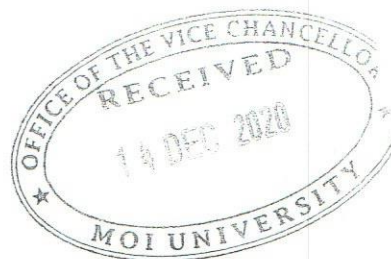




PPRA

PUBLIC PROCUREMENT
REGULATORY AUTHORITY

UPHOLDING PROCUREMENT STANDARDS



REF: PPRA/ELD/5/4 VOL.1 (30)

8th December, 2020

The Vice Chancellor
Moi University.
P.O. BOX 3900-30100
KESSESS- ELDORET

*S.P.O. / CL-PTRE
Ensure compliance
and give feedback.
14/12/20
cc: DVC-F*

Dear Sir,

**RE : PROCUREMENT / CONTRACT/PERFORMANCE AUDIT OF MOI
UNIVERSITY ACE II PTRE PROJECT - FINAL REPORT**

Pursuant to its mandate, Public Procurement Regulatory Authority conducted a Procurement Contract Performance Audit of your organization to establish its status of compliance with the procurement law. Thereafter a copy of the draft report was issued to you vide letter reference PPRA/ELD/5/4 VOL.1 (17) dated 23rd November, 2020. To date, your entity has not responded to the letter referred above. In this regard, the Authority had no option but to finalize the report. Subsequently, we hereby share with you a copy of the final audit report.

You are advised to ensure full implementation of the recommendations made in the report taking cognizance the provisions of the Public Procurement and Asset Disposal Act, 2015, the Public Procurement and Disposal Regulations, 2020 and the Directives issued by the Authority. Kindly, note that at an appropriate date, the Authority will visit your organization to monitor the implementation of the recommended corrective measures identified in the report. In the meantime, the report will be posted in our website and may be shared with other relevant Government Agencies as required by the Public Procurement Law.

Reshma J. Changwony

Reshma J. Changwony (Ms)
FOR: DIRECTOR GENERAL

(Encl)

*② ACE II-PTRE Admin & Proc. Officer.
Kindly let us discuss the report.
25/01/2021*

OCTOBER, 2020

FINAL REPORT

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

UPHOLDING PROCUREMENT STANDARDS

PUBLIC PROCUREMENT
REGULATORY AUTHORITY

PPRA



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LIST OF ACRONYMS/ABBREVIATIONS:	
AO	Accounting Officer
AGPO	Access to Government Procurement Opportunities
BOQs	Bill of Quantities
DG	Director General
FY	Financial Year
GRNs	Goods Received Notes
HOPF	Head of Procurement Function
ITT	Invitation to Tender
KISM	Kenya Institute of Supplies Management
KSH	Kenya Shillings
LPO	Local Purchase Order
LSO	Local Service Order
MU	Moi University
N/A	Not Applicable
ONT	Open National Tender
PE	Procuring Entity
PF	Procurement Function
PPADA	Public Procurement and Asset Disposal Act, 2015
PPDR	Public Procurement and Disposal Regulations, 2006
PPRA	Public Procurement Regulatory Authority
PF	Procurement Function
RFQ	Request for Quotation
STD	Standard Tender Documents
TORs	Terms of Reference
VC	Vice Chancellor

EXECUTIVE SUMMARY

This report is a product of Procurement/Contract Audit conducted by the Public Procurement Regulatory Authority (the Authority) pursuant to its mandate under the Public Procurement and Asset Disposal Act, 2015 (the Act). Part IV of the Act requires the Authority to ensure that the procurement procedures established under this Act are complied with. Specifically, Section 43 (2) of the Act bestows on the Authority the responsibility to conduct audits on contracts during tender preparation, contract execution and after contract completion.

In view of the above, procurement/contract audit for Moi University ACE II Project was conducted from 19th to 23rd October 2020. The audit covered the institutional arrangement and eleven (11) contracts concluded during the period 1st July, 2018 to 30th June 2020. The main objective of the audit was to determine the extent to which the Procuring Entity (PE) followed the procedures and rules established in the Act and the applicable regulations; circulars and directives issued by the Authority and other generally acceptable professional best practices, in conducting their procurement processes and contract management activities with reference to selected contracts. In addition, the audit helped to identify strengths and weaknesses, as well as risks inherent in the procurement and contract management system and propose measures to mitigate weaknesses and irregularities identified.

An entry meeting with the PE's management team was held on 19th October, 2020 to discuss the scope of the audit, the audit plan, the auditors' and PE's expectations, access to documentation and other administrative issues. The audit exercise involved examination of relevant procurement and contract management records from the selected contracts to verify their compliance with the Act, the attendant Regulations and other directives issued by the Authority and other relevant bodies from time to time. The auditors used qualitative and quantitative data collection methods including interviews, observation, confirmation, analysis and audit of records.

The audit was mainly limited/constrained by delay in retrieval of procurements records since the entity did not maintain individual procurement files.

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

Summary of key findings on institutional arrangements:

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

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

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

Summary of key findings on procurement processes:

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

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

tender opening were recorded in tender opening registers and minutes prepared by the committee.

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

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

Summary of key findings on contract management:

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

Upon conclusion of the audit, the overall compliance and risk rating of the PE's procurement and contract management system was determined based on compliance and risk rating criteria defined in the Authority's Compliance Monitoring Manual. To this end, the University has attained a partial compliance level of **45.6%** with a moderate risk rating at **54.4%** an indication that PE should put in place strategies to address weaknesses identified.

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

SECTION ONE: INTRODUCTION

This section presents the background of the contract audit, its scope and nature, sampling, the limitations encountered during the audit, a brief on mandate and organization of the PE, and any other matters that are essential to understand the context and circumstances under which the audit was carried out.

1.1 Background Information

The Authority's contract audit function is derived from Section 43 of the Act, which provides that; "(1) the Authority or anyone authorized by the Authority, may inspect, assess, review or audit at any reasonable time, the records and accounts of the procuring entity and contractor relating to the procurement or disposal proceeding or contract and the procuring entity and contractor or tenderer shall co-operate with and assist whoever does such an inspection. (2) The Authority shall conduct Procurement Audits during the tender preparation, contract audit in the course of execution of an awarded tender, and Performance Audit after the completion of the contract in respect of any procurement or asset disposal as may be required."

In this regard the Director General (DG) vide his letter Ref PPRA/ELD/5/4 VOL.1 (27) dated 9th October 2020 informed the Vice Chancellor Moi University that the center had been scheduled for contract audit under Section 43 of the Act. In preparation for the audit, the DG requested the procuring entity to submit specific information in respect of the contract(s) to be audited.

1.2 Objective and Scope of Contract Audit

The main objective of the audit was to determine the extent to which the Procuring Entity (PE) followed the procedures and rules established in the Act and the applicable regulations, circulars and directives issued by the Authority and other generally acceptable professional best practices, in conducting their procurement processes and contract management activities with reference to selected contracts. In addition, the audit helped to identify strengths and weaknesses, as well as risks inherent in the procurement and contract management system and propose measures to mitigate weaknesses and irregularities identified.

The audit covered contracts concluded during 2018-2019 and 2019-2020 financial years. From the summary of all contracts undertaken during the period under review by the ACE II project, the Authority sampled eleven contracts in order to do a detailed audit of each transaction. The numbers of contracts audited are as indicated in Annex 2. This audit was undertaken between 19th and 23th October, 2020.

1.3 Purpose of Contract Audit

The Authority undertakes periodic contract audits as a requirement under section 43 of the Act. Contract audits mainly focus on high value contracts with a view of establishing how the procurement processes and contract management were conducted. The findings of the audits lead to conclusions as to whether the Procuring Entity implemented the contract in accordance with the procurement law and the contractual terms.

1.4 Methodology of Conducting Contract Audit

Contract audit involves analysis of documentation provided pertaining to the subject contract and, where necessary, discussions with the persons involved in the implementation of the contract. Data was collected by use of a standard contract audit template and a scoring guide was used to gauge the extent to which the various procurement and contract management processes complied with the Procurement Law and the terms of the contract. The data collected was analyzed and a compliance rating assigned to each contract audited and thereafter an aggregate score for the PE was generated. Further, the areas of weakness and strengths were identified to inform the recommendations necessary to address the weak areas in order to enable the PE to improve its compliance with the Procurement Law.

SECTION TWO: SPECIFIC FINDINGS AND RECOMMENDATIONS

2.1 INSTITUTIONAL ARRANGEMENTS

This sub-section contains the findings and recommendations on the institutional arrangements of the procuring entity as summarised below.

The entity has an established procurement function headed by the Sr. Procurement Officer who reports functionally and administratively to the Accounting Officer. The function is staffed with twenty-one procurement professional most of them being members of Kenya Institute of Supplies Management (KISM). Among the twenty one procurement staff, one officer has been assigned to oversee procurements in all the donor funded project within the university and another officer deployed and assigned the responsibility of carrying out procurements for the ACE II Project.

The accounting officer in line with the Act constituted a Disposal Committee to deal with disposal of unserviceable, obsolete and surplus asset. However there was no record availed to show whether any disposal had been undertaken for the years under review. The entity does not have an Internal Procurement and Asset Disposal Manual to guide its procurement and asset disposal activities. Procurement records are maintained in files that are kept at the procurement department. However most of the record are not filed in a sequence that allow easy paper trail and retrieval.

From the extract of the procurement plan availed, the audit team observed that the project maintains its own procurement plan. However, the plan did not demonstrate reservation of the 30% procurement to AGPO businesses. The plan had also factored items like per diem that are not procurable. Further, the entity did not avail any documentary evidence to indicate that mandatory reports were submitted to the authority as required by law. Tender and quotation boxes are maintained by the PE and are located at an easily accessible place within that main administration block

Stores are managed centrally within the main university. In most case the centre was procuring items that were immediately used Further all assets acquired were recorded in the main university asset register with location of the assets clearly defined.

Recommendations based on the weaknesses identified above:

The University should develop a Procurement and Asset Disposal manual pursuant to Section 45 of the PPADA. In addition, The manual should be aligned to the Public Procurement and Asset Disposal Act, 2015 and Public Procurement and Asset Disposal Regulation. 2020. In addition, the University should always maintain complete procurement files in accordance with Regulation 34(3) of the PPDR and the PPRMPM. The records should be arranged in sequential manner. Further, at least 30% of the procurement

Individual evaluators conducted Independent evaluation of tenders using the criteria stated in the tender document and recommendation for award made in accordance with the criteria provided in the tender document. The evaluation process was completed within timelines prescribed by law and

Invitation to tender was done through tender notice send to bidders selected from the list maintained by the entity. The entity invited nine (9) bidders contrary to the provision of inviting at least ten bidders. Information on obtaining, submission, deadline for submission indicated in notice and adequate time was allowed to bidders for preparation and submission of bids. The VC approved the list of member proposed by the Ag. Senior Procurement Officer for appointment to the opening and evaluation committees respectively. There was no records of formal appointments of the committees by the VC. Bids were opened as scheduled and information on bid opening such as name of firm submitting the bid, bid amount for each bid submitted and bid bond recorded in the opening register and minutes prepared by the committee in line with section 78 of the Act.

Tendering Processes

The subject procurement was planned for in the 2019-2020 procurement plan under item line purchase of Bomb Calorimeter. The department of Energy and Engineering initiated the process through a purchase requisition dated 15th April 2019 and approved by the vice Chancellor on the same day. The description of requirements/specifications, quantity and estimated cost of the item provided in the purchase requisitions. Restricted tender method was used with thresholds observed. Appropriate standard tender document adequately amended with evaluation and award criteria clearly specified in the tender document was used by the entity.

Procurement Initiation

Procurement Process

2.2.1 Tender No. MU/T/3/2019/2020: Supply and Delivery of Renewable Energy Laboratory Equipment.

This sub-section presents a summary of the specific findings on the procurement processes and contract management of the sampled contracts.

2.2 FINDINGS ON SPECIFIC CONTRACTS

Mandatory reports should be filed with the Authority in accordance with Section 138 of the PPADA and PPA Circular No.1/2016 of 16th December, 2016. Publishing of contract awards should also be done pursuant to Section 138 of PPADA.

budget to be allocated to enterprises owned by Youth, Women and Persons Living with Disability and a copy of the procurement plan should be submitted to the Authority in accordance with Section 158(2) of the PPADA. The plan should not contain items that are not procurable

evaluation report duly prepared by the committee. The head of procurement function prepared professional opinion, which was submitted to the accounting officer alongside the evaluation report for further consideration.

Award and Contract Signing

The AO awarded the contract to the most responsive lowest in cost bidder within the 150 days tender validity period. The successful bidder was notified through letter dated 9th January 2020. However, it could not be determined if the unsuccessful bidders were notified as there was no documentary evidence available. Acceptance letter by the successful bidder dated 9th January, 2020 signified acceptance of the award. The successful bidder did not submit a performance bond prior to contract signing as required in the bid document and in the letter of notification. However, a written contract was entered between the entity and the successful bidder pursuant to Section 135 of the Act. The procuring entity had difficulty providing the required documents due to failure to maintain complete individual procurement files.

Recommendation on procurement process

The AO should ensure that where the list maintained by the entity is used under restricted tendering method at least ten bidders are invited as provided by law and both the successful and unsuccessful bidders are notified in line with the provision of section 87 of the Act and performance security submitted by the successful bidder prior to contract signing.

Contract Management

The PE did not publish this contract award on their website and noticeboard neither was the award reported to the Authority contrary to the provision of Section 138 of the PPADA and PPARA Circular No.1/2016 of 16th December, 2016. The VC duly appointed an inspection and acceptance committee for the purpose of receiving and verifying the goods delivered by the supplier. The committee prepared an inspection and acceptance certificate and goods received note issued to the contractor by the head of procurement confirming delivery and acceptance of the goods. Payment for the supplies was done in accordance with the contractual terms. The equipment was tagged and recorded in the asset register. However, monthly progress report was not prepared by the head of procurement an indication that the accounting officer was not updated on the implementation status of the contract. In addition, procurement contract file was not adequately maintained as some of the records relevant to the subject contract were missing from the respective file.

Recommendation on contract management

The entity should work towards addressing the gaps identified above especially in ensuring that the contract awards are published in the entity's website and noticeboards and reported to the Authority pursuant to Section 138 of the PPADA and PPARA Circularly No.1/2016 of 16th December, 2016. The head of procurement function should prepare monthly progress report to inform the AO on the progress of the implementation of the contract and

procurement contract file should be adequately maintained with documents filed in a systematic manner for ease of retrieval and reference.

2.2.2 Tender No. MU/ONT/46-2017-2018 Supply, Delivery, Installation and Commissioning of Atomic, Absorption Spectrometer (AAS)

Procurement Process

Procurement initiation

The procurement was planned for in the 2017/2018 procurement plan at an estimated consolidated cost of Ksh 45M and in accordance with Section 53 of the Act. The Center Leader, Phytochemicals, Textile and Renewable Energy initiated the procurement through a request in form of a Memo on 6th February 2018. Specification and quantity was provided in the requisition which was duly approved by the accounting officer. However, estimated cost of the item was not indicated in the requisition as required by Regulation 22(2) of the PPDR. The procurement was processed through open tender and a standard tender document with evaluation and award criteria clearly specified was used.

Tendering Processes

Invitation to tender was done through tender notice advertised in the newspaper on 26th June 2018. 16 days was provided for preparation and submission of bids. The notice met the requirement of section 74 of the Act. The AO duly appointed a tender opening committee and opening process executed in accordance with section 78 of the Act.

Evaluation committee conducted independent evaluation of bids as envisaged under Reg. 5(4) of Legal Notice No. 106 using the criteria provided in the tender document and evaluation report prepared and signed by the each member of the committee. However, the report was not dated hence the reviewers could not determine if the process was completed within the timeframe provided by law. The head of procurement prepared professional opinion that was submitted alongside the evaluation report to the accounting officer for his determination.

Award and contract signing

Award of the tender was made by the AO within the tender validity period and both the successful and unsuccessful bidders notified of the tender out come in line with Section 87 of the Act. Performance guarantee equivalent to 5% of the contract amount from a financial institution was provided by the contractor prior to contract signing and in accordance with section 142 of the Act. The university entered into written contract with the supplier on 10th December 2018 and an LPO issued on 16th January 2019.

Recommendation on procurement Process

Pursuant to Section 44(1) of the PPADA, the Accounting Officer should ensure that the non-compliance issues cited above are addressed. Further, all officers

who are involved in procurement should comply with the Procurement Law in the respective areas of responsibility pursuant to Section 45(5) of the PPADA

Contract Management Process

The entity did not publish the contract award on their website and notice board neither was it reported to the Authority as envisaged under Section 138 of the Act. Further, it could not be ascertained whether the VC appointed an inspection and acceptance committee or a contract implementation team as no record was available during the audit period. Similarly, the entity did not avail any record to show that the items were inspected to confirm delivery and if the contract was completed within the stipulated contract terms i.e time, quality, quantity and contract amount. Payment documents were also not availed hence the audit team could not ascertain if the contractor was paid or not. In addition, the head of procurement did not prepare monthly progress report an indication that the accounting officer was not updated on implementation status of the contract. The entity maintains a procurement file for the subject procurement marked with relevant tender number and description. However, the file was incomplete as some of the records relevant to the subject procurement were missing from the file and the documents in the file were not filed in a systematic manner for ease of reference and retrieval.

Recommendation on contract management

The VC should ensure that contract awards are published and reported to the Authority as envisaged under section 138 of the Act, Inspection and acceptance committee is duly appointed and the committee should performed their function pursuant to Section 48 of the Act. Payment of the contract should be done in line with contractual Further, the procurement function should prepare monthly progress report and submit to the AO and procurement records adequately maintained filed in a systematic manner for ease of retrieval and reference

2.2.3 Tender No.: Q/2018/2019/ACEPTRE/127 Supply and Delivery of Laboratory Equipment

Procurement Process

Procurement Initiation

The subject procurement was planned for in the 2018/2019 procurement plan with consolidated estimated cost of approximately Ksh 5M. The estimated budget included other items. The head of department Chemical Engineering initiated the procurement through a purchase requisition on 8th October 2018. Specifications were attached to the requisition but estimated cost was not indicated in the requisition as required by Regulation 22(2) of the PPDR. RFQ method was adopted for this specific procurement and relevant threshold observed. Appropriate standard tender document was also used with qualification criteria indicated in the RFQ documents.

Tendering Processes

Invitation to tender was done through RFQ's sent to ten (10) bidders on the registered list of suppliers maintained by the entity. However, the quotations were not dated therefore the audit team could not determine if adequate time was allowed for preparation and submission of bids. Further, no documentary evidence was availed to show that quotation opening committee was duly appointed as guided by Section 78 of the Act. The entity did not open the quotations as scheduled. Opening was done on 5th November 2018 approximately 11 days after the closing date, which was 25th October 2018 at 10.00 am. Tender opening register and minutes prepared indicated that four bids were received.

The audit team could not ascertain if the AO appointed an evaluation committee as envisaged under Section 46 of the Act. Evaluation report dated 8th November 2018 shows that the committee carried out price analysis and recommendation for award made to the bidders with lowest cost per item. However, the qualification requirement in the quotation document was not considered during evaluation and the members of the committee did not carry out independent evaluation of bids as required by Regulation 5(4) of legal notice no. 106.

Award and Contract Signing

The Head of Procurement prepared a professional opinion in line with Section 84 of the Act which he concurred with evaluation committee's recommendation and award made by the Accounting Officer. The entity did not enter into a written contract instead an LPO was issued to two successful bidders.

Recommendation on procurement process

The AO should ensure that estimated cost is indicated in the requisition as guided by Regulation 22(2) of the PPDR, Adequate time should be allowed to bidders for preparation and submission of bids, opening committee and evaluation committee are respectively appointed in line with Section 78(1) and Section 46 of the Act. In addition opening of tenders should also be conducted in compliance with Section 78(3) of the Act. Similarly, evaluation/qualification criteria provided in the quotation documents should be strictly applied during evaluation process. The committee should also conduct independent evaluation of bid and maintain scoresheet as guided under Reg. 5(4) of Legal Notice No.106.

Contract Management Process

The entity did not publish the contract award on the University website and noticeboard as guided by section 138 of the Act and there was no record availed to show that, the contract award was reported to the Authority. Further, the audit team could not ascertain if the accounting officer appointed an inspection and acceptance committee as required under section 46 of the Act and if the goods were delivered, inspected and accepted since the entity did not avail any records to that effect. Similarly, it could not be determined

if payment towards the contract has been made by the entity as no documentary evidence was availed during the audit period. In addition, the procurement unit did not prepare a monthly progress report to update the accounting officer on the implementation status of the contract and there was no information on completion of the contract.

Recommendation on contract management

Pursuant to Section 44(1) of the PPADA, the Accounting Officer should ensure that the non-compliance issues cited above are addressed. Further, all officers who are involved in procurement should comply with the Procurement Law in the respective areas of responsibility pursuant to Section 45(5) of the PPADA.

2.2.4 Tender No. Q/2018/2019/ACEPTRF/138 Supply of Renovation materials

Procurement Process

Procurement Initiation

The procurement was planned for in the 2018/2019 plan under item line Refurbishment of Center Building and Improvement of Center Facilities. A purchase requisition dated 4th December 2018 was used to initiate the process. Description of requirements/specifications indicated in the purchase requisitions without estimated cost. The PE used standard tender document for request for quotation with qualification requirement clearly stated in the RFQ. RFQ method was used and relevant thresholds observed.

Tendering Processes

Request for quotations sent out to nine bidders in the list of registered suppliers maintained by the entity served as invitation to tender. Deadline for submission and qualification criteria indicated in the Request for Quotations. However, place of submission and opening of tenders not provided in the RFQ. Further, there was no record availed to show that a tender opening committee was appointed by the accounting officer pursuant to Section 78 of the Act. Quotation opening register availed indicate that opening was done 14th November 2018 at 11.04 am approximately 9 days after the closing date which was provided in the quotation document as 6th November 2018. Four bids were received.

In addition, the audit team could not ascertain if the AO appointed an evaluation committee as guided by the provision of Section 46 of the Act, since appointment records were not availed. However, an evaluation report dated 20th November 2018 was duly prepared and recommendation for award was made per item line based on the lowest evaluated price. From the evaluation report, it was evident that the committee did not consider the qualification criteria provided in the RFQ document since the committee only carried out price comparison to determine the responsive bidder. Individual evaluators did not conduct independent evaluation and individual score sheets not maintained. In addition, the entity did not conduct market survey to form basis of recommendation/award decisions. For instance, B4 (Mbuwan

Electrical) was not awarded for submitting the lowest quote of Ksh 5000 for Kentank square 5000 Ltrs tank. The committee felt that the price was unrealistic compared to the other bidders who had quoted Ksh. 10,500, Ksh.10,000 and Ksh.12,500 respectively. The committee recommended second lowest bidder without subjecting the prices to prevailing market rates.

Award and Contract Signing

The VC awarded the contract as per recommendations of the evaluation committee and professional opinion by head of procurement. There was no record available on notification of bidders. Local purchase orders were issued on various dates between August 2018 and January 2019.

Recommendation on Procurement Process

The AO should ensure that; adhoc committees are duly appointed in line with the Act; evaluation of bids adopt criteria provided in the tender document and market survey is carried out to inform award decision making. In addition, award should be made to the most responsive bidders who has submitted the lowest cost and ensure that bidders are notified of the tender outcome in line with section 87 of the Act.

Contract Management Process

The procuring entity did not prepare written contracts instead; a Local Purchase Order was issued. Publication of the award in the entity's website /noticeboard was not done neither was it reported to the Authority as required under Section 138 of the Act. Further, no evidence was available to show that an inspection and acceptance committee was appointed by the accounting officer to verify deliveries as guided by Section 48 of the Act. The head of procurement issued a goods received note to the supplier confirming delivery and acceptance of the goods. Monthly progress report was not prepared, an indication that the accounting officer is not updated on the implementation status of the contract. In addition payment vouchers were not availed hence it could not be determined if the supplier had been paid in accordance with contractual terms.

Recommendation on contract management Process

The entity should ensure that all contract awards are published in the entity's website and noticeboard and reported to the Authority as required under Section 138 of the Act. The accounting officer as guided by section 48 of the Act should duly-appointed inspection and acceptance committee and the head of procurement should prepare monthly progress and submit to the accounting officer in line with Section 152 of the Act. In addition, procurement contract file should be adequately maintained for ease of retrieval and reference.

2.2.5 Tender No: Q/2019/2020/ACEFTRE/162 Supply and delivery of Television Screen

Procurement Process

Procurement Initiation:

The subject procurement was planned for in the 2019-2020 FY procurement plan under item line ICT upgrading and e-platforms establishments at a consolidated cost of Ksh45M. The process was initiated by the Centre Administrator through a requisition in form of a memo dated 16th May 2019. Specification of the TV screen and quantity was provided in the requisition however estimated cost was not provided in the requisition. RFQ method was used and thresholds observed. The PE also used standard RFQ documents with qualification criteria provided in the RFQ.

Tendering Processes

RFQ send to bidders on the registered list of suppliers maintained by the entity served as invitation to tender. Information on preparation, submission and closing date provided in the RFQ document. The accounting officer appointed two members to the tender opening committee. However, the appointment of the opening committee did not meet the membership threshold of at least three members as envisaged under Section 78 of the Act. The audit team noted that there was delay in opening of the quotations. However, the committee prepared quotation opening register and minutes, which were duly signed.

The accounting officer further appointed two members to the evaluation committee. The appointment also did not meet the membership threshold as provided under Section 46 of the Act, which requires that the committee should comprise of between three to five members. However, the committee evaluated the bids received and duly prepared an evaluation report in line with the Act. From the evaluation report, it was evident that the qualification criteria provided in the quotation document was not applied during evaluation since the committee conducted price comparison only. Further, the committee did not carry out independent evaluation of bids in accordance with Regulation 5(4) of legal notice No. 106 and market survey was not conducted to inform award decision. Profession opinion with no secretariat comments issued by the Snr. Procurement Officer on 21st November 2019 concurred with the evaluation committee's recommendation.

Award and Contract Signing

Award was made to the lowest in cost supplier on 21st November 2019. The PE did not enter into a written contract agreement instead, an LPO was issued to the successful bidder.

Contract Management Process

The audit noted that the entity did not publish the contract award in the PE's website and notice boards neither did they report to the Authority as envisaged under Section 138 of the Act. An Inspection and Acceptance Committee was appointed by the AO in accordance with Section 48 of the Act. However, the PE did not provide any documentary evidence to show that the goods had been delivered, inspected and accepted by the inspection

The AO duly appointed an evaluation committee in line with Section 46 of the Act. From the evaluation report availed, the committee did not consider the qualification criteria provided in the quotation document during the evaluation but only carried out price comparison and independent evaluation of bids was not done. In addition, market survey was not carried out to assist the accounting officer in making the award decision.

Invitation to tender was done through RFQ sent to bidders in the registered list of suppliers maintained by the entity. Information on preparation, submission of bids and closing date provided in the quotation. However, the quotation forms were not date therefore it could not be determined if adequate time was allowed to bidders for preparation and submission of bids. Tender opening committee was appointed by the VC however, the appointment did not meet the membership threshold of at least three members since only two members were appointed. Quotation opening register availed indicate that opening was done 4th April 2019 at 10.00 am approximately 11 days after closing of tenders.

Tendering Processes

The procurement was planned for in the 2019 / 2020 procurement plan under item line purchase of Software at a consolidated estimated cost of Ksh.40M. Procurement initiation was carried out through a purchase requisition by the Coordinator Textile and Industrial Engineering. Specification and quantity was indicated in the requisition however, the user did not provide estimated cost in the requisition. Standard RFQ document was used and RFQ method adopted for the subject procurement. Considering the contract amount the PE observed the relevant threshold for the use of the method.

Procurement Initiation

Procurement Process

Software

2.2.6 Tender No: Q/2019/2020/ACEPTRE/322 Supply and delivery of

Pursuant to Section 44(1) of the PPADA, the Accounting Officer should ensure that the non-compliance issues cited above are addressed. Further, all officers who involved in procurement should comply with the Procurement Law in the respective areas of responsibility pursuant to Section 45(5) of the PPADA

Recommendation

committee, if the supplier issued delivery notes and invoice/s and whether the supplier was paid in line with the terms of the contract. Further, completion of the contract could not be ascertained as the head of Procurement Function/Technical Department did not issue completion certificate to the contractor confirming delivery and acceptance of goods as guided by Section 154 of the Act. In addition, the procurement function did not prepare monthly progress report to update the accounting officer on the progress of the contract.

Award and Contract Signing

Professional opinion was issued by the senior procurement officer and award approved by the AO on 16th September 2019. The entity did not enter into a written agreement with the supplier but instead issued an LPO.

Contract Management Process

The audit team noted that the entity did not publish the contract award in the PE's website and notice boards neither did they report to the Authority as envisaged under Section 138 of the Act. The accounting officer appointed an inspection and acceptance committee for the purpose of verifying deliveries from the supplier. However, the committee did not meet the threshold of Section 48 of the Act, which requires the membership to be composed of a chairperson and at least two other members. Inspection certificate awaited confirmed that goods were delivered, inspected and accepted on 24th October 2019. Payment for the goods was done promptly after delivery in accordance with the contract terms. The head of procurement issued a good received note to the supplier confirming delivery and acceptance of the goods. However, the procurement unit did not prepare monthly progress report to update the accounting officer of the progress of the contract.

Recommendation

The AO should ensure that the gaps identified in the procurement process and contract management process are urgently addressed to ensure compliance with the procurement Law.

2.2.7 MU/ONT/38/2017-2018 Provision of PECVD Split Tube Furnace Systems, Solar Module Quantum Efficiency Measurement System (with all accessories)

Procurement Process:

Procurement initiation

The entity planned for the subject procurement in the 2017/2018 FY procurement plan and procured within the approved budget estimates. It was initiated through purchase requisition in line with regulation 22 of the PPDR. The PE used a default method of procurement of open tender and also used standard tender document with evaluation and award criteria clearly set out in the tender document.

Tendering Processes

Tender notice was done via government advertising agency allowing 14 days to bidders to prepare and submit their bids. The notice complied with the provision of section 74 of the Act. Both opening and evaluation committee members were duly appointed by AO. During opening of bids, it was noted that some members involved in opening process where different from the once appointed by the AO on 11th July, 2018. The opening and evaluation committees prepared minutes respectively, which were signed by all members.

Evaluation of tenders was done as per the criteria in tender documents however independent evaluation of bids was not done by the committee and scoresheets not maintained contrary to the provision of Regulation.5(4) of Legal Notice No.106. Further, it could not be determined if the evaluation process was completed within the timelines specified under section 80(6) of the Act as the report was not dated. Evaluation committee recommended the award to the lowest bidder per item but the budget could not allow the procurement of the two items. The user requested that the one within budget to be procured. The award criteria stated that award will be made to the lowest in cost-evaluated bidder but award was done per item. The head of procurement function gave professional opinion in concurrence with evaluation committee recommendation.

Award and Contract Signing

The AO approved award within the tender validity period. Both the successful and unsuccessful bidders were notified at the same date but the notification was done for all the items while only one item was awarded. The successful bidder in line with section 142 of the Act issued performance bond and contract agreement entered between the entity and the supplier in line with section 135 of the Act.

Recommendation procurement process

The entity should ensure that gaps on procurement process are fully addressed especially in ensuring that the opening of tenders is carried out strictly by the committee appointed by the accounting officer, Independent evaluation is done by each member of the committee and score sheets maintained. In addition, award criteria specified in the tender document should be strictly complied with and the notification letter should clearly state specific item that was awarded.

Contract Management:

The entity did not publish the contract award on the website and notice board neither was it reported to the authority as guided by section 138 of the Act. The VC duly appointed inspection and acceptance committee and inspection of the items delivered carried out and inspection and acceptance report prepared. However, different members from the one proposed and appointment by VC conducted inspection and acceptance of the item delivered. The supplier issued an invoice and payment made via payment voucher No. 158273. The procurement function did not prepared monthly progress report to update the accounting officer on the progress of the implementation of the contract.

Recommendation on Contract Management

AO should ensure that procurement contract awards are reported to the Authority and published in their website, monthly progress report is prepared and only inspection and acceptance committee members duly appointed by the accounting officer should carry out inspection and acceptance of item delivery.

Procurement Process:

Procurement Initiation

The subject procurement was planned for in the 2018/2019 procurement plan and was procured within the approved budget estimates. The center leader initiated the procurement through purchase requisition in accordance with Regulation 22 of the PPDR. The PE used RFQ with threshold observed and used standard RFQ document. RFQ did not have evaluation and award criteria.

Tendering Processes

Quotations send out to bidders served as invitation to tender. Only one supplier from 2017-2019 list of registered suppliers invited while the rest of suppliers invited were not in the list of suppliers maintained by the entity. There was no documentary evidence to show that the AO appointed a quotation opening and evaluation committees as envisaged under section 78 and section 48 of the Act respectively. Quotation received were opened on 5th November 2018 four days after the closing date which was indicated as 1st November, 2018.

The opening committee did not prepare opening minute but prepared opening register. Some members were involved in opening of the quotations while they were not among the ones appointed by the AO. The evaluation committee prepared minutes, which was signed by all members. Each member of the committee did not conduct independent evaluation of bids. In addition, the committee-conducted bidders for clarification through a teleconferencing calls contrary to the provision of section 81(1) (a) of the Act. The head of procurement function gave professional opinion in concurrence with evaluation committee recommendation.

Award and Contract Signing

The Vice Chancellor approved the award on 15/11/2018 within the validity period. The PE did not enter into a contract agreement instead, an LPO was issued to the successful bidder.

Recommendation on Procurement Process

The VC should ensure that gaps on procurement process are fully addressed especially in ensuring that only suppliers in the list of registered supplier are invited to bid when using other RFQ method, tender opening committee is duly appointed, opening of tenders done immediately after closing and tender opening process carried out in accordance with section 78 of the Act. In addition, the AO should duly appoint evaluation committee pursuant to Section 46 of the PPADA. The committee should carry out individual evaluation of tenders and prepare scoresheets as guided by Regulation 5 of Legal Notice 106, and that any clarification sought from a tenderer to assist

in the evaluation and comparison of tenders should be done in writing pursuant to section 81(1) of the Act.

Contract Management:

The entity did not publish this contract award on their website or notice board neither was there no prove that they reported the same to the authority. The AO did not appointed inspection and acceptance committee to verify if the contract has been executed as stipulated in terms of timely deliveries, right quantity and quality of the goods delivered hence no acceptance report was prepared. Further, the PE did not avail any payment records during the audit, therefore it could not be verified if the payment of the subject contract has been done and in accordance with the contract terms. In addition, the procurement unit did not prepare monthly progress report to inform the accounting officer on the progress of implementation of the contract. Contract file for the contract under review was not availed since the entity did not maintain individual procurement files as envisaged by law.

Recommendation on Contract Management

The AO should ensure that: all contract awards are published on their website and notice board, reported to the authority pursuant to section 138 of the Act. Inspection and acceptance committee is duly appointed and inspection certificates prepared in line with the provision of Section 48 of the Act. Payment of the contract is done in accordance with the contract terms to avoid delay in paying of suppliers, Monthly progress report are promptly prepared by the procurement unit and submitted to the accounting officer as guided by section 152 of the Act and ensure that all contract administration records are complete, up to date, filed and archived as required;

2.2.9 Q/2018-2019/Aceiiptr/62: Supply of Software

Procurement Process:

Procurement Initiation

The subject procurement planned for in the 2018/2019 procurement plan in line with section 53 of the Act and procured within the approved budget. It was initiated through purchase requisition by the coordinator textile & Industrial Engineering on 8th march 2019 and in compliance with regulation 22 of the PPDR. The center used RFQ method of procurement and appropriate thresholds observed. Standard RFQ document was used. However, evaluation and award criteria were not set out in the RFQ document.

Tendering Processes

Invitation to tender was carried out through RFQ send to bidders. However the list of registered suppliers was not availed therefore the reviewer could ascertain how the entity sourced the bidders for this specific procurement. From the records availed, the accounting officer appointed only two (2) members to the quotation opening committee. This did not meet the membership threshold provided by law that require that the committee shall

evaluation and individual score sheets maintained in line with Regulation 5 of Legal Notice No.106, market survey is conducted to inform decision of awarded and an LPO is issued to the successful bidder once award has been made,

Contract Management Process

The entity did not publish this contract award on their website and notice board neither did they report the same to the authority as guided by section 138 of the Act. The accounting officer in line with section 48 of the Act duly appointed inspection committee however, there was no documentary evidence availed on the functioning of the inspection and acceptance committee. The procurement unit did not prepare monthly progress report to update the accounting officer on the status of implementation of the contract. Similarly, the audit team could also not determine if the items were delivered and paid as per contractual term since the PE did not provide delivery notes, completion certificates and payment voucher at the time of the audit. Contract documents were not file appropriately in individual procurement file but they were filed among other document in various file hence making it difficult to retrieve them.

Recommendation on Contract Management

The VC should ensure that; Contract awards are publicized and reported to the authority as guided by section 138 of the Act. Inspection and acceptance committee should verify deliveries to ensure that items delivered comply with the contractual terms in line with section 48 of the Act. In addition monthly progress report should be prepared by the head of procurement and submitted to the accounting officer pursuant to section 152 of the Act; goods delivered and accepted are taken on charge and payment made in line with contractual terms. In addition, ensure that all contract administration records are complete, up to date, filed and archived as required.

2.2.11 Q/2018-2019/Aceiiptre/412 for Supply of Renovation Materials

Procurement Process:

Procurement Initiation

The subject procurement was in the 2018/2019 procurement plan and was procured within the approved budget. It was initiated though purchase requisition on 24th April 2019. Specification, quantity and estimate cost provide. The center selected RFQ method of procurement that the audit team found to be appropriate as threshold for use of the method observed. Standard RFQ document was also used.

Tendering Processes

RFQ send to bidders served as invitation to tender. However, the entity invited bidders who were not in the registered list of suppliers maintained by the entity. From the list of suppliers invited only one bidders was in list of

registered suppliers. The AO appointed two members to the quotation opening committee, which did not meet the membership threshold as provided under Section 78 of the Act. Minimal compliance with the opening procedures was observed; Tender opening register with only name of bidding firms prepared by the committee but amount submitted by each bidder not recorded in the register. Further, no documentary evidence was available to show that the committee prepared opening minutes.

The VC approved the list of two members proposed by the head of procurement function for appointment to the evaluation committee. The appointment of evaluation committee also did not meet the membership threshold provided under section 46(4) (b) which provided that the committee should consist of between three and five members. Individual evaluators did not conduct independent evaluation of bids as envisaged under Regulation 5 of Legal Notice No. 106. The evaluation report was duly prepared and signed by the committee on 16th May 2019. The Head of procurement function gave professional opinion without secretariat comments and concurred with evaluation committee recommendation.

Award and Contract signing

The VC awarded the contract on 17 May 2019 to the bidders with lowest cost per item. There entity did not enter into a written contract instead; LPOs were issued to the successful bidders issued.

Recommendation procurement process

The University should ensure that gaps on procurement process are fully addressed especially on appointment of required number of members to adhoc committees, promptly opening of tenders after closing, and ensuring that opening procedures are fully complied with. In addition, independent evaluation of bids by each member of the evaluation committee should be carried out in line with Regulation 5 of Legal Notice 106. Similarly, the head of procurement function should review the tender evaluation report, provide his comments on the process, and ensure that market survey is carried out to inform the accounting officer while making award decision.

Contract Management:

The entity did not publish this contract award on their website and notice board neither did they report the same to the authority as guided by section 138 of the Act. The accounting officer in line with section 48 of the Act duly appointed inspection committee however, there was no documentary evidence available on the functioning of the inspection and acceptance committee. The procurement unit did not prepare monthly progress report to inform the accounting officer on the status of implementation of the contract. The audit team could also not determine if the items were delivered and paid as per contractual term since the PE did not provide delivery notes, completion

certificates or payment voucher at the time of the audit. Contract documents were not file appropriately in individual procurement file but they were filed among other document in several file hence making it difficult to retrieve them. Similarly, monthly progress report was not prepared by the procurement function to inform the accounting officer on the status of implementation of the contract.

Recommendation on Contract Management

The AO should ensure that contract awards are publicized and reported to the authority as guided by section 138 of the Act, Inspection and acceptance committee should verify deliveries to ensure that items delivered comply with the contractual terms in line with section 48 of the Act, monthly progress report is prepared by the head of procurement and submitted to the accounting officer pursuant to section 152 of the Act good and goods delivered are taken on charge and payment made in line with contractual terms. In addition, ensure that all contract administration records are complete, up to date, filed and archived as required;

SECTION THREE: AGGREGATION OF COMPLIANCE & RISK SCORES

The sub-section presents an aggregation of compliance and risk scores for the indicators used to audit the contract implementation by the PE as indicated in the table below.

3.1 Aggregation of scores on Institutional Arrangements and Procurement Processes

NO. INDICATOR	COMPLIANCE SCORE	RISK SCORE
1. Institutional Arrangements	58.30	41.70
Procurement Processes [Goods]		
2. Renewable Energy Laboratory Equipment	79.0	21.0
3. Supply, Delivery, Installation and Commissioning of Atomic, Absorption Spectrometer (AAS)	69.2	30.8
4. Supply and delivery of Laboratory Equipment	50.0	50.0
5. Supply of Renovation materials	51.9	48.1
6. Supply and delivery of Television Screen	51.9	48.1
7. Supply and delivery of Software	68.5	31.5
8. Provision of PECVD Split Tube Furnace Systems	79.5	20.5
9. Solar Module Quantum Efficiency Measurement System (with all accessories)		
9. Supply of Laptops	44.4	55.6
10. Supply of Software	57.4	42.6
11. Supply of Chemicals	53.7	46.3
12. Supply of Renovation Materials	59.3	40.7
Total Score	723.1	476.9
Aggregate Score (%)	60.3%	39.7%

In view of the above, the aggregated compliance score in regard of procurement processes is 60.3%, which is partially compliant with low risk rating of 39.7%. Taking into consideration the moderate risk, entity should ensure that the risk are kept at lower level by urgently addressing the gaps that were identified and also improve on the procurement process.

3.2 Aggregation of Scores on Contract Management

NO. INDICATOR	COMPLIANCE SCORE	RISK SCORE
Contracts [Goods]		
1. Renewable Energy Laboratory Equipment	61.1	38.9
2. Supply, Delivery, Installation and Commissioning of Atomic, Absorption Spectrometer (AAS)	27.8	72.2
3. Laboratory Equipment	30.3	69.7
4. Supply of Renovation materials	23.3	76.7
5. Supply and delivery of Television Screen	21.2	78.8
6. Supply and delivery of Software	43.3	56.7
7. Provision of PECVD Split Tube Furnace, Solar Module Quantum Efficiency Measurement System (with all accessories)	61.1	38.9
8. Supply of Laptops	14.8	85.2
9. Supply of Software	20.0	80.0
10. Supply of Chemicals	10.0	90.0
11. Supply of Renovation Materials	25.9	74.1
Total Score	338.8	761.2
Aggregate Score (%)	30.8%	69.2%

With regard to contract management, the university has a compliance score of 30.8%, which is marginally compliant with moderate risk of 69.2%. Taking into consideration the moderate risk, entity should ensure that the risk identified are urgently address to avert loss of fund and realize value for money

SECTION FOUR: CONCLUSION, RECOMMENDATIONS

4.1 Conclusion and Recommendations

The Authority audited the contract management system of the PE to verify whether the procurement processes and contract management complied with the requirements of the Procurement Law and the terms of the contract. The audit identified strengths and weaknesses in the system to which scores were assigned as guided by the Authority's compliance monitoring manual.

The PE was found to be compliant in the areas highlighted hereafter.

Moi University has an established procurement function headed by the Sr. Procurement Officer who reports functionally and administratively to the Accounting Officer. The accounting officer in line with Section 163 duly constituted a disposal committee and the entity has secure tender and quotation boxes. An asset register was also maintained and regularly updated. Further, the entity was found to be compliant in procurement planning pursuant to Section 53 of the Act as all the procurement sampled were planned for, initiation of the procurement processes was done by the user in accordance with regulation 22 of the PPDR, Choice of various procurement methods was appropriate and relevant threshold observed for each method. The entity also used Standard tender documents issued to PE's by the Authority; Professional opinions were prepared as required by Section 84 of PPADA. In addition, notifications of the outcome of the tendering process was done to successful and the unsuccessful bidders as required under Section 87(3) of the PPADA and contracts were entered into between the PE and the successful bidders pursuant to Section 135 of PPADA.

However, there were weaknesses in various areas as highlighted hereafter.

Some of the weaknesses noted were that; the University does not have an Internal Procurement and Asset Disposal Manual to guide its procurement and asset disposal activities. There was no documentary evidence availed to indicate that the university submits mandatory reports to the authority as required and Contract awards were also not publicized in the entity's website and notice boards neither were they reported to the Authority as required under section 138 of the Act.

In some instances, threshold for appointment of adhoc committees was not observed as the accounting officer appointed less members to this committees, opening of bids received was delayed especially for procurement processes through request for quotation method, qualification criteria provided in RFQs was not adopted during evaluation of quotation and only a price comparison was done. Similarly some of the tender opening procedures were not observed e.g. the prices quoted by bidders were not recorded in the tender opening registers and all pages of the tender opening minutes were not initiated as required in Section 78(1) of PPADA. Individual evaluation was also not conducted by members of the evaluation committee as envisaged

under Regulation 5(5) of the Public Procurement and Disposal (Amendment) Regulations, 2013 and market survey was not conducted to establish whether the prices quoted by the lowest bidder/s were within the market rates as required under Sections 106 (4) and 54(2) of PPADA. Further, most of the contracts entered by the project did not specify the contract period. This caused delay in the execution of the contract and exposing the entity to the risk of not completing its projects as scheduled especially in considering that most of procurements the contractors were not required to avail performance security to cushion the procuring entity from the risks of non-performance by the contractors. The Procurement Function did not also maintain individual procurement file instead procurement documents were kept in different separate files thus making the retrieval of documents cumbersome and time consuming and monthly progress reports were not prepared by the procurement function to inform the accounting officer on the implementation status of each contract.

The overall compliance and risk rating of the PE's procurement processes and contract management system was determined based on compliance and risk rating criteria defined in the Authority's Compliance Monitoring Manual. The entity attained a compliance level of 45.6% and a risk level of 54.4% in respect of the indicators used in the audit. This is an indication of partial compliance with moderate risk.

The PE should endeavour to improve its performance by implementing the recommendation contained in this report and put in place appropriate systems and structures to ensure that all procurement and contract management activities are undertaken in accordance with the procurement law and terms of the contracts.

4.2 Procuring Entity's Response

The PE did not provide any responses or comments on the findings and recommendations contained in the draft report shared with the entity.

SECTION FIVE: ANNEXURES

ANNEX 1: List of Persons Engaged During the Audit

Name	Title/Designation	Organization
1. Dr. Kaptemoi Korir	ACEII-PTRE Coordinator	Moi University
2. Ms. Naomi Ngonje	ACEII-PTRE Administrator	Moi University
3. Mr. Wilson Bett	Procurement officer	Moi University
4. Mr. Edward Nyense	Procurement Officer	Moi University
5. Mr. Jonathan Ekal	CO-PPRA	PPRA
6. Ms. Reshma Chanwony	PCO-PPRA	PPRA

ANNEX 2: List of Contracts Sampled for Audit

Procurement Method	S. No	Tender No.	Category	Description	Value of Contract	Contract signature date	Contract Completion Date	Contractor
Open tender	1.	MU/T/3/2019/2 020	Goods	Renewable Energy Laboratory Equipment	3,296,000.00	-	-	Marty Enterprises
	2.	MU/ONT/46-2017-2018	Goods	Supply, Delivery, Installation and Commissioning of Atomic, Absorption Spectrometer (AAS)	5,500,000.00	-	-	Lab-Tech Electronic Services (EA) Ltd
	3.	MU/ONT/38/2017-2018	Goods	Provision of PECVD Split Tube Furnace Systems, Solar Module Quantum Efficiency Measurement System (with all accessories)	8,352,000	-	-	M/s Finton Logistics Ltd
	4	Q/2018/2019/A CEPTRE/127	Goods	Supply and Delivery of Laboratory Equipment	3,296,000.00	-	-	Marty Enterprises
	5	Q/2018/2019/A CEPTRE/138	Goods	Supply of Renovation materials	900,896.00	-	-	Samtab Electricals - Bevig Limited
RFQ								

6	Q/2019/2020/A CEPTRE/162	Goods	Supply and delivery of Television Screen	356,000.00	-	-	Futuretech Computer Solutions Ltd
7	Q/2019/2020/A CEPTRE/322	Goods	Supply and delivery of Software	1,522,050.00	-	-	Hepto Solutions
8	Q/2018- 2019/Aceiipre/1 31	Goods	Supply of Laptops	-	-	-	Futuretech Computer Solutions Ltd
9	/2018- 2019/Aceiipre/6 2	Goods	Supply of Software	1,384,750.00	-	-	M/s Futuretech Computers Solution
10	Q/2019- 2020/Aceiipre/1 08	Goods	Supply of Chemicals	97,736	-	-	M/s Hepta Solution, Primesoft and Westworld
11	Q/2018- 2019/Aceiipre/4 12	Goods	Supply of Renovation Materials	49,428	-	-	M/s Gelsup/I Tech
							M/s Beviq Ltd

ANNEX 3 : INSTITUTIONAL ARRANGEMENTS

No.	Sub-indicator	Findings (including strengths and weakness)	Compliance / Risk Rating		Recommendations
			*Compliance Score (0-3)	*Compliance Score (0-3)	
1.	Procurement Function (PF)	The procurement function is headed by Senior Procurement Officer and staffed with procurement professionals who are members of KISM. The university has a procurement officer in charge of all donor-funded projects within the university and a supply chain assistant attached to the ACE II project.	3	0	Complied
2.	Documented internal policy or manual to guide procurement	MU does not have internal procurement policy/ manual to guide in decision-making.	0	3	Ensure that there is internal policy manual to assist the centre or university in making procurement decision.
3.	Disposal committee	The university has a disposal committee in place duly appointed by the accounting officer	3	0	
4.	Procurement Record Keeping	The Centre have procurement file for open tenders while they have one box file for RFQ documents submitted by bidders with separate file for other processes of the process.	1	2	Ensure there is a complete procurement files for each procurement undertaken.

5.	Procurement Planning	The procurement plan maintained by the centre was consolidated and did not reserve 30% procurement to AGPO businesses. The plan also had factored items like per diem which are not procurable.	1	2	Ensure that the procurement plan is consolidated and should factor only the items to be procured in that particular year.
6.	Filing of mandatory Reports to PPRA as required by law	There is no evidence provided that the centre has been sending mandatory to the Authority.	0	3	Ensure that all contracts are published in the University website and also reported to Authority
7.	Security of Tenders	The centre is using main university tender box. The centre has tender and RFQ registered in place.	3	0	Complied
8.	Inventory Management	Stores are managed centrally with main university. In most case, the centre was procuring items that were immediately used.	3	0	
9.	Application of the E-Procurement System (Not for scoring)				
	TOTAL		14/24	10/24	
	TOTAL		58.3	41.7	