



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

Telegraphic Address
Telephone: +254-20-2227436
When replying please quote

OP/CAB 39/1A

Ref. No.
and date

SECRET

STATE HOUSE
P.O. Box 40530-00100
Nairobi, Kenya

28th June 2018

....., 20.....

- 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

SECRET

SECRET

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**

SECRET

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

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

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:

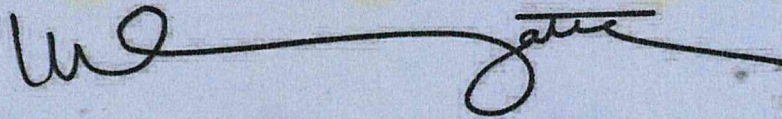
- | | |
|--|---|
| <ul style="list-style-type: none"> ▪ Name of Supplier ▪ Registration Details (ID/Registration/ Incorporation Number) ▪ PIN Number ▪ List of Directors, Shareholders and Beneficial Owners (in case of a company) ▪ Name of Proprietor (for Sole Proprietor and Business name) | <ul style="list-style-type: none"> ▪ Names of Partners (for Partnerships) ▪ Business Contacts Information (telephone and email address) ▪ Postal address ▪ Physical address ▪ 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', written over a horizontal line.

**UHURU KENYATTA,
PRESIDENT.**

