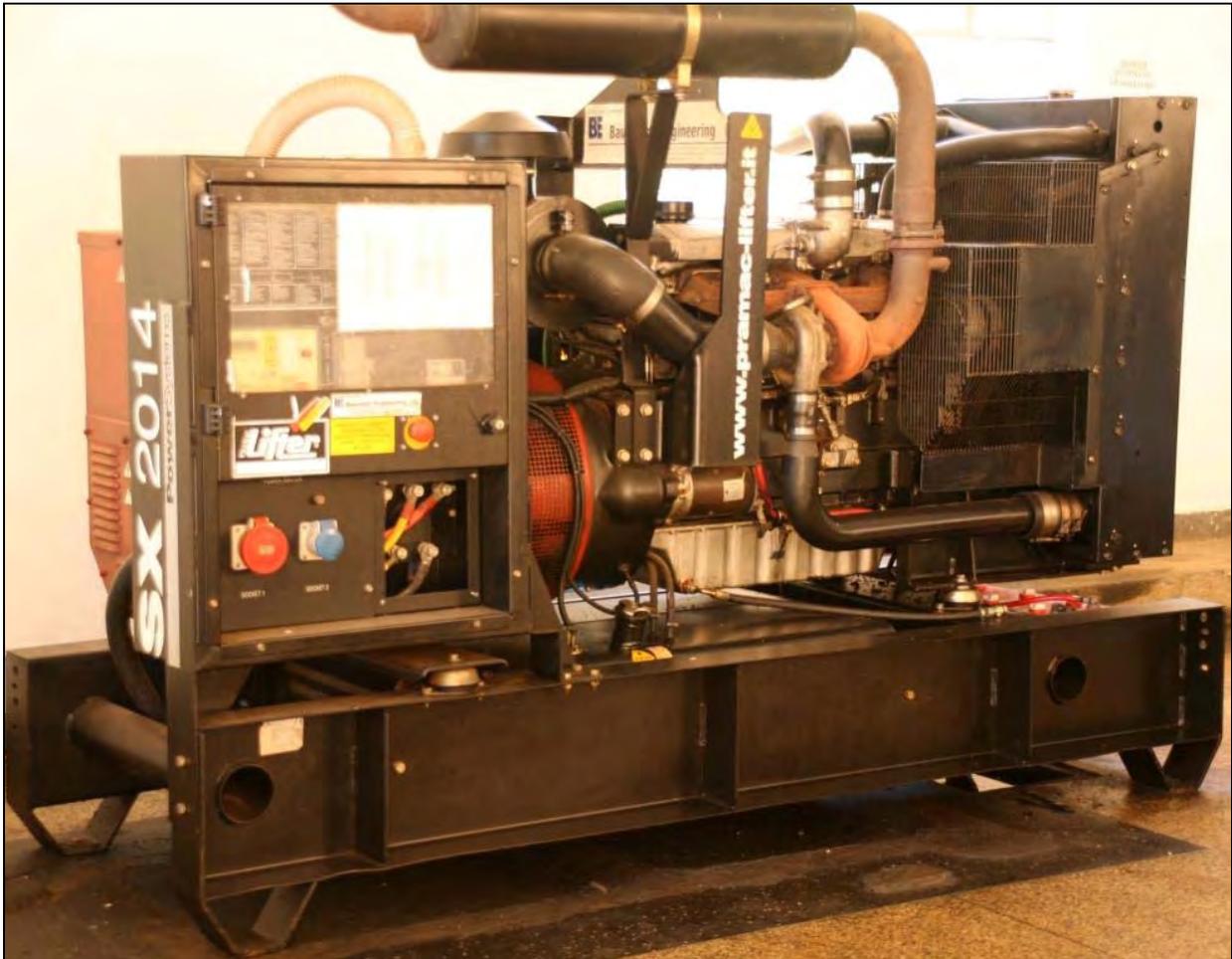
had been delivered. Several activities were delayed until the final months of the project, so that there was insufficient time available to do follow-up work before project closure.

PPOA staff are paid performance bonuses in relation to successful completion of stipulated activities. It was unfortunate that the various project activities were not included among those for which performance bonuses were paid, although this need was pressed by the project team. Consequently, project activities were not among the priorities of PPOA staff.

Now that a substantive Director General has been appointed, staff have been confirmed in post, and the staffing strength is being brought closer to the establishment, it is important that the PPOA assert its authority and make known its presence. This will require, *inter alia*, greater willingness on the part of the PPOA:

1. *To exercise the enforcement powers given to the Authority under the Act and Regulations.* This should include effective follow-up from the procurement reviews. It is disappointing that the findings of the follow-up assessments made by Tetra Tech ARD were not followed through and that other consultants who have been engaged using non-USAID funds are not required to conduct follow-up as part of their contract; consequently, there is danger that there is no follow-through on serious defects identified and important recommendations made. Where there is lack of cooperation in implementing the procurement law, the PPOA should press for disciplinary and other enforcement action to be taken, in liaison with bodies such as the Office of the Auditor General, the Kenya Anti-Corruption Commission (KACC), the Ministry of Finance, and the Head of the Public Service. The Chief Executive of the KACC has made overtures to the Director General with a view to achieving closer liaison and cooperation.
2. *To engage with senior figures in the Government of Kenya, including Permanent Secretaries of Ministries and CEOs of state corporations, on the rationale of the procurement reforms and the importance of bringing their entities into compliance with the law.* The same message should be conveyed also to other community leaders, including Members of Parliament. It is disappointing that planned arrangements to hold workshops for Permanent Secretaries, CEOs, and Members of Parliament had to be cancelled because the PPOA had not felt able to make the necessary arrangements.
3. *To engage with all those carrying out public procurement activities in Kenya.* During the course of carrying out training and reviews under the project, Tetra Tech ARD has received numerous complaints that advice sought from the PPOA has not been responded to, including issues that were subsequently taken up in procurement reviews. Such complaints are too frequent to ignore and are often accompanied by the remark that senior staff of the PPOA are seldom seen at important events.
4. *To engage with the media, so that the PPOA's activities are more widely understood, its point of view is put across, and it is perceived to be an active and effective body.* There have been too many occasions where there has been no response to critical comments about the procurement law. Moreover, it is important that the findings of procurement reviews be publicized effectively.

Development projects work best when there is commitment and leadership on the part of the body receiving assistance. Project activities should be based on the beneficiary client's priorities and there should be commitment at the outset to support these activities fully and to respond promptly when drafts are submitted.



Procurement of 150 KVA Generators procured by Athi Water Services Board (AWSB) whose staff attended the workshop on the General Manual.

Photo courtesy of House of Fotography.

6.0 ESSENTIAL ACTIVITIES FOR CONTINUING REFORM



Air Traffic Control equipment procured by Kenya Civil Aviation Authority (KCAA). KCAA staff attended the workshop on projects.

Photo courtesy of House of Photography

Public contracting, together with licensing, law enforcement, and recruitment to public service jobs, are the principal areas where corruption takes place. USAID and other donors, together with the Government of Kenya, provide substantial resources to health, education, and infrastructure projects, and it is important that an effective procurement system be in place to support these projects by obtaining the required goods and services with value for money and integrity. The fraction of total donor support that is spent on reforming the public procurement system is an important concomitant to these broader programs. It is important for programs to continue in the following areas:

- 1. Continuation of Procurement Review Program:** Tetra Tech ARD carried out reviews of the recent procurement activities of 10 procuring entities during the MCC Threshold Program that ran from October 2007 to September 2009, and reviews of a further eight entities during the 18-month extension program. These reviews were carried out by James Okello, an experienced reviewer and procurement specialist, supported by Tom Onono, a professional auditor. During the time of the Threshold Program, there have been some 13 further reviews carried out by PPOA staff or by other consultants engaged by them, though

not all have been completed. Consultants have been engaged to carry out a further six reviews utilizing non-USAID funding.

For the procurement reviews to be effective, it is necessary that they be extensive, covering 30-60 PEs per year. An extensive program of reviews would enable:

- Those PEs with substantial high-value procurements to be reviewed at least once every three years, so that improvements made since the last review could be monitored. Frequent reviews act as an incentive to compliance; and
- A representative picture to be obtained of the overall level of compliance among PEs in Kenya and the extent of improvements.

- 2. Continuation of the Records Management Improvement Program:** Poor records management practices are a critical weakness in many PEs and prevent the establishment of an audit trail that can detect corruption and other malpractices. It is important that the records management improvement program be continued, with coverage of at least 10 PEs each year, and extended as far as practicable.
- 3. Continuation of the Capacity-Building Program:** It is important that training and other aspects of capacity building continue. Consultants have assessed the impact of training programs carried out by Tetra Tech ARD and by the PPOA, and this assessment should guide the planning of future training activities. It should be supplemented by a capacity needs assessment that would establish the adequacy of professionalism (basic qualifications and continuous professional development), staffing levels, accommodation, and equipment, and from this baseline, identify capacity-building priorities. Continued programs to inform potential bidders about the procurement system and the requirements to put in a conforming bid are important in generating greater competition.
- 4. Continuation of the Public Awareness Campaign:** There will be continuing need for a public awareness campaign, particularly as the PPOA expands.
- 5. Support for Legislative Reform:** The legislative amendments designed to amend deficiencies in the present Act and Regulations and to bring the Kenyan law closer to World Bank and other international standards that were prepared by Tetra Tech ARD will need continued support, particularly as further amendments will need to be considered to align the procurement law with the requirements of the new Constitution.
- 6. Support for Decentralization of the PPOA:** The new Constitution provides for much procurement activity to be decentralized at the County level. This will require organizational changes within the PPOA.
- 7. Support for Strengthened Community Monitoring on Lines Recommended in the IPAR Report:** Civil societies need training and other support to monitor public procurement effectively and identify abuses when they occur.
- 8. Development of Guidelines and Manuals on Emerging Issues:** Some examples would be e-procurement and green procurement.
- 9. Support for Reorganization of the Supplies Branch:** The consultant recommended that an independent implementation team, well versed and experienced in change management, should be engaged to carry out the transformation of the SB. It is important that resources be provided for this work, so that the changes recommended by the consultant are not left in abeyance, as was the previous study of 2004.

10. Support for the Kenya Anti-Corruption Commission (KACC) to Fight Corruption in

Procurement: Procurement is a major area where corruption takes place. The KACC is keen to expand its procurement-related activities in ways that would complement those of the PPOA. These activities might include:

- Specially tailored procurement reviews that focus on identifying procedures that are vulnerable to corruption and how these vulnerabilities should be remedied, and in ensuring that recommendations are put into effect;
- Developing guidelines and other documents which identify procurement practices that are vulnerable to corruption and encourage procurement staff, bidders, and the wider community to blow the whistle on corruption in procurement and maintain ethical standards in their work;
- Increasing public awareness and understanding of the purpose and nature of public procurement reforms and their relationship to corruption prevention;
- Building capacity among the staff of PEs to handle difficult and complex issues in procurement;
- Strengthening procurement expertise among key members of KACC staff; and
- Enhancing coverage of procurement in the KACC website.



Procurement by Athi Water Services Board (AWSB) of a fully automated solar power borehole that works with a pre-payment system based on m-pesa. AWSB attended the Tetra Tech ARD workshop on the Projects Manual.

Photo courtesy of House of Photography

APPENDIX A: REPORTS AND INFORMATION PRODUCTS

1. Procurement review reports for the following PEs:
 - a) Ministry of Justice, Constitutional Affairs and National Cohesion
 - b) Ministry of State for Development of Northern Kenya and Other Arid Lands
 - c) Teacher's Service Commission (TSC)
 - d) National Social Security Fund (NSSF)
 - e) Communications Commission of Kenya (CCK)
 - f) Kenya Agricultural Research Institute (KARI)
 - g) Postal Corporation of Kenya (PCK)
 - h) National Hospital Insurance Fund (NHIF)

2. Follow-up assessment reports for the following PEs:
 - a) Kenya Medical Supplies Agency (KEMSA)
 - b) Ministry of Medical Services
 - c) Ministry of Public Health and Sanitation
 - d) Ministry of Energy
 - e) Ministry of Roads
 - f) Highways Authority
 - g) Rural Roads Authority
 - h) National Environmental Management Agency (NEMA)
 - i) Ministry of Education
 - j) Kenya Institute of Education
 - k) Kenya National Examination Council
 - l) Office of the President
 - m) Kenya Ports Authority

3. Second Edition of the Procurement Review Manual
4. Standardized Reporting Format
5. Report on Strengthening Community Monitoring of Public Procurement in Kenya
6. Report on the Re-organization of the Supplies Branch
7. Code of Ethics
8. Records Management baseline assessment reports for the following PEs:
 - a) Ministry of Justice, Constitutional Affairs and National Cohesion
 - b) Ministry of State for Development of Northern Kenya and Other Arid Lands
 - c) Teacher's Service Commission (TSC)
 - d) National Social Security Fund (NSSF)
 - e) Communications Commission of Kenya (CCK)
 - f) Kenya Agricultural Research Institute (KARI)

- g) Postal Corporation of Kenya (PCK)
 - h) National Hospital Insurance Fund (NHIF)
 - i) National Aids Control Council
 - j) Ministry of Special Programs
9. Second edition of the Procurement Records Management Procedures Manual
 10. Report on Mentoring and Improvements in Record Keeping Practices in Ten GOK Entities
 11. Second Edition of the Guidelines for Potential Bidders
 12. Interactive Procurement Training Manual
 13. Eight (8) Editions of the Kenya Procurement Journal
 14. Guidelines on Debarment of Unsatisfactory Suppliers
 15. Proposed Amendments of the Kenya Procurement Legislation
 16. Evaluation of Training Impact on Staff of Procuring Entities
 17. Standard Bidding Documents and Forms for 22 Types of Procurement
 18. Report on PPP Guidelines

APPENDIX B: FINAL EXPENDITURES

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