



THE PRESIDENCY
EXECUTIVE OFFICE OF THE PRESIDENT
HEAD OF THE PUBLIC SERVICE

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OP/CAB 39/1A

Ref. No.
and date

STATE HOUSE

P.O. Box 40530-00100

Nairobi, Kenya

28th June 2018

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The Hon. Attorney-General
All Cabinet Secretaries
All County Governors
All Chief Administrative Secretaries
All Principal Secretaries and Accounting Officers
The Auditor-General
The Controller of Budget
The Clerk, Senate
The Clerk, National Assembly
The Chief Registrar, Judiciary
The Governor, Central Bank of Kenya
The Commissioner-General of Kenya Revenue Authority
All Regional Co-ordinators
All County Commissioners
All Constitutional Commissions
All CEOs of State Corporations
All National Government Constituency Development Funds
All National Government Affirmative Action Funds
All Kenyan Diplomatic Missions
All Clerks of County Assemblies
All Public Universities
All Public Pension Funds
All Public Colleges and Other Tertiary Institutions
All Public Schools
Other Public Institutions



RE: EXECUTIVE ORDER NO. 2 of 2018 - PROCUREMENT OF PUBLIC GOODS, WORKS AND SERVICES BY PUBLIC ENTITIES

You are hereby notified for your Information, Compliance and Action that His Excellency the President set his hand and seal to, and caused the

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issuance of, Executive Order No. 2 of 2018, on the Procurement of Public Goods, Works and Services by Public Entities.

Accordingly, and by way of this Circular, we convey herewith the said Executive Order No. 2 of 2018 for your adoption as part of your procurement and financial reporting obligations with effect from the **1st of July, 2018.**

All Public Procuring Entities are required to maintain and continuously **update and publicise** (through the websites of the Public Procuring Entity, e-Citizen, Public Procurement Regulatory Authority platforms, Public Notice Boards and/or official government publications) the information required and detailed in the Executive Order.

To foster coherence and uniformity in the reporting style and framework, you are requested to download the reporting template from the Presidency's official website (www.president.go.ke).

Accounting Officers across Government are further directed to ensure that the contents of both the Executive Order as well as this Circular are brought to the attention of all institutions under their State Departments and/or Supervision; as well as ensure full implementation and compliance with the same.



**JOSEPH K. KINYUA, EGH
HEAD OF THE PUBLIC SERVICE**

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Executive Order No. 2 of 2018



THE REPUBLIC OF KENYA

Procurement of Public Goods, Works and Services by Public Entities

June, 2018

ISSUED BY THE PRESIDENCY, NAIROBI

PRINTED BY THE GOVERNMENT PRINTER, NAIROBI

TO:

The Hon. Attorney-General

All Cabinet Secretaries

All County Governors

All Chief Administrative Secretaries

All Principal Secretaries and Accounting Officers

The Auditor-General

The Controller of Budget

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REPUBLIC OF KENYA
THE PRESIDENCY
EXECUTIVE OFFICE OF THE PRESIDENT
EXECUTIVE ORDER NO. 2 OF 2018

PROCUREMENT OF PUBLIC GOODS, WORKS AND SERVICES
BY PUBLIC ENTITIES

WHEREAS the Preamble to the Constitution of Kenya articulates the aspirations of all Kenyans for a Government based on the essential values of Human Rights, Equality, Freedom, Democracy, Social Justice and the Rule of Law;

WHEREAS the National Values and Principles of Governance under Article 10 of the Constitution of Kenya bind all State Organs, State Officers, Public Officers and all Persons subject to the power and authority of the Constitution;

WHEREAS the constitutional tenets of Good Governance, Integrity, Transparency and Accountability particularly in Public Finance as enshrined by Article 201 of the Constitution require that the use of Public Funds must at all times be prudent, responsible and strictly for the Public Good; and

WHEREAS Article 227 of the Constitution of Kenya defines the parameters of Public Procurement in the following terms: *"When a State organ or any other public entity contracts for goods or services, it shall do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective."*

NOW THEREFORE, and having considered all the enabling Laws of the Republic of Kenya, the following are noted:

- I. THAT** there exists an overriding National Good to deepen accountability and transparency in the Procurement of Public Goods, Works and Services;

- II. THAT** in order to enhance Equality, Freedom from Discrimination and Access to Public Procurement opportunities for all Kenyans, including but not limited to Women, Youth, Persons living with Disabilities and other disadvantaged groups; and
- III. THAT** there is a pressing need to entrench open and accessible Government that promotes the greatest enjoyment of the Right to Access to Information by all Kenyans possible; where the State publishes and publicises all important information affecting the Nation.

REASONS WHEREFORE, I, UHURU KENYATTA, President and Commander-in-Chief of the Kenya Defence Forces **IN EXERCISE** of the Powers and Authority conferred by Article 132 of the Constitution of Kenya and all other enabling Laws, do **HEREBY** Order and Direct as follows:

- I. THAT** effective the **1st of July 2018**, all Public Procuring Entities shall maintain and continuously **update and publicise** (through the websites of the Public Procuring Entity, e-Citizen, Public Procurement Regulatory Authority platforms, public notice boards and/or official government publications):
- A.** Complete information of all tenders awarded, including but not limited to:
- i.** Full Particulars of the awarded Bidder (Supplier, Contractor or Consultant);
 - ii.** Specification of goods and services, scope and schedule of works and contract value;
 - iii.** Technical and financial capacity of the awarded bidder (Supplier, Contractor or Consultant) and summary of reasons for the award;
 - iv.** Award Date and Contract Period;
 - v.** Current market price of the specific goods, works or service, as well as price guidelines as published by the Public Procurement Regulatory Authority with regard to that specific item (*where applicable*);

- vi.** Variations in regard to specification of goods and services, scope of work and contract price during the pendency of the contract (*where applicable*); and
- vii.** The names of the members of the Evaluation Committee and Inspection and Acceptance Committee of the Procuring Entity with respect to each award.

B. Pursuant to the Public Procurement and Disposal Act (Act No. 33 of 2015) and other enabling legislation, Public Procurement of Public Goods, Works or Services in the following categories shall be exempt from the publication requirement:

- i.** Essential Utilities (Electricity, Water and Fixed Line Telephone);
- ii.** Procurement arising from the Declaration of a National Emergency or National Disaster, where the same procurement is pursuant to a Contract with Government or upon a written Government Directive;
- iii.** Procurements of a classified nature as prescribed by Law; and
- iv.** Low value threshold procurement, as defined and prescribed by Law.

C. In furtherance of I (A)(i) above, the list of awarded suppliers/contracts/consultants shall include the following information:

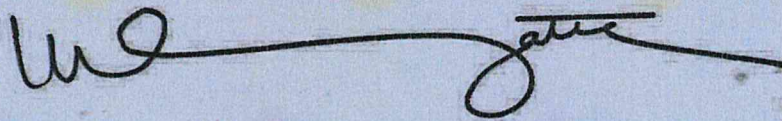
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|--|---|
| ▪ Name of Supplier | ▪ Names of Partners (for Partnerships) |
| ▪ Registration Details (ID/Registration/ Incorporation Number) | ▪ Business Contacts Information (telephone and email address) |
| ▪ PIN Number | ▪ Postal address |
| ▪ List of Directors, Shareholders and Beneficial Owners (in case of a company) | ▪ Physical address |
| ▪ Name of Proprietor (for Sole Proprietor and Business name) | ▪ Tax Compliance Status |
| | ▪ Business Permit/License Number |
| | ▪ County of Operation |

- D.** A separate comprehensive list of all registered suppliers, contractors and consultants in the various specific categories of goods, works and/or services pre-qualified by the Procuring Entity according to its procurement needs; which supplier information shall include particulars in (C) above.
 - E.** The Procuring Entities shall consolidate and publish the information above on the 15th day of every subsequent month, outlining the tender and supplier data for the previous month;
 - F.** For the avoidance of doubt, on the effective date Public Procuring Entities will be required to publish all **ongoing contracts** entered into prior thereto, and to which finalization of expected works, supplies or services is pending completion and final payment.
- II. THAT** all procurement approvals, management and confirmation of performance and delivery of awards worth at least Kes. 10,000,000.00 **(to read Kenya Shillings Ten Million Only)** shall be under the hand of the Accounting Officer of the Procuring Entity;
- III. THAT** the Procuring Entity shall keep records for each procurement for at least six years after the resulting contract has been completed or, if no contract resulted, after the procurement proceedings were terminated;
- IV. THAT** the National Treasury shall:
 - A.** Secure the seamless integration of all procurement entities to the e-procurement module under the IFMIS (Integrated Financial Management System) **by 1st January, 2019** and further enhance functionalities including, but not limited to: enhanced user access protocols, commitment to price guidelines as published by the Public Procurement Regulatory Authority; analytics tools and procedures to flag suspicious and repeated payments, payments above contracted pricing transactions and any other breaches; and

B. Ensure that by the 1st of January 2019 all Public Procuring Entities undertake all their procurement through the e-procurement module.

V. THAT this Order supersedes Executive Order No. 6 of 2015 issued on **12th March, 2015**.

ISSUED under the **HAND AND SEAL** of the President of the Republic of Kenya at State House, Mombasa this 14th day of June, 2018.

A handwritten signature in black ink, appearing to read 'Uhuru Kenyatta', with a long horizontal line extending to the right.

**UHURU KENYATTA,
PRESIDENT.**

