



MINISTRY OF JUSTICE
P.O. BOX 160 KIGALI

Kigali, 05 MARS 2020
N° 393/08-EN/LSD

Prosecutor General
National Public Prosecution Authority
KIGALI

Dear Sir,

RE: Effective contracting and contract management

Reference is made to our letter n° 537/08.25.EN/LSD dated 07/03/2019 outlining issues that undermine successful implementation of Government contracts.

Once again we wish to bring to your attention issues that we continue to observe arising out of poor contracting and contract management.

Contracts, from conception to execution, still present potential loopholes that can be exploited to the detriment of Government. It is costing our country dearly in terms of diverted resources and delayed or abandoned development projects. We need to close all loopholes and remain on our guard through the life of contracts.

Some of the issues that affect government contracts stem from the following: failure to undertake a basic due diligence; failure to conduct need assessment; unclear definition of the scope of work or terms of reference or technical specifications; failure to observe fundamental principles governing public procurement (i.e transparency, competition, economy; fairness, etc).

With respect to contract management, recurrent contract management issues include: deviation from the initial purpose of the contract, execution of additional works without a prior written addendum; additional works exceeding 20%; delays (by procuring entities) to respond to contractor's notices; delayed payments or partial payment which cause delays in execution of contracts; failure or delay by the procuring entity to take measures in case of default by the contractor; etc.

It is important to stress that contract management is the process of systematically and efficiently managing contract creation, execution and analysis for maximizing operational and financial performance and minimizing risk. It refers to the management of all actions after the award of a

contract to assure that terms of a contract are complied with. It is done from day one and continues till the last day of the contract's life.

In view of the foregoing, we recommend the following measures:

1. Institutions should put in place effective control systems that enable them to ascertain whether all requirements or conditions for a sound contract have been met prior to signing the contract.
2. Once a contract is signed, a procuring entity should ensure that a manual or electronic contract management file is opened so all actions, timeliness and any other events regarding the implementation of the contract are performed, known in real time and the appropriate action or decision are taken. For best result, I advise that procuring entities should appraise themselves quarterly of the situation of the performance of the contracts in a comprehensive way.

In the unlikely event that a dispute regarding a contract comes up or a legal opinion is sought, the Office of the Attorney General will require the contract management file as a priority document in order to understand the role of the institution in prevention of such dispute.

3. For the purpose of strengthening contract management system, we recommend that public institutions should establish a contract management team.
4. In a bid to promote transparency, accountability and integrity in contracting and contract management and to plug any possible loophole that may lead to corruption or other malpractices, procuring entities shall, going forward, make available on their websites all ongoing contracts. In case the media seek to have access to contracts or to documents showing how they were awarded or how they are being managed, the institutions shall provide the information the media seeks. Classified contracts will be an exception.

By copy hereof the oversight, watchdog and governance institutions are requested to check on compliance with the above during routine or adhoc exercise of their respective functions.

Sincerely,



BUSINGYE Johnston

Minister of Justice/Attorney General

Cc

Rt. Hon. Prime Minister
The Ombudsman
The Auditor General

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