

**PUBLIC ACCOUNTS COMMITTEE REPORT ON PROCUREMENT
MANAGEMENT OF FEDERAL LAND DEVELOPMENT AUTHORITY
(FELDA)**

1. BACKGROUND

- 1.1** Federal Land Development Authority (FELDA) was established on July 1, 1956 under the Land Development Ordinance of 1956 for the development of land and relocation with the objective of poverty eradication through the cultivation of oil palm and rubber. The FELDA function is to carry out projects of land development and agricultural activities, industrial and commercial social economy.
- 1.2** In 1990, FELDA was no longer recruiting new settlers. Government has entrusted FELDA to stand with their own financial and become a statutory body that can generate their own income to support various development through a variety of businesses. Consequently, from 1994 onwards the government does not channel any provision to the schemes. In an effort to generate income, FELDA has launched a number of private corporate entities primarily to ensure complete value chain of its core activities. Among the largest are FELDA Capital cooperative (Cooperative FELDA), FELDA Global Ventures (FGV) and FELDA Investment Corporation (FIC).

2. OBJECTIVE OF DISCUSSION

- 2.1** Public Accounts Committee (PAC) has discussed issues on FELDA's weaknesses in procurement management that had been raised in the Auditor General's Report of 2013, Series 2. In line with the mandate given under Article 77 Standing Orders of the House of Representatives as well as Article 304 (a) Treasury Order (Amendment 2008), the Public Accounts Committee has checked on this matter for the following purposes:

- a. Ensure the agency's procurement planning was properly managed;
- b. No wastage incurred in procurement process;
- c. Ensure the interest of the agency was safeguarded through a good and proper contract management;
- d. Ensure the procurement was carried out according to the regulation stipulated; and

3. SCOPE AND METHODOLOGY

3.1 The discussion has been conducted by the following approach:

- a. Invited the Director of Federal Statutory Bodies Audit Sector, National Audit Department to give preliminary explanation regarding the issue raised;
- b. Called the parties involved in the FELDA's Procurement and Financial Management; and
- c. Invited representatives from central agencies like Ministry of Finance; Public Service Department and Economic Planning Unit to be present.

4. OUTCOME OF DISCUSSION

The discussion session was started with preliminary explanation regarding the issue raised by the Director of Federal Statutory Bodies Audit Sector, National Audit Department to PAC. Subsequently, the parties involved with the issue raised which was from FELDA that was led by Datuk Haji Faizoull bin Ahmad (Director General of FELDA) was called to testify. The matter of discussion was generally summarised as follows:

4.1 Introduction Regarding The Federal Land Development Authority Procurement

Performance Audit has been carried out by National Audit Department on FELDA's Procurement Management from December 2012 until March

2013 where the auditing scope covered the period from 2010 to 2012. FELDA's procurement allocation from 2010 until 2012 was RM1.21 billion and the expenditure incurred amounted to RM974.50 million or 80.8%, which was RM302.72 million in 2010, RM193.90 million in 2011 and RM477.88 million in 2012. In overall, procurement management in FELDA was less satisfactory for non-compliance to its own procurement rules

4.2. Explanation By Federal Land Development Authority

4.2.1 Procurement Without The Committee's Approval

For the period from 2010 until 2012, 160 procurements worth RM3.60 million for 3 departments in FELDA, which were New Generation's Innovation and Development Department, Entrepreneur Development Department, Human Resource Department, had been done without the approval from Tender Committee. These procurements were done directly by the departments involved and approved by the respective Department's Director. Out of 160 procurements, 51 procurements worth RM1.66 million were done directly with FELDA's subsidiaries.

Comment of FELDA:

Procurement without the approval of the committee carried out by three departments was due to the process of transformation and change in the organisation chart, where the newly appointed director and staff were less familiar with the procurement process and regulations. The Finance Director of FELDA informed that the Disciplinary Committee has been informed of the names of officers involved and the matter would be brought to the Board Meeting.

According to FELDA practices, procurement granted to FELDA subsidiaries and entrepreneurs do not have to go through the committee, in line with FELDA's commitment to assist its subsidiaries and entrepreneurs. The offering of direct negotiation for the procurement of works to the subsidiaries and entrepreneurs had been

presented and approved by the Board of FELDA Meeting on 21 July 2014.

Comment of Treasury Representatives:

En Shahrul Kamal bin Osman, a representative of the Treasury informed on Treasury Circular No. 1 of 2011, which stated that direct negotiation for procurement from subsidiary was not allowed. However, subsidiary was allowed to participate in the procurement of its parent company provided that all the rules were adhered to.

4.2.2 Splitting Procurement Into Smaller Amount

- i. The Settlers' Day Celebration Programme 2011 in Jerantut, Pahang worth RM1.85 million was also not done through the Board Tender Committee. The procurement had been broken down into two separate contracts of RM0.99 million and RM0.86 million and approved by the Tender Committee 1, chaired by the General Manager of FELDA. If it was not split, this procurement must be approved by the Board Tender Committee chaired by the Chairman of FELDA.

- ii. In 2011, Interior Design Work for Phase 1 of FELDA Tower worth RM3.65 million was broken up into 5 separate packages and was offered to a single contractor with a different contract number. The Consultant for the design work had been directed by FELDA to provide a breakup of the price of Phase 1 into 5 packages without changing the final amount offered to facilitate the approval process. This procurement was also approved by the Tender Committee 1 only and not the Board Tender Committee as it should be.

Comment of FELDA:

- i. The Finance Director of FELDA informed that the Settlers' Day Celebration was an annual event and faced a time constraints to do the preparation as they need to confirm the date and location. The procurement worth RM1.85 million was not brought to the Working Committee Meeting (JKK) because during the planning of the event, the JKK was not in session and would only met on 25 July 2011. The matter was tabled in the Audit Committee Meeting on 29 April 2014 and its decision would be tabled in the Board Meeting. On 2 September 2014, the Disciplinary Action Committee Meeting decided that this matter did not involve abuse of power and increase in cost. FELDA had taken note of the Auditor's comment.**
- ii. The Finance Director informed that the RM3.65 million renovation works at Phase 1 had to be divided into 5 packages due to the need to complete the works before the Settlers' Day Celebration in 2012 and the opening ceremony of FELDA Tower. FELDA also took note of the Auditor's comment regarding the matter.**

4.2.3 The Weaknesses in Contract Management

- i. For the period of 2010-2012, 56 procurements worth RM183.13 million had no proper contractual documents, and 53 of them worth 165.65 million had been paid and another 3 worth RM17.48 million were yet to be paid. Besides that, 23 procurements amounted to RM19.93 million did not have Acceptance Letter and were paid based on Local Order while the other 30 procurements which were paid RM145.72 million had been issued with Acceptance Letter and Local Order.**
- ii. There were two procurement contracts worth RM60.68 million that were yet to be signed although it was already 4 months since the issuing date of the Acceptance Letter and out of the amount, RM37.37 million was paid as of March 2014.**

Comment of FELDA

- i. FELDA was of the opinion that in regards to the contract, it was sufficient to have only Work Order or Purchase Order provided it was signed by both FELDA and the contractor. This was further verified by the Legal Department of FELDA. This has long been practised by FELDA to save the legal fee cost. Besides that, FELDA had also issued reminders to all departments to ensure that the concerned procurements would be provided with complete contractual document. The Finance Director of FELDA also informed that FELDA's new contract manual was still in the process of preparation and would be tabled in the Board Meeting in September 2014.
- ii. The Finance Director of FELDA informed that the contract for the interior design work for FELDA Tower which was worth RM38.15 was completed and signed by FELDA and the contractor while the contract worth RM22.53 million was yet to be signed. It was done upon the advice of the FELDA lawyer due to the conflict in the contract between FELDA and the contractor. This matter was still in court proceeding. The Finance Director of FELDA had informed that the next hearing date at Kuala Lumpur High Court was to be on 9 December 2014.

Comment of Treasury Representative

The Treasury Representative had informed that in Government procurement, Acceptance Letter and Work Order are not taken into consideration as contract documents because Acceptance Letter and Work Order are only parts of the contract document. This is because the payment for supply, service and work procurements cannot be done as long as the contracts are yet to be signed. If there is dispute between the two parties, the main reference is the contract document. The representative from the Treasury was also of the opinion that such FELDA practice did not meet the standards set by the Treasury.

4.2.4 The Weakness in Implementing FELDA Settler Census

In 2011, FELDA carried out FELDA Settler Census in which FELDA was supposed to appoint a consultant for the purpose of coordinating and monitoring, and the enumerators to be appointed from among the students of Permuafakatan Siswa Siswi FELDA (PERSADA) and members of the Malaysian FELDA Youth Council (MBFM). In July 2011, the census was implemented without any consultant being appointed and without being monitored and supervised. It resulted in the census form not being completely filled in and could not be used, thus a second census was needed. It was a waste of money as payment of RM0.74 million had been made for the first census but the data could not be used. Besides that, a payment amounting to RM1.02 million for the second census had been made as of March 2013.

Comment of FELDA:

The Finance Director of FELDA informed that FELDA did the second census due to much information collected during the first census was incomplete and inaccurate. FELDA informed that no consultant was appointed because FELDA was of the opinion that PERSADA and MBFM were able to do the census. The actual payment made was RM1.80 million out of the original budget of RM5 million. The FELDA Settler Census Programme ended in March 2014 with the census data being uploaded to the SKB system already. Apart from that, the census report was published already.

5. SUMMARY OF PUBLIC ACCOUNTS COMMITTEE

5.1 In overall, PAC is of the opinion that the procurement management of FELDA was less satisfactory as it did not follow the procurement regulations set by FELDA itself. PAC views seriously FELDA's failure in complying with the procedures set by the FELDA management and welcomes FELDA's measures to improve its internal regulations and to ensure that similar weaknesses will not be repeated. The weaknesses are as follows:

- i. FELDA had carried out procurements without going through the committee which was supposed to give approval to it and the procurements were handled by officers who had no authority. Besides that, it became a practice for FELDA to give procurements to its subsidiary companies and operators but FELDA had to ensure that it followed the existing regulations.
- ii. A number of FELDA procurements which were split did not follow the procurement regulations enforced. It could lead to abuse of power.
- iii. There were weaknesses in contract management by FELDA in which the contractual document was not prepared and signed as it was required in the FELDA's own procurement regulations. The use of Acceptance Letter and Work Order only was not sufficient to safeguard and protect the interest of FELDA in the event of any dispute.

6. RECOMMENDATIONS OF THE PUBLIC ACCOUNTS COMMITTEE

PAC recommended that FELDA took actions to improve its procurement management as follows:

- i. to ensure that the procurement is done according to the regulations and procedures set.
- ii. to change and update the FELDA regulations to improve its financial management in future.
- iii. to ensure that procurement is done with contractual document being prepared and signed to ensure that the interest of FELDA is protected.
- iv. FELDA as the parent body has to monitor the procurement involving its subsidiary companies and guidelines should be given.

- v. Disciplinary action has to be taken on officers for not complying with the internal regulations of FELDA to ensure that it will not recur in future.
- vi. PAC views seriously the weaknesses of the role of FELDA's Internal Audit. In this case, PAC recommends that the Audit Committee should monitor all procurements and corporate governance management of FELDA.

Public Accounts Committee

13th Parliament of Malaysia