



OFFICE OF THE DIRECTOR OF PUBLIC PROCUREMENT

**ANNUAL REPORT
2004/2005 FINANCIAL YEAR**

23 June 2006

His Excellency Dr Bingu wa Mutharika
President of the Republic of Malawi and
Minister Responsible for Public Procurement
State House
LILONGWE

Your Excellency,

ANNUAL REPORT FOR THE 2004/2005 FINANCIAL YEAR

In accordance with Section 41 of the Public Procurement Act (2003), I hereby submit my Annual Report for 2004/2005 financial year.

I am

Your Excellency's Obedient Servant,

B.S.M. Mangulama
DIRECTOR
OFFICE OF PUBLIC PROCUREMENT

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FOREWORD

This is the first annual report of the Office of the Director of Public Procurement (ODPP) (hereinafter called the Office), and as such it has covered the most important historical aspects of the Procurement Reform Programme which, hitherto, have been documented in a scattered form and not in one document.

Malawi, like other countries in the Common Market for Eastern and Southern Africa (COMESA) grouping, is undergoing public procurement reforms, which are aimed at enhancing efficiency, transparency and accountability in public procurement.

The Public Procurement Act that was passed by Parliament in June 2003 established the ODPP whose mandate is to regulate, monitor and oversee procurement in the Public Sector. Thus the Office is not supposed to be operationally involved in procurement. However, because of capacity constraints in Procuring Entities (PEs), the Office is involved in prior review of procurements which exceed prescribed thresholds. These thresholds will be reviewed from time to time and adjusted in tandem with capacity in the PEs. At some point, however, when sufficient capacity is built in the PEs, the prior reviews will be reduced to procurements of very high values only as set by the Director and the Office will concentrate on post reviews.

Section 41 of the Public Procurement Act mandates the Director to prepare an annual report three months after the end of the financial year. This is, therefore, the first report the Director has prepared on the activities of the Office over the past financial year. It is coming several months after the last financial year because of logistical problems. The Office will endeavour to stick to the stated schedule in future.

It is hoped that the contents of this report will be informative to the public and that it will provide sufficient evidence that procurement reforms are bearing the desired fruits. I would like to appeal to the authorities and the general public to render support to these procurement reforms if fraud and corruption in public procurement are to be minimised.

B. S M. Mangulama
DIRECTOR
OFFICE OF THE DIRECTOR OF PUBLIC PROCUREMENT

ACRONYMS

ACB	Anti-Corruption Bureau
AD	Assistant Director
ADB	African Development Bank
ADMARC	Agricultural Development and Marketing Corporation
CG	Central Government
CGS	Central Government Stores
CIPS	Chartered Institute of Purchasing and Supply
COMESA	Common Market for East and Southern Africa
CPR	Country Performance Review
CTB	Central Tender Board
DD	Deputy Director
DA	Decentralised Assemblies
Dir.	Director
DFID	Department for International Development
DHRMD	Department of Human Resources Management and Development
DOB	Director of Buildings
EU	European Union
ICT	Information Communications Technology
IMF	International Monetary Fund
IPC	Internal Procurement Committee
MCA	Millennium Challenge Account
MIM	Malawi Institute of Management
MK	Malawi Kwacha
NAO	National Audit Office
ODPP	Office of the Director of Public Procurement
OPC	Office of the President and Cabinet
ORT	Other Recurrent Transactions
PE	Procuring Entity
PPA	Public Procurement Act
PVHO	Plant and Vehicle Hire Organization
SBD	Standard Bidding Document
SEDOM	Small Enterprises Development Organization of Malawi
SPU	Specialised Procurement Unit
TEVET	Technical and Vocational Education Training
UNCITRAL	United Nations Commission on International Trade Law
UNDP	United Nations Development Programme
USAID	United States Agency for International Development

MISSION STATEMENT

Vision

The Office vision is to put in place a Public Procurement System that is transparent, efficient, and corrupt free.

Mission

To provide a professional, efficient and effective regulatory, monitoring and oversight function on all public procurement matters, including contracting-out non-core services by formulating, implementing and reviewing public procurement policies in order to ensure transparency, accountability and value for money in all procurement activities.

Core Values

The Office of Public Procurement's core values are:

1. Efficiency, Effectiveness and Economy
 - ODPP shall discharge its duties in a cost effective and expeditious manner
2. Impartiality
 - ODPP shall exercise fairness and justice in discharging its duties
3. Professionalism
 - ODPP shall discharge its duties with high sense of responsibility
4. Transparency and Accountability
 - ODPP shall discharge its duties in an open manner while remaining responsible for its action.
5. Integrity
 - ODPP shall exercise a high sense of firmness, honesty and trustworthiness in discharging its duties.

Client Charter

The Office of Public Procurement is accessible by and supports all public institutions in Malawi in their efforts to improve public procurement activities that are guided by the Public Procurement Act.

CHAPTER 1

THE PROCUREMENT REFORM PROGRAMME AND ITS RATIONALE

1.1 Introduction

1.1.2 Malawi has had a centralised procurement system for a long time. It was characterised by the presence of the Central Tender Board, (CTB) that used was responsible for all procurement above a prescribed threshold for Government Ministries and Departments. The Central Government Stores (CGS) used to procure for Government Ministries and did their own procurement without much control from the Government.

1.1.3 A number of problems were associated with the system. These included delays in procurement, detachment between user and buyer, little investment in training, low capacity in the procuring entities, and lack of procurement specialists outside the central units and delays in payment to suppliers/contractors.

1.1.4 In search for lasting solutions to the problem, the Malawi Government engaged consultants in 1996 to undertake a diagnostic study of procurement and supply management procedures and practices and pinpoint the problem areas.

1.1.5 Around the same time, the wind of change was blowing in the region and brought about a realisation of the importance of procurement in financial management.

1.2 Procurement Problems Identified By the Study

1.2.1 The consultants confirmed that the Public Sector Procurement in Malawi is faced with numerous problems such as:-

- Lack of a comprehensive legal framework;

- Outdated regulations not reflecting current practice and not adapted to the budgeting system;
- Inadequate procurement procedures;
- Differing relationships between and among the different organizations involved in procurement; and
- Lack of a central authority with the responsibility of promulgating framework policies and promoting harmonization.

1.2.2 As a result, the procurement of goods, works and consultancy services in the public sector lacked adequate transparency and accountability.

1.3 Recommendations

1.3.1 A number of recommendations to improve public sector procurement procedures and practices were made. These included:-

- Establishment of appropriate legal and institutional framework for public sector procurement system;
- Setting up of a central procurement authority with a defined role of regulating, monitoring and overseeing the procurement function, promoting and supervising standardization and harmonization of procurement documents and rules, coordinating training programmes and disseminating information on procurement;
- Re-defining the role of the CTB;
- Adoption of national tender and contract documents;
- Revision of approaches to contracting out;

- Reorganization of CGS facilities and creation of a permanent body responsible for overseeing the disposal of obsolete, unserviceable and surplus stores; and
- Establishment of a formal training programme that focuses on procurement and stores management.

1.3.2 The above recommendations were considered and approved by the Government for implementation in 2000 and most of them have been implemented. For example, there is now the Public Procurement Act, the Procurement Regulations, the Desk Instructions and the Standard Bidding Documents.

1.4 Rationale for the Public Procurement Reforms

1.4.1. Public Procurement is growing in volume and value at all levels of development. It is now generally recognised that public procurement is a principal component of any economy at the national, regional and local levels. Thus a principled government law is necessary to promote competitive, efficient and transparent procurement. It is also an essential component of the country's overall economic development and prosperity. In addition, international development partners and institutions view the reform of procurement laws as vital in fostering economic development and good governance.

1.4.2 An acceptable system of Government procurement must create a legal framework that achieves open, non-discriminatory and competitive procurement through the promotion of a transparent, objective and accountable procurement system. Such a public procurement system, at a minimum, must embody the fundamental principles of integrity, honesty and merit-based decision-making.

1.4.3 Recognising the enormous sums spent by governments to fulfil state needs, even modest improvements in the country's procurement system may result in substantial financial savings. It is estimated that between 70-80 per cent of most budgets on recurrent transactions are spent on procurement. Public procurement is therefore aimed at obtaining goods, works and

services at the lowest evaluated price. This is assured by open competition among qualified suppliers/contractors. Similarly, high quality is assured by good technical specifications, standards and carefully applied evaluation criteria.

- 1.4.4 The publication of the Act and its implementation are an important part in the fight against fraud and corruption in this country. Donors have openly indicated their support for the important initiatives the Government has taken in the fight against corruption. The establishment of an autonomous ODPP has also sent a positive signal to the donor community that Government's commitment to fighting corruption is not mere rhetoric.
- 1.4.5 It is extremely important to sustain the confidence so far achieved by vigorously implementing the provisions of the Public Procurement Act, its Regulations and the Desk Instructions, which have all been issued to procuring entities. It is important for the ODPP to ensure that procuring entities undertake procurement according to the spirit and letter of the Act. This can only be done through regular monitoring of these procuring entities.
- 1.4.6 Stakeholders should note that these important initiatives are being done for the sake of this country for now and the future. Corruption is likened to cancer that eats the fabric of any society. Unfortunately there are those in our society as indeed there are in all societies of the world, who would want to resist change especially if they are likely to lose from such a change. All stakeholders should therefore be alert about such groups of people as they would want to derail everything that is for the good of the country.
- 1.4.7 All public institutions are, therefore, reminded of the importance of adhering to the rules and procedures on public procurement as laid down in the Act and the Regulations.

CHAPTER 2

THE PUBLIC PROCUREMENT ACT AND ITS IMPLEMENTATION

2.1 Public Procurement Act

2.1.1 As stated earlier, one of the recommendations of the study by the consultants was that Malawi should have a legal frame work for governing procurement activities. This recommendation was made because, hitherto, there was no legislation on public procurement.

2.1.2 Following that recommendation, another consultant was engaged to draft the Procurement Code for Malawi. The result of this consultancy was the enactment of the Public Procurement Act (PPA) No. 8 of 2003, by Parliament in May 2003 and came into force in August of the same year. The PPA created the Office of the Director of Public Procurement to play a regulatory role in public procurement. It also empowers the Office to prepare an annual report on its activities during each Financial Year. The Report is for submission to the Minister responsible for Public Procurement, who shall lay the same before the National Assembly.

2.1.3 The PPA, the Procurement Regulations and the Desk Instructions, are a foundation for a good procurement system. The Act provides the legal basis for public procurement system. It is modelled on the United Nations Commission on International Trade Law (UNCITRAL) and sets out the organisational structure of the procurement system. It establishes the basic principles, which all procurement rules and procedures must follow. The key provisions of the Act include:-

- i) The establishment of the Office of the Director of Public Procurement as a public office with responsibility for the regulation, monitoring and oversight of public procurement in Malawi;
- ii) The decentralisation of procurement responsibility to procuring entities;

- iii) The establishment of Internal Procurement Committees (IPCs) in all procuring entities, as the bodies responsible for controlling and approving procurement activities within the procuring entities;
- iv) The establishment of a cadre of procurement professionals, to conduct procurement activities within the procurement units;
- iv) The principle that public procurement should be realised through open tender and the definition of five alternative methods of procurement, with strict conditions for their use; and
- v) A framework of procurement rules designed to achieve fairness, transparency and value for money in public procurement.

2.1.4 The enactment of the Act meant an effective decentralisation of procurement activities to the procuring entities. Thus the operational activities have devolved to the procuring entities and the Office only plays an oversight role. The functions of the Directorate are clearly indicated in Part II Section 4 of the Act and include the following:-

- i) Assisting in the development and enhancement of efficient, and effective public procurement operations;
- ii) Ensuring the availability and accessibility to public officials and the general public of this Act and the accompanying regulations;
- iii) Developing, in consultation with concerned professional and official entities, for issuance by the relevant authorities for use throughout Malawi, standardised procurement documents which shall be binding to all public institutions;
- iv) Promoting the development of a professional workforce by organising and conducting training programmes and

developing government-wide policies and programmes aimed at establishing procurement related positions, career paths and performance incentives;

- v) Monitoring the performance of public institutions in the way they conduct procurement proceedings in order to determine whether or not this is done efficiently and in accordance with the existing legislation;
- vi) Collecting data on procurement contracts in Malawi by suppliers and maintaining a list of debarred bidders and suppliers;
- vii) Referring any violations of this Act to the relevant budgetary and law enforcement authorities;
- viii) Proposing improvements in public procurement procedures;
- ix) Providing administrative review of bid protests;
- x) Carrying-out economic studies on procurement, comparisons and future projections so as to provide advice to Government in respect of mid-term and long-term policy it may formulate in respect of public procurement matters;
- xi) Establishing a data and information base concerning procurement terminology and legislation and to set policy for and promote the application of modern information and communications technology to public procurement; and
- xii) Providing, periodically, a qualitative and quantitative assessment of procurement activities in Malawi to the Minister who shall lay the report before the National Assembly.

2.1.5 The Director was appointed in February, 2004 and is now in the process of operationalising the Office. Amongst his priorities is ensuring that the recommended positions particularly technical ones are filled with the right calibre of officers. This is largely

because of the dearth of trained personnel in this profession, which hitherto had been neglected by the authorities. Thus, in the short and medium term, the Director will be preoccupied by the very huge task of building capacity not only in the Office but also in the procuring entities.

2.2 Implementation of the Act

2.2.1 Assisting in the Development and Enhancement of Public Procurement Operations

2.2.1.1 Since the enactment of the Act, an Office has been set-up.

A number of institutional and capacity building activities have also been carried out. The Office of the Director for Public Procurement has by and large institutionalised its role as an oversight and regulatory body for public sector procurement. The role of processing actual procurement has effectively been devolved to the procuring entities. As a regulatory mechanism, thresholds have been set and the Office currently only provides prior reviews for procurements above certain thresholds until such a time that the procuring entities have attained the acceptable procurement capacity levels.

2.2.1.2 Capacity constraints continue to be the biggest problem in improving public procurement operations. In some cases the Office has replaced a full IPC with a nominated one to evaluate a big tender or providing its own staff to prepare Standard Bidding Documents. It is hoped that such institutions should immediately strive to improve their capacity levels as recommended in the proposed establishment for procurement staff in the public sector.

2.2.2 Ensuring Availability and Accessibility of the Act and Accompanying Regulations

2.2.2.1 Regulations and Desk Instructions have already been developed and circulated to all heads of the PEs who must use them for effective and efficient procurement processes.

2.2.2.2 During the year under review, the Office produced standard

bidding documents to be used by all procuring entities in their procurement processes.

2.2.3 Development of Standardised Bidding Documents (SBDs)

2.2.3.1 In its effort to get views from stakeholders the Office circulated draft SBDs and organised three workshops. Participants to the workshop that took place in all the three regions had the opportunity to comment on the content of the documents.

2.2.4 Promoting the Development of a Professional Workforce

2.2.4.1 A training strategy has been developed and is being used to solicit donor funds for implementation. It is hoped that once funding is identified, the process of developing the appropriate cadres who will be entrusted with the handling of public sector procurement processes will begin.

2.2.4.2 An institutional reform consultancy was conducted through the Office and positions have so far been established for the Office. From the same study, a guiding establishment list and job descriptions for positions in the procuring entities have been developed.

2.2.4.3 The Conditions of Service for the Office of Public Procurement (ODPP) were approved in 2004 and that action enabled the Office to start the recruitment process.

2.2.5 Monitoring the Performance of Public Institutions

2.2.5.1 The Office has so far continued to monitor procurement proceedings by procuring entities through conducting of prior-reviews of procurement contract award decisions by the IPCs. This exercise has been restricted to a purely compliance monitoring exercise in that the Office analyses the recorded proceedings of the IPCs against all the documentation presented and makes observations that are presented to the IPC through the Controlling Officer prior to their finalizing the award of a contract. At this stage, the role of the Office is one of checking how

transparent and accountable the entity has been in its evaluation of the bids, how fair it has been and above all how professionally was the procurement process handled to achieve the needed efficiency and effectiveness.

2.2.5.2 Another aspect of monitoring that the Office has been able to carry out regards the establishment of institutional arrangements for public procurement in the PEs. The office has so far issued instructions to all procuring entities that they must set up Specialised Procurement Units (SPUs) that are manned by procurement professionals. Most procuring entities are so far working in this area to establish the units. There is, however, a long way to go since the majority of the PEs have not established the units and even where the units are established, filling of positions remains a problem.

2.2.6 Collecting Data on Procurement Contracts in the Public Sector

2.2.6.1 So far the Office has issued instructions to procuring entities to provide detailed quarterly reports on procurement carried out by their units. It has also developed a specific form which will guide the procuring entities on what information to include in the quarterly reports. There is room for improvement in this area as PEs have to be reminded from time to time to send the reports as required. Non-compliance is one of the reasons for the delay in preparing the reports. Appendix 4 is a list of the PEs that did not submit their procurement reports.

2.2.7 Maintenance of List of Debarred Suppliers

2.2.7.1 The debarred bidders and suppliers list is yet to be established since no supplier has been debarred. The Office has, however, issued warnings to a number of suppliers who were believed to have been conducting their business contrary to the needs of our public sector clientele.

2.2.8 Referring any Violations of the Act to Relevant Budgetary and Law Enforcement Authorities

2.2.8.1 The Office is also mandated to take punitive action on both public servants and bidders if they are found violating the provisions of the Act. If a public servant divulges confidential information or fails to disclose his/her interest in a procurement proceeding, he/she will be guilty of an offence and liable to a fine of K50,000.00 or imprisonment for two years. Similarly, if a bidder is guilty of any misconduct prescribed in the Act, he or she will be debarred from supplying to all public institutions for two years.

2.2.8.2 While no reports have been received on public servants so far, the office has received some reports of misconduct by suppliers and the process of warning and debarring these has already started in some cases.

2.2.8.3 One of the standard methods of relaying the Office's observations on the procurement proceedings by procuring entities is to copy all compiled documents to the National Audit Office (NAO) so that all material issues could be included in the reports to the Public Accounts Committee.

2.2.8.4 The office is also in the process of formalizing scheduled forums with budgetary and law enforcement authorities like Anti-Corruption Bureau (ACB), NAO and Central Internal Audit Office where the four institutions will be able to exchange reports on the performance of procuring entities in relation to the provisions of the Act.

2.2.9 Proposing Improvements in Public Procurement Procedures

2.2.9.1 So far the process of operationalising the Act has been done in consultation with a large cross-section of stakeholders that have provided a lot of meaningful input in the institutional reforms that have so far been achieved.

2.2.9.2 The process of reviewing the system is set as an on-going process which will continue as long as the office continues implementing the procurement reforms.

2.2.10 Providing Administrative Review of Bid Protests

2.2.10.1 We have so far only given advice to few suppliers that brought issues to our attention. Most of ODPP's advice has been on procedure rather than the actual review process in accordance with the Act.

2.2.10.2 The Office is in the process of setting up the Standing Review Committee in line with the provisions of Sections 37-38 of the PPA. Once this is done, an awareness campaign will be carried out to sensitise the public especially suppliers of their rights and obligations under the PPA as regards Administrative Review of procurement proceedings.

2.2.11 Carrying-Out Economic Studies in Procurement

2.2.11.1 The Office is still in its formative stage and until such a time as the capacity has been built, this area will not be implemented in the short term. However, recruitment of the core staff to carry out this function is currently underway. It is hoped that as the necessary staff are recruited, these services will start to be undertaken.

2.2.12 Establishing a Data and Information Base Concerning Procurement Terminology and Legislation

2.2.12.1 The promulgated regulations clearly provided the inherent guidelines on use of ICT related mechanisms in public procurement. This will continue to be closely monitored and reviewed in accordance with the National ICT policy guidelines.

2.2.12.2 The Office is in a process of establishing a dedicated website which will be used as a highway for exchange of procurement related information by procuring entities both in the country and other related institutions worldwide.

2.2.12.3 The Office has also vigorously participated in COMESA led harmonization of public procurement systems and has so far received some computer equipment fully configured with

COMESA WEBSITE where one module is dedicated to the sharing of public procurement information in the region. The COMESA equipment has been set-up in the Office and once its ICT equipment installation is complete, the whole process shall be on line.

2.2.13 Periodic Assessment of Procurement Activities in Malawi

2.2.13.1 The Act clearly specifies the need for annual reports from the Director. These have been provided to the Minister accordingly covering the extent of procurement activities and a summary of how well the processes are being carried out. However, different Procuring Entities used different modes of presentation. This prompted the Director to issue a circular on the acceptable format of these quarterly reports.

2.2.13.2 The outcome of these quarterly reports is this Annual Report on Procurement activities in the Public Sector in Malawi.

CHAPTER 3

MAJOR ACTIVITIES OF THE OFFICE DURING THE 2004/2005 FINANCIAL YEAR

- 3.1. During the period under review, the Office was engaged in various activities with regard to the operationalisation of the Public Procurement Act. Since assuming office in February, 2004, the Director has spared no effort in trying to get the Office fully operational.
- 3.2. While the Director has been in office for two years now, his Deputy is yet to be appointed. Nevertheless, the operationalisation of the Office has proceeded at a reasonable pace. The sections below highlight the activities over this period.

3.3 Institutional Reforms

- 3.3.1. This is mainly in two components namely:
Operationalisation of the Office; and reorganisation of Central Stores Organisations (i.e. the Central Government Stores, the Government Press, Central Medical Stores and the Plant and Vehicle Hire Organisation).

3.3.1.1 Operationalisation of the Office

This is a very important activity which began as soon as it pleased His Excellency the State President to appoint a Director in February, 2004. Since assuming office, the Director has made considerable progress in having the Office operational. The operationalisation became more imperative as some donors made it a condition for the release of their funds e.g. the World Bank and the African Development Bank (ADB).

Conditions of Service for employees of the Office have been approved by Government thus paving way for the recruitment exercise, which got underway in November 2004 with the recruitment of Assistant Directors. This exercise resulted in three individuals being identified to fill the vacant posts. However, only

two took up the positions as the other failed to do so. It is obvious that not all the positions can be filled at once. Priority will, therefore, be given to filling only the most essential posts, should suitable candidates be identified.

3.3.1.2 Reorganisation of Central Stores Organisations

The other component of the Institutional Reform is that of the reorganisation of Central Stores Organisations, comprising the Central Government Stores, Central Medical Stores, P.V.H.O. and the Government Press. In the case of Government Press, the Central Medical Stores and PVHO, it was later decided that these be handled separately. However, Government Press does not seem to be very problematic and, therefore, is not a priority at this stage. What is a priority, though, and which needs the Office immediate attention, is the Central Government Stores. A team of Senior Civil Servants reviewed the operations of the organisation and made recommendations for Government's consideration. The Office is awaiting Government's guidance on the issue.

3.4 Procurement Documentation

3.4.1 Both the Procurement Regulations and the Desk Instructions have been circulated to the procuring entities for their use. Circulars have also been issued to compliment the Regulations and the Instructions, some which are attached as appendix 5. A consultancy, commissioned with the financial assistance of the Department for International Development (DfID) of the British Government, got underway during this period and drafted the Standard Bidding Documents for Malawi. These have been circulated and are now being used by some of the procuring entities.

3.4.2 It is realised, however, that procuring entities and even the service providers will need to be made familiar with the use of these documents for them to be able to use these properly. This will require the Office to hold a series of briefing sessions with the relevant stakeholders.

3.5 Capacity Building and Training:

3.5.1 This is an area that is occupying and will continue to occupy the energies of the Office over a long period. Due to the low esteem with which procurement issues were viewed in Malawi in the last decade, it is virtually impossible to recruit appropriately qualified personnel to fill the top positions in the Office. One cannot even start imagining a situation where the Office would be staffed with people who have the relevant professional qualifications to perform their respective jobs satisfactorily. A lot of training, both on the job and at appropriate institutions, will therefore be required in the short-term while in the medium to long-term, consideration will have to be given to train officers to Diploma/Degree levels. This applies not only to the Office but also to all Procuring Entities. Both donor and government support will be essential if this is to succeed. Therefore, as the reform programme continues to be implemented, there will be need to train more officers in all aspects of procurement so that implementation of the Act can be achieved smoothly and effectively.

3.5.2 A Training Policy and Strategy in this respect has been developed and adopted. This will form the basis for planning and implementing the training programme. Under this component, various training programs have been identified, planned, and are ready for implementation. These programmes include:

- a) Chartered Institute of Purchasing and Supply (CIPS) Certificate
- b) Chartered Institute of Purchasing and Supply (CIPS) Graduate Diploma
- c) Supply Management at Bachelor's and Master's degree levels and
- d) Other short courses for both the Internal Procurement Committees and Specialised Procurement Units.

3.6 Funding

3.6.1 The Office has since last year operated under its own vote (Vote 099) under the governance programme. Apart from Personal

Emoluments, which have fully been met by the Malawi Government, most of the activities under the Reform Programme have been met from donor funds, particularly the World Bank.

3.6.2 Efforts were made to source funds for some of the on-going reform activities. Other donors came on board. They included the British Government (through DfID), United States Agency for International Development (USAID) through the Millennium Challenge Account; and the United Nations Development Programme (UNDP). Discussions continued with other donors to see if they can pick up any of the remaining or new components of the reform programme, which were yet to be identified.

3.7 Country Performance Review (CPR)

3.7.1 Towards the end of January 2005 and the beginning of February 2005, a meeting was convened between the World Bank and the Malawi Government to review the implementation of World Bank projects in Malawi. His Excellency the President, Dr. Bingu Wa Mutharika, opened this meeting.

3.7.2 The main purpose of the meeting was to review implementation of World Bank financed projects; problems which are faced in the process; and how to address them. It became apparent during the presentations and discussions that procurement remains one of the major challenges in implementation of World Bank financed projects in Malawi. The problems ranged from misprocurement to delays in procurement.

3.7.3 Misprocurement occurs when project implementers are not very familiar with World Bank procurement guidelines and do not want to involve the World Bank country office's procurement expert before going ahead with procurement. Delays occur mainly due to the time taken in processing procurement documentation.

3.7.4 As a way forward, World Bank Procurement clinics were encouraged and it was proposed that the threshold for the country office should be raised and its capacity enhanced.

3.8 Compliance to the Public Procurement Act

3.8.1 There are some public institutions, which procure without following the provisions of the Act. It is possible that some of these institutions act in that manner out of ignorance of the provisions of the Act while some do it purposely. ODPP will continue mounting sensitisation campaigns of some stakeholders in order to minimise incidences of non-compliance with the Act.

3.8.2 The Office, within the existing financial constraints, has been able to undertake civic education campaigns to all stakeholders so that they are made aware of what is expected of them under the Act. It must be pointed out; nonetheless, that the non-complying entities, mainly Statutory Corporations, represent a bigger percentage of the public sector procurement since their procurement runs in billions of Kwacha. It is of paramount importance therefore that Public Institutions follow Government's requirements including legislation, to the letter.

CHAPTER 4:

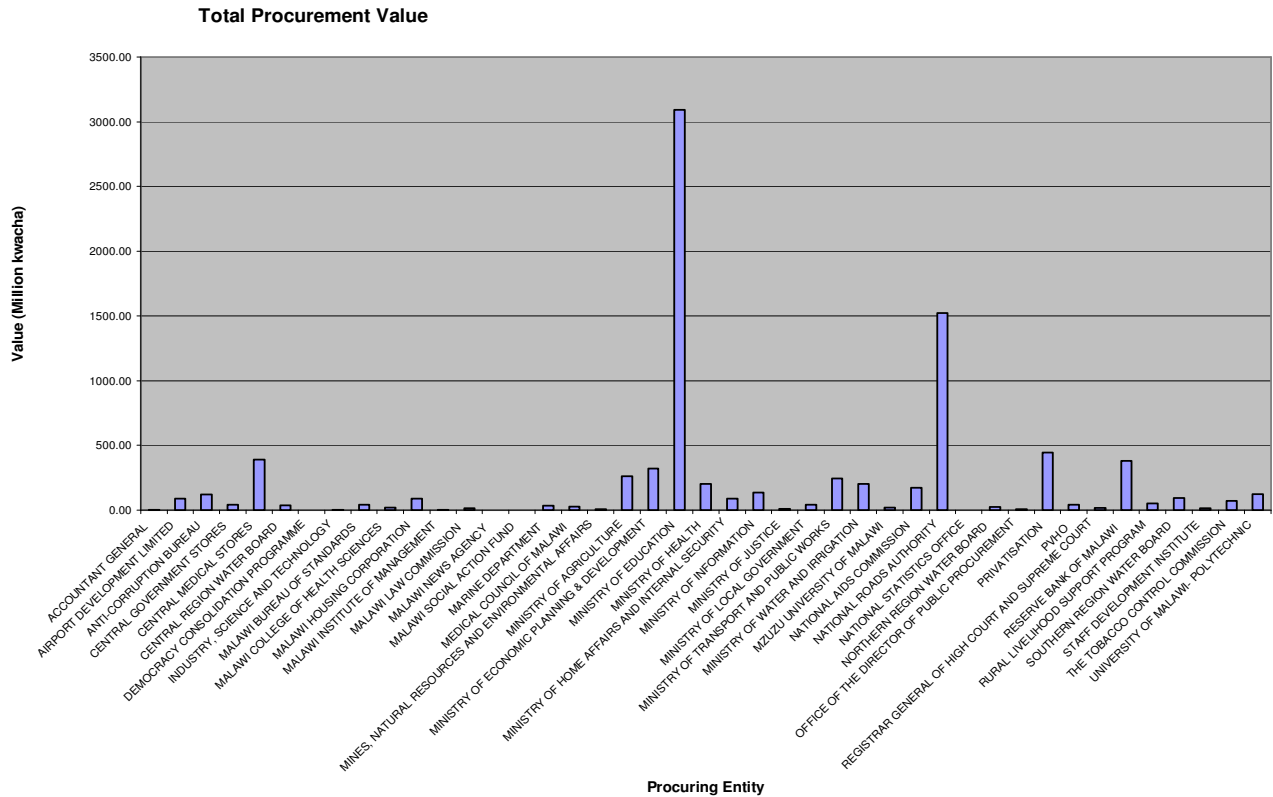
PROCUREMENT ACTIVITIES UNDERTAKEN BY VARIOUS PROCURING ENTITIES DURING THE YEAR

- 4.1 The Public Procurement Act decentralises procurement activities to Procuring Entities. The Act establishes Internal Procurement Committees (IPCs) and Specialised Procurement Units (SPUs) in all public institutions. Whereas the IPCs are ad hoc committees set up by the Head of PEs, the SPUs are organs within public institutions that manage day-to-day procurement activities. However, due to capacity constraints in these institutions, the Office has continued to carry out prior reviews of procurements undertaken in Procuring Entities. This is done to ensure that procurement is undertaken according to the laid down procedures.

The Office continued to set thresholds for procurements carried out by Procuring Entities as in appendices 2 and 3. In addition, there was also considerable amount of procurement carried out by procuring entities within their thresholds.

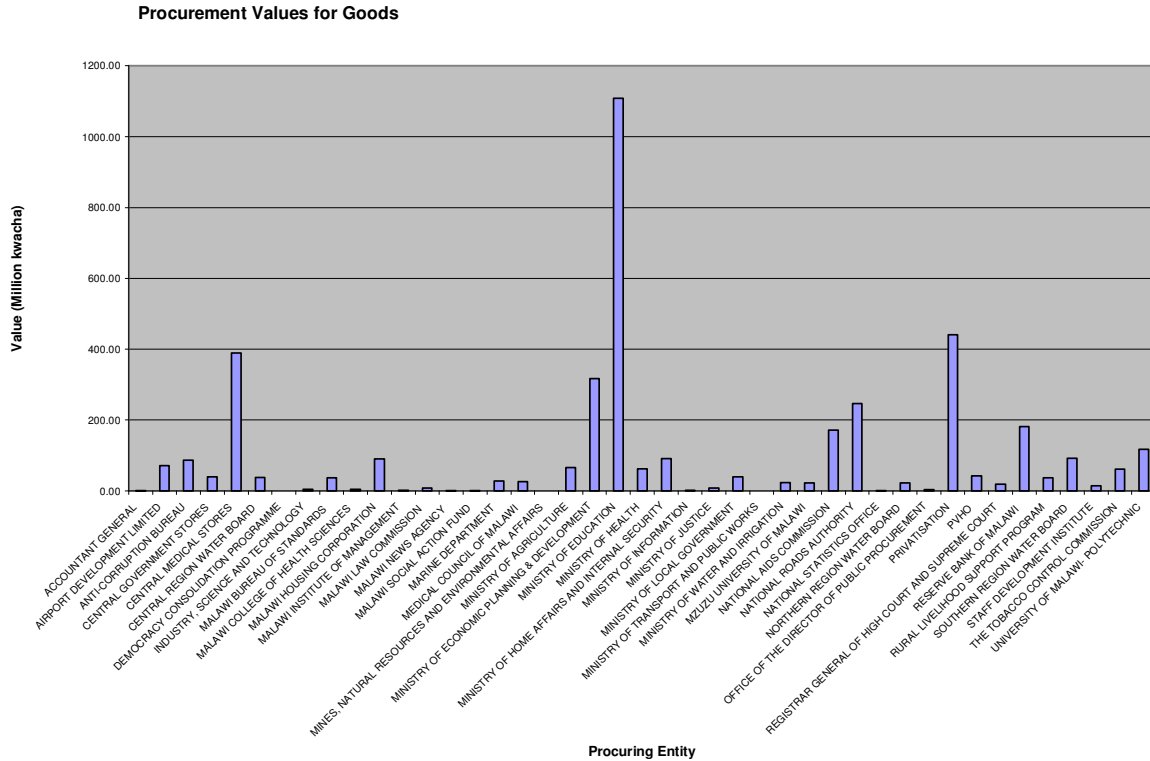
- 4.2 Appendix 1 shows the table for total value of procurements for 43 procuring entities that submitted their annual reports during the year under review. The table covers procurement values for procurements undertaken both within and outside their thresholds for which 'no objection' from this office was given before awarding of contracts.

Figure 1.



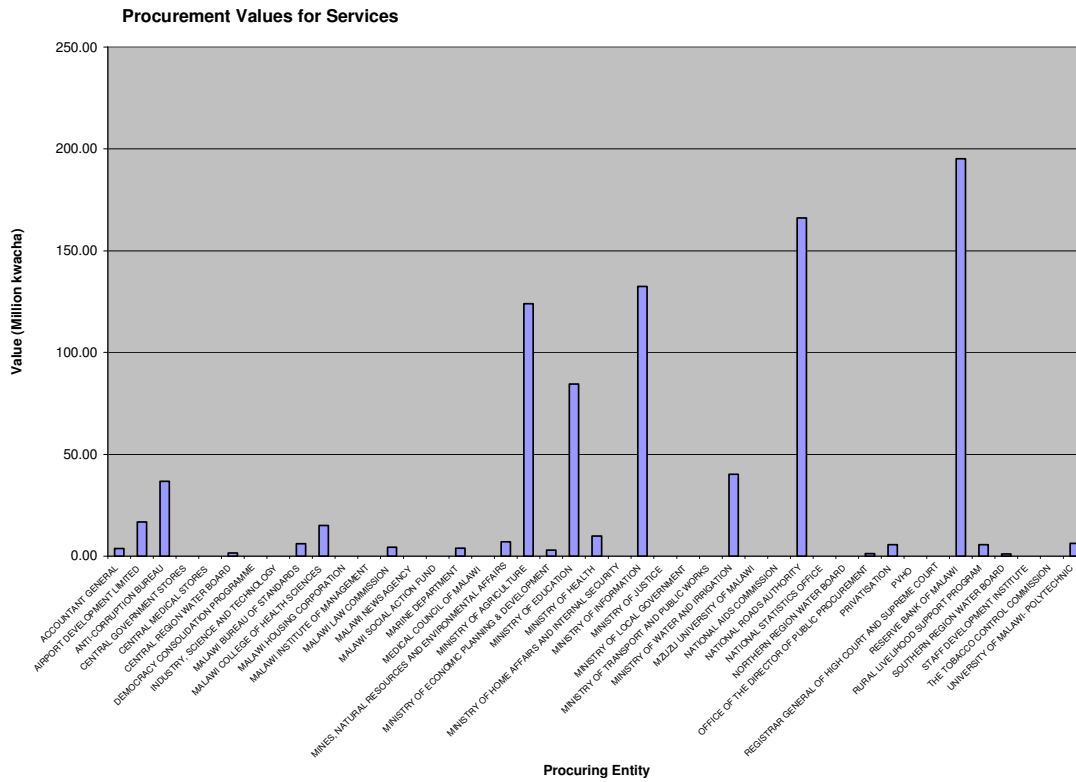
4.4 Figure 1 above shows values for total procurements undertaken by 43 Procuring Entities. This includes the procurement values for goods, works and services. During the year under review, procurement valued at **MK8, 520,675,777.21 (Eight billion, five hundred twenty million, six hundred seventy-five thousand seven hundred and seventy-seven kwacha twenty-one tambala)** was undertaken by various public institutions in the country. This figure is less than half of the public institutions that carried out procurement. This being a new activity, most institutions are still struggling to prepare the reports despite this office having presented each institution with a template on how to report. This figure therefore could be far below the expected total expenditures during the year under review.

Figure 2.



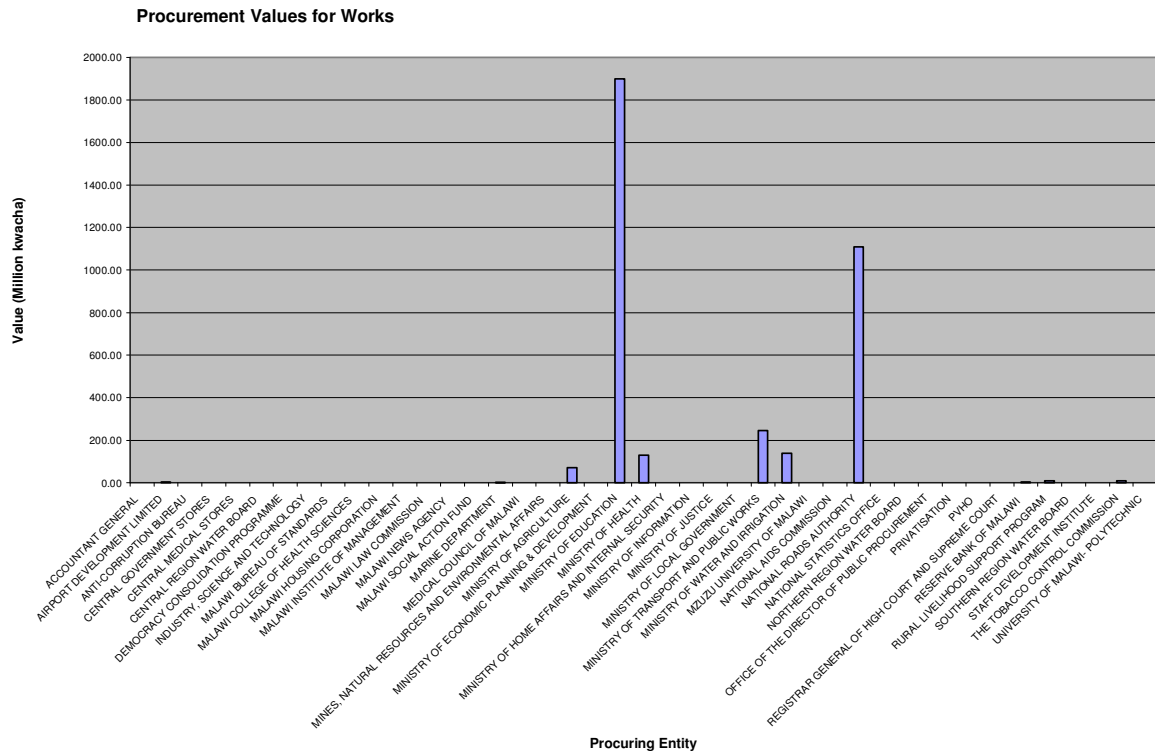
4.5 Figure 2 above shows the procurement values for goods. From the total number of institutions that submitted their reports, goods worth MK4,023,722,461.64 (Four billion, twenty-three million, seven-hundred twenty-two thousand, four hundred and sixty one kwacha and sixty four tambala) were procured. In this category there was more procurement than the other categories of works and services.

Figure 3.



4.6 Figure 3 above shows the procurement value for services. Services worth MK 869,120,960.55 (Eight hundred sixty nine million one hundred and twenty thousand, nine hundred and sixty kwacha and fifty five tambala) were procured.

Figure 4.



4.7 Figure 4 above shows procurement values for works. During the year under review, works contracts worth MK3,627,832,355.02 (Three billion, six hundred twenty seven million, eight hundred thirty two thousand, three hundred and fifty five kwacha and two tambala) were procured by various PEs.

Appendix 1

PROCUREMENT UNDERTAKEN BY ALL PUBLIC INSTITUTIONS DURING THE YEAR

PROCUREMENT ENTITY	CATEGORY			ENTITY TOTAL
	Goods	Services	Works	
ACCOUNTANT GENERAL	1,209,292.14	3,682,172.77	65,547.38	4,957,012.29
AIRPORT DEVELOPMENT LIMITED	71,637,307.18	16,706,578.00	3,160,534.00	91,504,419.18
ANTI-CORRUPTION BUREAU	85,894,810.00	36,675,021.21		122,569,831.21
CENTRAL GOVERNMENT STORES	40,170,106.15		398,800.00	40,568,906.15
CENTRAL MEDICAL STORES	389,436,277.55			389,436,277.55
CENTRAL REGION WATER BOARD	37,643,902.80	1,386,090.95		39,029,993.75
DEMOCRACY CONSOLIDATION PROGRAMME	220,059.50			220,059.50
INDUSTRY, SCIENCE AND TECHNOLOGY	5,103,505.54			5,103,505.54
MALAWI BUREAU OF STANDARDS	36,766,621.13	5,940,500.74		42,707,121.87
MALAWI COLLEGE OF HEALTH SCIENCES	5,045,650.90	14,959,520.16		20,005,171.06
MALAWI HOUSING CORPORATION	89,450,857.91			89,450,857.91
MALAWI INSTITUTE OF MANAGEMENT	1,990,239.74		376,725.00	2,366,964.74
MALAWI LAW COMMISSION	8,213,672.63	4,322,627.71	715,481.34	13,251,781.68
MALAWI NEWS AGENCY	856,131.41	42,700.00	183,823.18	1,082,654.59
MALAWI SOCIAL ACTION FUND	1,365,066.00			1,365,066.00
MARINE DEPARTMENT	27,943,843.74	3,996,662.33	1,528,418.49	33,468,924.56
MEDICAL COUNCIL OF MALAWI	26,344,218.00			26,344,218.00
MINES, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS	230,718.88	6,954,961.69		7,185,680.57
MINISTRY OF AGRICULTURE	66,309,219.69	123,903,000.00	71,353,133.76	261,565,353.45
MINISTRY OF ECONOMIC PLANNING & DEVELOPMENT	317,279,476.19	2,917,075.57		320,196,551.76
MINISTRY OF EDUCATION	1,107,508,959.86	84,579,569.51	1,899,933,128.55	3,092,021,657.92
MINISTRY OF HEALTH	63,229,912.03	9,827,727.78	130,561,412.58	203,619,052.39
MINISTRY OF HOME AFFAIRS AND INTERNAL SECURITY	90,624,797.44			90,624,797.44
MINISTRY OF INFORMATION	2,316,580.10	132,420,488.66		134,737,068.76
MINISTRY OF JUSTICE	8,828,673.21			8,828,673.21
MINISTRY OF LOCAL GOVERNMENT	40,233,958.64			40,233,958.64
MINISTRY OF TRANSPORT AND PUBLIC WORKS			245,453,190.30	245,453,190.30
MINISTRY OF WATER AND IRRIGATION	23,756,061.72	40,149,885.00	139,104,173.41	203,010,120.13
MZUZU UNIVERSITY OF MALAWI	22,115,991.04			22,115,991.04
NATIONAL AIDS COMMISSION	171,607,536.25			171,607,536.25
NATIONAL ROADS AUTHORITY	246,984,135.91	166,019,736.70	1,110,405,917.07	1,523,409,789.68
NATIONAL STATISTICS OFFICE	1,512,358.13			1,512,358.13
NORTHERN REGION WATER BOARD	22,839,972.89			22,839,972.89

OFFICE OF THE DIRECTOR OF PUBLIC PROCUREMENT	3,600,000.00	1,200,000.00	800,000.00	5,600,000.00
PRIVATISATION	440,785,382.00	5,625,110.00		446,410,492.00
PVHO	42,371,396.87			42,371,396.87
REGISTRAR GENERAL OF HIGH COURT AND SUPREME COURT	18,738,324.70			18,738,324.70
RESERVE BANK OF MALAWI	180,764,901.00	195,191,303.00	3,146,933.00	379,103,137.00
RURAL LIVELIHOOD SUPPORT PROGRAM	36,226,515.57	5,511,134.40	9,777,519.52	51,515,169.49
SOUTHERN REGION WATER BOARD	92,941,083.81	959,500.00		93,900,583.81
STAFF DEVELOPMENT INSTITUTE	14,177,617.17			14,177,617.17
THE TOBACCO CONTROL COMMISSION	62,074,587.44		10,145,309.24	72,219,896.68
UNIVERSITY OF MALAWI-POLYTECHNIC	117,372,738.78	6,149,594.37	722,308.20	124,244,641.35
GRAND TOTAL	4,023,722,461.64	869,120,960.55	3,627,832,355.02	8,520,675,777.21

Appendix 2

PURCHASING LIMITS FOR GOVERNMENT INSTITUTIONS

ORGANISATION	CATEGORY	LIMIT (MK)
Medical Buying Committee	Goods	K4, 000,000.00 per item
Central Medical Stores	Goods	K800, 000.00 per item
Central Government Stores	Goods	K1, 500,000.00 per item
Central Government Stores	Vehicles	K5, 000,000.00 per item
P.V.H.O.	Repairs	K800, 000.00 per item
P.V.H.O.	Spares	K800, 000.00 per item
Viphya Plantation	Spares	K300, 000.00 per item
Government Press	Materials	K300, 000.00 per item
Other Ministries/ Departments	Goods	K300, 000.00 per order
Ministries/Departments	Civil Works	Up to K450, 000.00
Ministries / Departments (with involvement of DOB only)	Civil Works	Above K450, 000.00 to K800, 000.00 per contract
Ministries/Departments (with involvement of DOB and ODPP)	Civil Works	K800, 000.00 to K8, 000,000.00 per contract
Ministries/Departments (by Tender)	Civil Works	Above K8, 000, 000.00 per contract
Ministries/Departments (without involvement of PVHO)	Repairs of vehicles	K30,000.00
Ministries/Departments (with involvement of PVHO)	Repairs of vehicles	K30, 000.00 to K800, 000.00 per contract
Ministries/Departments (with involvement of PVHO & ODPP)	Repairs of vehicles	Above K800, 000.00 per contract

Appendix 3

PURCHASING LIMITS FOR OTHER PUBLIC INSTITUTIONS

Statutory Corporation	Goods (MK)	Works (MK)
1. Airport Development Limited	300,000.00	1,000,000.00
2. Malawi Telecommunications Limited	1,000,000.00	2,000,000.00
3. SEDOM	300,000.00	800,000.00
4. Tobacco Control Commission	300,000.00	800,000.00
5. Malawi Institute of Education	300,000.00	800,000.00
6. Medical Council of Malawi	300,000.00	800,000.00
7. Malawi Accountants Board	300,000.00	800,000.00
8. Malawi Entrepreneur Development Institute	300,000.00	800,000.00
9. Petroleum Control Commission	300,000.00	800,000.00
10. Malawi College of Accountancy	300,000.00	800,000.00
11. Malawi Bureau of Standards	500,000.00	800,000.00
12. National Road Safety Council	300,000.00	800,000.00
13. Central Region Water Board	1,000,000.00	2,000,000.00
14. Malawi National Examination Board	300,000.00	800,000.00
15. National Library Services	300,000.00	800,000.00
16. National Food Reserve Agency	500,000.00	1,000,000.00
17. Northern Region Water Board	1,000,000.00	2,000,000.00
18. Lilongwe Water Board	1,000,000.00	2,000,000.00
19. Malawi Council for the Handicapped	300,000.00	800,000.00
20. Malawi Industrial Research Tech. Dev. Centre	300,000.00	800,000.00
21. Malawi National Com. for UNESCO	300,000.00	800,000.00
22. National Roads Authority	500,000.00	1,000,000.00
23. Electricity Supply Commission of Malawi	1,000,000.00	2,000,000.00
24. Malawi Communication Regulatory Authority	300,000.00	800,000.00
25. National Electricity Council	300,000.00	800,000.00
26. Southern Region Water Board	1,000,000.00	2,000,000.00
27. Privatization Commission	300,000.00	800,000.00
28. Malawi Revenue Authority	500,000.00	2,000,000.00
29. TEVET	300,000.00	800,000.00
30. Copyright Society of Malawi	300,000.00	800,000.00
31. University of Malawi	500,000.00	800,000.00
32. ADMARC	1,000,000.00	2,000,000.00
33. Censorship Board	300,000.00	800,000.00
34. National Youth Council	300,000.00	800,000.00
35. Television Malawi	500,000.00	1000,000.00
36. Malawi Investment Promotion Agency	300,000.00	800,000.00
37. National Herbarium & Botanic Gardens	300,000.00	800,000.00
38. National Sports Council	300,000.00	800,000.00
39. Pharmacy, Medicines and Poisons Board	300,000.00	800,000.00
40. Malawi Broadcasting Corporation	500,000.00	1,000,000.00
41. Malawi Export Promotion Council	300,000.00	800,000.00
42. Malawi Development Corporation	500,000.00	2,000,000.00

43. Air Malawi Limited	500,000.00	1,000,000.00
44. Malawi Housing Corporation	1,000,000.00	2,000,000.00
45. Blantyre Water Board	1,000,000.00	2,000,000.00
46. Nurses and Midwives Council	300,000.00	800,000.00
47. Mzuzu University	300,000.00	800,000.00
48. Development of Malawi Traders Trust	300,000.00	1,000,000.00
49. Malawi College of Health Sciences	300,000.00	800,000.00
50. Malawi Institute of Management	500,000.00	800,000.00
51. Malawi Posts Corporation	500,000.00	1,000,000.00
52. Public Accountants Examination Board	300,000.00	800,000.00
53. Lotteries Board	300,000.00	800,000.00

Appendix 4

LIST OF INSTITUTIONS THAT DID NOT SUBMIT THEIR PROCUREMENT REPORTS

GOVERNMENT MINISTRIES

1. Ministry of Foreign Affairs
2. Ministry of Defence
3. Ministry of Youth Sports and Culture
4. Ministry of Trade and Private Sector Development
5. Ministry Responsible for People with Disabilities and Social Development
6. Ministry of Gender and Social Welfare
7. Ministry of Lands, Housing and Surveys
8. Ministry of Labour and Vocational Training
9. Ministry of Statutory Corporations
10. Ministry of Finance
11. Secretary to the President and Cabinet
12. Office of the Vice President
13. Malawi Army Headquarters
14. Malawi Police Headquarters

GOVERNMENT DEPARTMENTS

15. Department of Human Resource Management
16. Department of Forestry
17. The National Assembly
18. National Research Council of Malawi
19. The National Audit Office
20. Department of Civil Aviation
21. Department of Poverty, Relief and Disaster Management Affairs
22. Director of Internal Audit Services
23. Civil Service Commission
24. The Road Traffic Directorate
25. Government Printing Press
26. State Residences, Lilongwe

27. Health Service Commission
28. Immigration Department
29. Poverty and Disaster Management Affairs
30. National Local Government Finance Committee
31. Prisons Services
32. Fisheries Department
33. Department of Energy
34. National Public Events
35. Teaching Service Commission

STATUTORY CORPORATIONS

36. Agriculture Research and Extension Trust (ARET)
37. Development of Malawian Enterprises Trust (DEMAT)
38. Copyright Society of Malawi, (COSOMA)
39. Malawi Posts Corporation, Blantyre
40. Office of the Ombudsman
41. National Construction Industry Council of Malawi (NCIC)
42. Malawi Broadcasting Corporation (MBC)
43. Malawi Human Rights Commission (MHRC)
44. Television Malawi, (TVM)
45. Agriculture Development and Marketing Corporation (ADMARC)
46. Malawi Rural Finance Company (MRFC), Limited
47. Malawi Council for the Handicapped, (MACOHA)
48. Technical and Vocational Education Training (TEVET)
49. Smallholder Farmers' Fertilizer Revolving Fund of Malawi (SFFRFM)
50. The Malawi Censorship Board
51. Public Accountants Examinations Council of Malawi (PAEC)
52. Malawi Communications Regulatory Authority (MACRA)
53. Malawi Development Corporation (MDC)
54. Malawi Entrepreneurs Development Institute (MEDI)
55. National Sports Council of Malawi
56. Shire Bus lines
57. National Food Reserve Agency (NFRA)
58. Petroleum Control Commission (PCC)
59. Small Enterprises Development Organization of Malawi (SEDOM)

60. Electricity Supply Commission of Malawi (ESCOM)
61. Lilongwe Water Board
62. Blantyre Water Board
63. Malawi National Examination Board (MANEB)
64. Malawi Telecommunications Limited (MTL)
65. Malawi Gaming Board
66. Malawi Electoral Commission
67. National Road Safety Council of Malawi (NRSCM)
68. Malawi Revenue Authority (MRA)
69. Air Malawi Limited
70. University of Malawi, University Office
71. Chancellor College
72. Bunda College of Agriculture
73. Kamuzu College of Nursing
74. College of Medicine
75. Malawi Institute of Education
76. Electricity Council of Malawi
77. Medical Council of Malawi
78. Pharmacy and Poisons Board
79. Copyright Society of Malawi
80. Malawi Rural Development Fund(MARDEF)
81. FIMTAP

DECENTRALISED ASSEMBLIES

82. Mzuzu City Assembly
83. Lilongwe City Assembly
84. Blantyre City Assembly.
85. Municipality of Zomba.
86. Salima Town Council
87. Balaka Town Council
88. Mangochi Town Council
89. Kasungu Town Council
90. Karonga Town Council
91. Luchenza Town Council

Appendix 5

CIRCULARS ISSUED BY THE DIRECTORATE OF PUBLIC PROCUREMENT

Circular One.

Ref. No. ODPP/01

4th May, 2004

FROM : THE DIRECTOR, PUBLIC PROCUREMENT,
PRIVATE BAG 383, LILONGWE 3

TO : ALL CHIEF EXECUTIVES OF STATUTORY
CORPORATION

PROVISIONS OF THE PUBLIC PROCUREMENT ACT

You are aware that the above Act was passed by the National Assembly in July last year and came into effect in August, 2003.

Part I, Section 3 of the Act states that the Act is applicable to all procurement carried out by procuring entities using public funds. Therefore, all Statutory Corporations, whether commercial or subverted, are required to comply with the provisions of the Act since they all use public funds in procuring goods, works and services (including consultancy services).

It has come to my attention that while a number of you have been compliant, there are some who have not been complying with the provisions of the Act. The Act requires that you should establish Internal Procurement Committees (IPCs), which should be responsible for handling all procurement matters in your institutions. Such Committees should meet and approve procurement proposals and record them. However, when procurement is above your threshold, the IPC's recommendations should be submitted to my Office together with minutes of the IPC signed by each member who was in attendance with relevant documents attached. I, therefore, urge those of you who have not yet done so to institute these as a matter of urgency and to advise my Office of their membership.

The Act also demands that if your IPC is handling procurement above your limit, my Office should be notified accordingly so that I can appoint appropriate officers to represent me at such meetings.

My office is currently finalizing work on the Procurement Regulations and the Desk Manuals which IPCs are expected to utilize when undertaking procurement work. These will be circulated to you as soon as they have been finalized.

I would like to advise that violations of the provisions of the Act is now punishable by law and it is incumbent upon all of you to ensure that you abide by provisions of the Act. I would also urge you to acquire copies of the Act for distribution to your IPC members.

I am also aware that there will be need for sensitising your members of staff on the provisions of the Act, the Procurement Regulations and the Desk manuals. I will be discussing with the Comptroller of Statutory Corporation as to how best this can be done having regard to available resources.

Once again, I would like to appeal to all of you to abide by the provisions of the Public Procurement Act, so that we can, among other things, achieve efficiency, transparency and accountability in Public Procurement.

B.S.M. Mangulama
DIRECTOR
PUBLIC PROCUREMENT OFFICE

CC: The Comptroller of Statutory Corporation, P.O. Box 30061, Lilongwe
The Secretary to the Treasury, P.O. Box 30140, Lilongwe 3
The Secretary to the President and Cabinet, Private Bag 301, Lilongwe
The Auditor General, P.O. Box 30045, Lilongwe 3

Circular Two

Ref. No. ODP/01/Vol.1

3rd August, 2004

FROM : THE DIRECTOR, OF PUBLIC PROCUREMENT
P/B 383, LILONGWE 3.

TO : ALL PRINCIPAL SECRETARIES,
HEADS OF DEPARTMENTS AND OF ALL PUBLIC
INSTITUTIONS AND CHIEF EXECUTIVES OF STATUTORY CORPORATIONS

cc. : The Auditor General, P. O. Box 30045, Lilongwe 3.

PUBLIC PROCUREMENT REGULATIONS

With the passing of the Public Procurement Act No 8 of 2004, it became necessary for this Office to issue the accompanying Procurement Regulations and Desk Manuals, which are part of the legal framework governing procurement in Malawi.

It is important that your Internal Procurement Committees (IPCs) and Specialised Procurement Units (SPUs) refer to these from time to time as they undertake procurement activities in your institution. This should make implementation of the provisions of the Public procurement Act smoother than would have been the case without them. I must stress here that improvements will continue to be made to the Desk Manuals and the Regulations as we gain more working experience in the course of implementing the Act. I would therefore like to urge you to point out anything to me, which you think would enrich the contents of both the regulations and the manuals.

I also wish to inform you that my Office is conducting training sessions for members of the IPCs and SPUs, which is aimed at familiarising participants on the how to use the Procurement Regulations and the Desk Manuals. The various organisations will be told when this training will be conducted for their particular organisation.

I would, therefore, be very grateful if you could make these Regulations and Desk Manuals available to your IPCs and PUs for their use when undertaking procurement exercises.

My Office is available for any clarifications, which might be required.

B. S. M. Mangulama
DIRECTOR
OFFICE OF PUBLIC PROCUREMENT

Circular Three

Ref. No. ODP/01/Vol.1

10th August, 2004

FROM : THE DIRECTOR, OF PUBLIC PROCUREMENT
P/B 383, LILONGWE 3.

TO : ALL PRINCIPAL SECRETARIES,
HEADS OF DEPARTMENTS AND OF ALL PUBLIC INSTITUTIONS AND
CHIEF EXECUTIVES OF STATUTORY CORPORATIONS

CC: The Auditor General, P. O. Box 30045, Lilongwe 3.

REPORTING REQUIREMENTS

With the passing of the Public Procurement Act, it has become necessary for this Office to issue a number of circulars on various requirements of the Act as a way of perfecting its implementation.

As you are aware, the Act provides for a reporting mechanism on procurement activities in the Public Sector to the Minister responsible for Public Procurement, who currently, happens to be His Excellency the State President, Dr. Bingu wa Muthalika. To facilitate this, this Office has been preparing quarterly reports for submission to the Minister. My Office started preparing these reports in the last Financial Year and is now in the process of preparing an annual one. However, it is felt that these reports are not complete without the inclusion of reports from procuring entities on their procurement activities carried out by these entities, especially regarding procurement, which is within the entities' threshold.

I, therefore, wish to advise all Controlling Officers, Heads of Departments, Chief Executives of Statutory Corporations and Heads of all other Public Institutions that as from the current Financial Year, my Office will require you to submit quarterly reports on the procurement activities your institution has been undertaking over the quarter starting from the first quarter of the 2004/05 Financial Year. You are, therefore, expected to report to this Office the nature of procurement you have undertaken, the type and value of such procurement, the procurement method used and the date the contract was signed (if applicable). This information should cover both procurement that is within your threshold and that outside the threshold.

You will appreciate that this information will assist us in submitting a report to the Minister, which is more comprehensive than at the moment because the current quarterly reports omit procurement that is undertaken by entities without referring to this Office thereby presenting an incomplete picture.

I would, therefore, be very grateful if you could bring this to the attention of those dealing with such issues in your institution.

I look forward to receiving the first quarterly report for the current Financial Year by the 15th of October, 2004.

**B. S. M. Mangulama
DIRECTOR
OFFICE OF PUBLIC PROCUREMENT**

Circular Four (A letter on issues of Decentralised Assemblies)

Ref. No. ODP/35/Vol.1

19th August, 2004

FROM : THE DIRECTOR, OF PUBLIC PROCUREMENT, P/B/ 383, LILONGWE 3.

TO : THE SECRETARY FOR LOCAL GOVERNMENT AND DISTRICT ADMINISTRATION,
P.O. BOX 30312, LILONGWE 3.

PROCUREMENT PROCEDURES

With the passing of the Public Procurement Act, it has become mandatory for all Public Institutions to follow the provisions of the Act when procuring Goods, Works and Services. My Office is currently compiling Procurement Regulations and Desk Manuals for use by procuring entities. These will be circulated to all procuring entities when ready.

However, it has come to my attention that the City and District Assemblies do not seem to be aware of the developments/reforms taking place in the area of procurement. The result is they have continued with business as usual in as far as procurement activities are concerned. They have continued to use the *District Development Fund Financial Management and Accounting Procedures Manual*. This is unacceptable and I wish to advise that with the enactment of the Public Procurement Bill, it is incumbent upon all Public Institutions to abide by the provisions of the Act in conducting procurement. This Office issued a circular to all Controlling Officers and Heads of Departments of Statutory Corporations and informed them about the *modus operandi* as regards public procurement late last year.

It is not clear to us if your Office communicated the contents of that letter to the District and City assemblies. It is for this reason that I am writing you this letter to solicit your assistance in ensuring that the City and District Assemblies are aware of the new procurement procedures especially of the requirement to set up Internal Procurement Committees (IPCs) and Specialised Procurement Units (SPUs) to handle procurement issues in their respective institutions. I am aware that capacity constraints cannot be ruled out in this early phase of implementation of the reform programme, but you will agree with me that we have to start from somewhere with the resources we have at our disposal.

I would be very grateful if your Office could request the City and District Assemblies to establish IPCs and to submit names of their IPC members to you with copies to my Office as soon as possible. This will enable us to plan a realistic training programme for them.

My Office is soon to embark on a training exercise for members of the IPCs and it is my intention that this training should also cover members from the City and District Assemblies. This exercise should, therefore, be treated with the urgency it deserves as time is of essence.

I look forward to your usual cooperation.

B. S. M. Mangulama
DIRECTOR
OFFICE OF PUBLIC PROCUREMENT

Circular Five

Ref. No. ODPP/01

22nd October, 2004

FROM : THE DIRECTOR, PUBLIC PROCUREMENT, P/B/ 383, LILONGWE 3.

TO : ALL CHIEF EXECUTIVES OF STATUTORY CORPORATIONS

PROCUREMENT THRESHOLD

As you are already aware, the Public Procurement Act empowers me to set procurement thresholds for Public Procuring entities from time to time. While these were set for government institutions last year, Statutory Corporations were left out in that exercise.

Consequently, several of you have written to my Office enquiring about what procurement threshold are applicable to your organization. I had responded to some of you giving you an interim indication of the threshold you could use in the interim. However, I did indicate that I was liaising with the Department of Statutory Corporations with a view to determining the procurement thresholds for each institution.

I am glad to report that these consultations have now been completed and an agreement has been reached as to the thresholds for each institution. In this connection, please find attached hereto, a table that indicates the value of procurement of goods and works, which you can undertake without referring to this Office. Any purchases above that figure ought to be referred to my Office for prior review. Please note that *services* have not been included in the table. This is because the term '*services*' refers to any object of procurement other than goods or works and involves activities of an intellectual and advisory nature and therefore any such procurement should be referred to my Office.

I would also like to point out that these figures shall be reviewed from time to time taking into consideration important aspects in the economy and your own track record in handling procurement. An important aspect of consideration when undertaking the review will be how appropriately staffed your Internal Procurement Committees (IPCs) and Specialized Procurement Units (SPUs) are and their track record in handling procurement.

I would be grateful if these thresholds can be implemented with immediate effect. Where in doubt, please seek the necessary clarification from my Office.

B. S. M. Mangulama
DIRECTOR
OFFICE OF PUBLIC PROCUREMENT

C.C: The Comptroller of Statutory Corporations, Lilongwe 3.

The Secretary to the President and Cabinet, Lilongwe 3.

The Secretary to the Treasury, Lilongwe 3.

The Auditor General, Lilongwe 3.