



**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC
ASSETS AUTHORITY**

**A REPORT ON THE COMPLIANCE AND PERFORMANCE
INDICATORS FOR THE UGANDA PROCUREMENT
SYSTEM**

**FINAL DRAFT REPORT
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EXECUTIVE SUMMARY

The effectiveness, efficiency and transparency of procurements is an important objective for the Government of Uganda and Development partners. Under the auspices of the joint World Bank and OECD Development Assistance Committee (DAC) Procurement Round Table initiative, developing countries and bilateral and multilateral donors worked together to develop a set of tools and standards that provide guidance for improvements in procurement systems and the results they produce. The Round Table initiative led to a commitment for the adoption and further development of the methodology for application of the baseline indicators and associated compliance and performance indicators. The long term goal is for countries to improve national procurement systems to meet internationally recognized standards. This will enable greater effectiveness in the use of funds to meet country obligations. The methodology is being field tested in a number of pilot countries, Uganda being one of them.

The methodology for assessment of the national procurement system is intended to provide a common tool which developing countries and donors can use to assess the quality and effectiveness of the national systems. The working group developed two types of indicators, the Baseline Indicators (BLIs) and Compliance and Performance Indicators (CPIs). The BLIs deal with the formal and functional features of the existing system. The CPIs deal with how the system actually operates. They are closely related to the application of the legal regulatory framework and the prevailing procurement practices in the country.

The purpose of the assessment is to obtain data that will be used in the assessment of some of the Compliance and Performance Indicators, CPIs, as set out in the version 4 of the methodology for assessment of national procurement systems. The indicators are intended to provide harmonized tools for use in the assessment of procurement systems.

The version 4 of the methodology for assessment of national procurement systems is divided into two parts. Part I deals with the BLIs. Part II deals with the CPIs. The CPIs help identify those areas where compliance or performance is weak, with a more in-depth review of deficiencies and their likely causes. The report covers the assessment of the compliance and performance indicators.

Scope of Assessment includes data collection and analysis to determine the twenty seven (27) CPI indicators for review of the country performance and field testing the tools; review the Version 4 of OECD-DAC / World Bank methodology and recommend areas of improvement, the applicability of the tools with the view of making input.

For the Indicators where data was available to the Authority, the assessment was done in-house as follows:

1. Percentage of procurements subject to the legislative framework being assessed (in volume and in number of contracts) carried out through open tendering.
2. Percentage of [administrative review] cases resolved within the terms established in the legal framework.

3. Number of staff involved in procurement in the central government that receive formal training in the year.
4. Average waiting time to get in a formal training event.
5. Number of procurement audit recommendations pending after one year.
6. Percentage of complaints processed within the time limits in the legal framework.
7. Percentage of decisions taken through the appeals mechanism that are enforced.
8. Percentage of favorable opinions from the appeals mechanism

The rest of the indicators that required a survey were assessed by a Consultant contracted by the PPDA. To ensure quality assurance, regular meetings were held between a team from PPDA and the Consultant to monitor progress of the exercise to ensure it was being done appropriately. The table on page v shows a summary of the results of all indicators.

No	Indicator	Status and Trend	Performance Data
1	Percentage of procurements subject to the legislative framework being assessed (in volume and in number of contracts) carried out through open tendering	The severity of risk is high	From the monthly reports submitted by entities the total amount of funds that was spent on procurement in 2005-2006 is 1,277 trillion Ushs. Of this amount, 319,450,175,000 was spent by way of open domestic bidding, while under open international bidding the sum was 102,222,597,880. The two methods therefore accounted for 33% of total procurements in the period.
2	Percentage of [administrative review] cases resolved within the terms established in the legal framework	The severity of risk is medium	All the 8 administrative review cases were handled within the terms established in the legal framework under part vii of the PPDA Act and under part ix of the PPDA Regulations.
3	Number of staff involved in procurement in the central government that receive formal training in the year	The severity of risk is medium	1,012 staff from Central Government received training in 2006/7 on the procurement law and good practices in procurement
4	Average waiting time to get in a formal training event	The severity of risk is medium	6 months
5	Number of procurement audit recommendations pending after one year	The severity of risk is medium	Of the 67 recommendations that were made in the procurement audit reports for the FY 2005/6, 24 were not implemented representing 36%.
6	Percentage of complaints processed within the time limits in the legal framework	The severity of risk is medium.	All the 8 cases handled by the Complaints Review Committee were processed within the time limits in the legal framework.
7	Percentage of decisions taken through the appeals mechanism that are enforced	The severity of risk is medium	All the 8 decisions that were taken through the appeals mechanism were fully enforced.
8	Percentage of favorable opinions from the appeals mechanism	The severity of risk is medium	Of the 8 complaints handled, only 1 was appealed to the Inspectorate of Government, none was appealed in the courts

No	Indicator	Status and Trend	Performance Data
			of law. 87.5% of the opinions from the appeals mechanism were therefore favourable.
9	Percentage of invitations for open tenders publicly advertised.	The severity of risk is high	45% had record of advertisement, 55% lack evidence of public advertisement.
10	Percentage of open tender documents that include provisions for limiting participation for reasons other than qualifications or acceptable exclusions.	The severity of risk is low.	All the 91 cases with documentations for assessing the indicators representing 55% had no provision limiting participation
11	Percentage of tenders rejected in each process.	The severity of risk is high.	Overall rejection is 43.8% which is higher the max 40% provided for in the OECD-DAC / World Bank methodology.
12	Percentage of tenders including non quantifiable or subjective evaluation.	The severity of risk is high	18% had subjective or non quantifiable evaluation. If 37% of procurement due to lack of documentations was discounted, the severity of risk is at 48.9%
13	Public perception of confidentiality in tender evaluation process.	The severity of risk is medium	61.7% believe that the tender evaluation is not confidential.
14	Percentage of tenders opened publicly and recorded.	The severity of risk is low.	73.4% were publicly opened and recorded.
15	Percentage of tenders that use model tender documents or clauses.	The severity of risk is low.	72.7% use model tender documents.
16	Percentage of cases where prequalification was used appropriately as prescribed in the legal framework.	The severity of risk is high	There was no evidence of rotation in picking from the lists. Some providers on the lists are invited more frequently and access business more than others. Some providers on the lists are not invited at all.
17	Percentage of cases that used objective pass / fail prequalification criteria as opposed to subjective qualitative ones.	The severity of risk is medium.	35% used pass/fail criteria, while in 54.7% cases there were no data to review.

No	Indicator	Status and Trend	Performance Data
18	Percentage of tenders that use the General Conditions of Contract, standard clauses or templates as applicable.	The severity of risk is low.	52.5% use GCC, 18.2% do not and there was no record for 29.3%. There are cases where clauses used in the solicitation documents vary from those in the actual contract, without evidence of negotiation and reasons for changes in the clauses.
19	Percentage of payments made late (e.g. exceeding the contractually specified payment schedule).	The severity of risk is high	No record or evidence provided to assess the indicator
20	Percentage of major contracts without completion reports.	The severity of risk is high.	No record or evidence provided to assess the indicator. The appointment of contract manager is not being done across the board.
21	Average time after contract completion for completion reports to be prepared.	The severity of risk is high	No record or evidence accessed to assess the indicator
22	Percentage of those surveyed that perceive the regulatory function to be free of conflict;	The severity of risk is medium.	29% say high conflict, 37% say low conflict; 28% do not know, and 6% had no opinion.
23	Average number of days for procurement cycle from tender advertisement to contract award.	The severity of risk is medium	Open domestic 180 days; open international 141 days, Restricted domestic 74 days, Restricted international 57 days, RFP/RFQ 68 days; direct 43 days, Not indicated 62 days
24	Opinion on effectiveness of mechanisms to engage with relevant organizations or agencies.	The severity of risk is low.	Engaging with regulatory effectiveness is at 41.7%; engaging with entities: effective at 69.1%,
25	Average number of tenders submitted in each process.	The severity of risk is medium	The average is 4.4.
26	Evidence in contracts surveyed that contract administration is timely.	The severity of risk is high	No substantial data was provided to determine this indicator due to poor record keeping.
27	Percentage of contracts that include adequate dispute	The severity of	33% had dispute resolution provision, 36% did not and there

No	Indicator	Status and Trend	Performance Data
	resolution procedure.	risk is medium.	were no record to determine 31 % of the cases.

Limitations of the exercise

The limitations and Constraints of assessment include: [a] Many entities failed to provide the minimum number of the targeted forty (40) procurement files. [b] Even the procurement files that were provided lacked some of the required data and information. [c] The assessment coincided with the end and beginning of financial years, and therefore found the entities quite busy with closing the financial year and budgeting and preparing for the next one. [d] Some of the targeted respondents could not be easily accessed, while others were usually busy with their duties so they could not attend to the interviewers at all or would prefer to respond when they had time which meant repeated visits. e) Some targeted respondents were unwilling to participate in the assessment which meant time and resources were being wasted in approaching them.

The outstanding weaknesses in the Procurement system:

Poor record keeping: The record keeping and establishment of adequate procurement transaction files is poor across the board. Some indicators could not be assessed adequately due to lack of adequate and reliable data and information. Even the data and information that was accessed by the assessor could only be obtained after many unsuccessful visits to the entities. There is need to urgently and critically deal with the challenge of provision of reliable, transparent and timely data and information.

Contract Management: The realisation of the value of successful tender process and the inherent value for money in procurement is in the successful contract implementation. The adequacy and reliability of the statement of requirements in meeting the need for the procurement is finally tested through contract management process. In order to improve on contract management, there is need to enforce the appointment of a contract manager in all cases. However this should be accompanied with a capacity building development programme in contract management for the user department to improve the contract management.

Rate of non responsive bids: Data for indicator 11 shows that high percentages of bids are rejected as non responsive. This is attributed to failure of entities to prove compliance with their tax obligations and not having audited books of Account for the last 3 years. The technical and commercial competition should be considered as a prerequisite for a bid to be considered responsive and then demonstration of compliance with taxation and other similar requirements could come after.

Public perception of tender evaluation confidentiality: The public perception of the tender evaluation confidentiality is low. There is need to improve on confidentiality perception not only on evaluation but the entire public procurement.

Rotational use of prequalification list: The rotational use of a prequalification list across the board is poor. Some pre-qualified providers never get invited at all to bid, while others are repeatedly invited and accessing contracts repeatedly. There is need to encourage a systematic rotation and to increase the minimum number of bids to be invited from 3, to at least 5 to offer business opportunity to more pre-qualified providers.

Dispute Resolution Mechanism: The main concern is with the Local Purchase Orders (LPOs). The LPOs being used at the entities are not standardised with clear dispute resolution mechanism provisions. There is need to standardise all LPOs the various entities are using. The standardisation should include the provision of adequate dispute resolution mechanisms.

The following comments may improve the development of the CPIs tools and their applicability.

Flexibility and Country specifics: The application of the CPIs should be determined on a country by country basis taking into consideration the specific capacities and issues that exist in the country and the decisions of those participating in the assessment. This approach avoids the usual challenges of international standardizations that do not recognize local conditions.

Capacity Building: The understanding behind the CPIs assessment is to provide a basis upon which each country can formulate a capacity development plan to improve its procurement system. Similarly development partners can use the common assessment to develop strategies for assisting the capacity development plan and to mitigate the risks in the individual operation. The capacity building approach should be used to eliminate multiple procurement practices and mainstream best practices into “one country procurement practices” with all the international best practices and local capacity.

Updating Information Trend Analysis: The tool provides for regular reviews for updating information, monitoring trends and providing basis for better projection and predictability. The lessons from the first assessment shall enable the next assessment to be better and also to provide trend analysis showing progress, rate of change in progress and the direction of progressions.

Countries Benchmarking: The CPIs assessment shall enable the participating countries to benchmark their performances in procurements. This shall enable learning from best practices amongst themselves. Therefore, there shall be need to promote sharing of the CPIs Assessment Reports either through the OECD-DAC round table, or through publishing on a website or any other appropriate means.

Clarity: Some indicators are vague. For example 24 and 26 are not clear. Therefore, there is need for more clarity in some indicators by either splitting them or/and eliminating vague ones.

1.0. INTRODUCTION

1.1. Preamble

The effectiveness, efficiency and transparency of procurement are an aspiration and concern of Government of Uganda and the International development partners. All have recognized that increasing the effectiveness of the use of public funds, including development assistance requires the existence of an adequate national procurement system that meets international standards and that operates not only to deliver public goods / services but also ensures value for money. Therefore the Government of Uganda and the international development partners have been working together since 2000 to reform the public procurement system that culminated into the enactment of the PPDA Act 2003, the Regulations and Guidelines.

Under the auspices of the joint World Bank and OECD Development Assistance Committee (DAC) Procurement Round Table initiative, developing countries and bilateral and multilateral donors worked together to develop a set of tools and standards that provide guidance for improvements in procurement systems and the results they produce. The Round Table initiative culminated into a commitment for the adoption and further development of the methodology for application of the baseline indicators and associated compliance and performance indicators.

The latest version of the methodology is version 4 and was released in July 2006. The methodology for assessment of national procurement systems provides a common tool which developing countries and donors can use to assess the quality and effectiveness of national procurement systems. The understanding is that, the assessment will provide a basis upon which a country can formulate a capacity development plan to improve its procurement system. Similarly, donors can use the common assessment to develop strategies for assisting the capacity development plan and to mitigate risks in the individual operations that they decide to fund.

The long term goal is that, countries will improve national procurement systems to meet internationally recognized standards enabling greater effectiveness in the use of funds to meet country obligations. The methodology is being field tested in a number of pilot countries. Uganda was selected to be amongst the pilot countries. It should be noted that the methodology and tools presented have capacity development as a core objective and progress is dependent upon country ownership and commitment.

The methodology for assessment of the national procurement system is intended to provide common tools which developing countries and donors can use to assess the quality and effectiveness of the national systems. The working group developed two types of indicators, the Baseline Indicators (BLIs) and Compliance and Performance Indicators (CPIs). The BLIs deals with the formal and functional features of the existing system. While CPIs deal with monitoring performance data to determine level of compliance with formal system. In general, the precedence used in the development and use on the tools is that there is a supreme legal instrument which is an overarching one, that there are regulations that provide further detailed legal interpretation and that there are detailed procedures for implementation of an administrative nature. In Uganda, the formal system and legal framework is established by the PPDA Act 2003, the PPDA Regulations 2003 and the various

guidelines.

The CPIs deal with how the system actually operates. They are closely related to the application of the legal regulatory framework and the prevailing procurement practices in the country. The CPIs look at what is happening on the ground by examining a sample of procurements transactions and other relevant information that is deemed representative of the performance of the system.

The application of the CPIs relies on data obtained from a representative sample of contracts and information obtained through interviews or surveys with stakeholders in the procurement system. Interviews or surveys are required in matters for which hard statistical or factual information cannot be obtained or in cases where perceptions on how the system operates are critical to its competitiveness and transparency. For assessing the CPIs, the assessor obtained information from samples of relevant procurement processes and from the surveys or interviews.

The CPIs alone cannot give a full picture of a procurement system that is by its nature complex. They must be seen as a tool used to identify in broad terms the strengths and weaknesses of the system and as support for a more thorough analysis. Moreover, several indicators are not amenable to hard measurement in terms of facts and figures and assessing their performance is better accomplished through detail surveys.

1.2. Purpose of the exercise

The purpose of the exercise was to assess the Compliance and Performance Indicators (CPIs), for the Ugandan procurement system, as spelt out in the version 4 of the methodology for assessment of national procurement systems. The indicators are intended to provide harmonized tools for use in the assessment of procurement systems. The indicators are designed for use in the assessment of the central government or national procurement system. The methodology for application of the indicators has been designed to enable a country to conduct a self-assessment of its procurement system to determine strengths and weaknesses, or to help development agencies, like PPDA to carry out joint or external assessment of a country's procurement system.

The information resulting from the assessment supports the potential for design of harmonized capacity development and reform initiatives intended to address weaknesses associated with the procurement system. The assessment provides Uganda with information it can use to monitor the performance of its system and the success of the reform initiatives in improving performance. In identifying weaknesses in the current system in the country, donors are also provided with information that will help them determine risks to the funds they provide.

In order to provide for flexible application of the CPIs as suggested in the OECD-DCA / World Bank Methodology, it is suggested that the extent of application of the CPIs will be a decision made at the Uganda country level in a possible discussion between the government and donor partners who are active in the country. This is based on the consideration that there is no single model for a procurement system and that different models have developed throughout the world that work well within a particular political, institutional, cultural or political setting. Thus the focus for

Uganda is to assess how the model of the PPDA Act 2003 works in terms of outcomes and results, the trust and confidence that participants and society have in the system, and how efficiently it meets the social and economic objective of efficient public expenditure that ensures value for money.

1.3. Updating the Information

The assessment tool has been applied for the first time through the assessment. The OECD-DCA/World Bank Methodology recommends that it should be conducted to create a baseline that allows a continuous monitoring of progress of the system improvements. The OECD-DCA / World Bank Methodology also included Benchmarking, Compliance and Performance Sheet to allow for easy recording and updating of progress as it occurs. It recommends that, as a minimum, a full update of the assessment tool should be performed whenever major changes in legislation or other substantive elements of the system are made. However, there should be regular updating of the CPIs information for monitoring and evaluating progress with a view of making the necessary improvement.

The assessment was conducted to create an appropriate baseline of CPIs and to ease future updating of the Uganda Country CPIs on a regular basis. Endeavors were made to collect as comprehensive data as possible, appropriately analyze them and draw progressive conclusions and recommendations. Attention has been given to the testing the application of the OECD-DCA / World Bank Methodology and indicators with a view to make recommendations for an appropriate application in Uganda.

The legal framework in Uganda, the PPDA Act, came into existence on February 23, 2003 and through provision of section 98(3), 12 months (up to February 22, 2004) was allowed for transitions into full operations of the legal framework. The study further considers that from February 23, 2004 to June 30, 2005, the transition is consolidated. Therefore, the Financial Year 2005/06 commencing on July 1, 2005 to June 30, 2006 was proposed and considered as the Baseline year from which future update of the information shall be done. As shall be seen from the results of the assessment, it is apparent that the country is still in a transitional process to fully adopt procurement best practices.

1.4. Benchmarking, Compliance and Performance Sheet

Annex 1 of the OECD-DAC / World Bank methodology contains a Benchmarking Compliance and Performance Sheet format. The assessment report summarizes the scores for each one of the baseline indicators entered and the results of the performance assessment. There is a column for the brief description of the situation that justifies the proposed score in each baseline indicator or where the results of each compliance indicator are explained. The Sheet provides broad overview of the system. The Benchmarking, Compliance and Performance Sheet have been appropriately filled.

1.5. The Pillar Categorization

In accordance with Annex 1: Benchmarking Compliance and Performance Sheet, of

the OECD-DCA/World Bank Methodology for the CPIs Assessment of National Procurement Systems, there are the following four (4) pillars:

- ◆ Pillar I: Legislative and Regulatory Framework;
- ◆ Pillar II: Institutional Framework and Management Capacity;
- ◆ Pillar III: Procurement Operations and Market Practices;
- ◆ Pillar IV: Integrity and Transparency of the Public Procurement System.

The Report has carefully categorized the findings and recommendations in accordance with the above pillars. This is particularly important since the OECD-DCA/World Bank Methodology is being developed and field tested in a number of pilot countries with Uganda being one of them.

1.6. Assessment Report

One of the main objectives of carrying out the assessment and following the methodology is to provide Uganda with a tool that can be used to formulate programs to improve national procurement systems and align them with internationally accepted good practices. The assessment process also has provided a unique learning that shall promote the continuous capacity development opportunity for government and donor alike. A narrative analytical report has also been provided on each indicator, providing context to the assessment and providing the evaluation of the entire system and of the status of individual indicators assessed. Since this is the first and pilot assessment, it has created the basis on which future assessment shall be conducted and progress assessed.

The Report covers twenty seven (27) CPIs for Uganda and a review of the tools, its usefulness and applicability. The outline of the report is as follows:

- An Executive Summary provided overview of the assessment report against the four pillars. It provides a quick highlight of the strengths and weaknesses of the system, their relative importance, the major risks identified and their likely consequences for the efficiency of the system.
- An introductory section covering Chapter 1 & 2, which presents the background of the assessment, its scope and nature, the limitations encountered for the assessment and any other matters that are essential to understand the context and circumstances of the assessment.
- Chapter 3 that describes: a) the country context; b) the nature of public expenditure and the links with the budgetary and control mechanisms and; c) the procurement system and its links with the rest of the public sector. Describing the setting of the procurement system and the key actors and their roles in the operation of the system
- Chapter 4 that discusses the findings of the assessment in relation to each one of the pillars and the indicators. Discusses the assessment of outstanding weaknesses in the procurement system, with regard to the risk such weaknesses may pose to the system and suggestions as to how to keep these risks at an acceptably low level.
- Chapter 5 provides comments on the applicability of the tools since they are being

piloted. This discusses how good the tools are and pointing to areas that need improvement. Identifies and Analyses the legal provisions against each indicator. Make recommendations for the adoption and application of the Compliance and Performance Indicators in Uganda.

The report has gone beyond the mere assessment of the system and compiling data on the twenty seven (27) indicators.

2.0. THE METHODOLOGY, WORK PLAN AND THE ASSESSMENT

2.1. The Methodology Strategy

The assessment was conducted through a 4-points methodology strategy which is as followings:

- Planning, Preparation, and Inception Report;
- Data Collection;
- Production of Report and Approval; and
- Management and Quality assurance.

The methodology was framed in accordance with a Work Breakdown Structure strategy. The objective was to categorise the Terms of Reference items into a “critical mass” areas that relates to the proposed output and capabilities for effective and efficient delivery on the assignment. The methodology was based on the targets of: [a] the shortest optimum time of delivery with, [b] the best cost and economy offers that, [c] delivers highest quality possible in the assignment, [d] that is comprehensive and integrate all relevant issues into the out put as, [e] a strong contribution to ensure value for money in the report to be produced.

Work Breakdown Structure strategy facilitated the assessment implementation control. It was developed within a hierarchical results-based Work Breakdown Structure. Each of the major planned outputs of the assessment was identified as a component in its own right in critical linkage with others. For each component the activities and tasks to achieve the desired results of the component were detailed. This work breakdown structure provided the basis for developing a detailed management work plan as part of the Inception Report. The advantage of the work breakdown structures made the tracking of all activities, tasks, assignment their status and intervention required at any given time possible.

2.2. Planning, Preparation and Inception

At this stage, the indicators were divided into two categories; those that could be assessed using information available to PPDA as well as those that required surveys for their assessment. A Consultancy firm was procured to assist in the assessment of those indicators where data to assess them was not immediately available to PPDA.

The Consultant used various qualitative and quantitative data collection tools; data analysis tools, and draft report format was presented and approved by a team from the PPDA. There was testing of the various data collection and data analysis tools to ensure that the approved tools are appropriate and ensure value for money. There was a literature review particularly of the OECD-DCA/World Bank Methodology for the CPIs Assessment, the PPDA legal framework, relevant reports and documents to inform the data collection and analysis tools.

The sampled entities were categorised into a 3 clusters as follows:

The detailed list of entities in each cluster is in the table below.

	Entity	Location
Cluster 1		
1	Civil Aviation Authority	Entebbe
2	Ministry Of Agriculture, Animal Industry & Fisheries	Entebbe
3	National Medical Stores	Entebbe
4	Ministry Of Works	Entebbe
5	Butabika Hospital	Luzira
6	Ministry Of Water And Environment	Luzira
7	Mulago National Referral Hospital	Mulago
8	Ministry Of Health	Wandegeya
9	Ministry Of Public Service	Wandegeya
10	Makerere University	Makerere
11	Uganda Wildlife Authority	Kamwokya
Cluster 2:		
1	Inspector General Of Government	IPS Building
2	Ministry Of Energy And Mineral Development	Amber House
3	Ministry Of Finance And Economic Development	Treasury Building
4	Ministry Of Foreign Affairs	Mofa
5	Ministry Of Local Government	Workers 'house
6	National Agricultural Advisory Services	Lumumba Avenue
7	National Social Security Fund	Workers' House
8	Office Of The Prime Minister	Clement Hill Road
9	Uganda Bureau Of Statistics	Statistics House
10	Parliament	Parliamentary Avenue
11	Rural Electrification Agency	Amber House
12	Uganda Communications Commission	Communication House
13	Prisons	Parliamentary Avenue
14	Auditor General	
Cluster 3:		
1	Ministry Of Internal Affairs	Jinja Road
2	National Environmental Management Authority	Jinja Road
3	Uganda Management Institute	Jinja Road
4	Electoral Commission	Jinja Road
5	National Housing And Construction Company Ltd	6 th Street
6	National Water And Sewerage Cooperation	Jinja Road

7	Uganda Police Force	Lugogo
8	Kyambogo University	Kyambogo
9	National Council Of Higher Education	Kyambogo
10	Uganda Revenue Authority	Nakawa
11	Makerere University Business School	Nakawa
12	Management Training And Advisory Centre	Nakawa
13	Uganda National Examination Board	Ntinda

Similarly, the personnel were categorised into a 3 part breakdown structure corresponding to the entities breakdown structure above with structured leadership and key personnel. The 3-clusters were supervised by the Contract Manager who provided leadership and was responsible for the overall Management and Quality Assurance of the team.

The methodology for assessment of Indicators that were objective and could be numerically obtained was done through review of sampled procurements and records assessment based on structured format as shown in **Appendix One**. To ensure random sampling and each quarter represented, the months of September 2005; November 2005; March 2006 and June 2006 were sampled for the identification of 10 procurements each to be reviewed.

For subjective indicators, perception surveys were carried out. Structured opinion survey through the interview format in **Appendix Two** was designed.

Data collection Guidelines in, **Appendix Three** was prepared for supporting the use of format in **Appendix One** and **Appendix Two**. Each of the assessment team members and their support staff were adequately oriented to the values and use of the three tools in the above mentioned appendices. The appendices formed the core instruments for data collections.

2.3. Sampling and Data Collection

Selecting an adequate sample of actual procurement processes for assessing performance was considered important for the credibility of the exercise. The reliability of information was based on reports or evaluation of information systems used to produce the reports. Emphasis was also placed on the systematic data collection to ensure that adequate and reliable data were accessed. An introductory letter from PPDA, copy in **Appendix Four** was distributed to the sampled entities to facilitate the entry and accessibility to procurement records. Thereafter, appointments were made for the assessors to review the sample files.

The assessment was targeting the sampled quarter months of September 2005; November 2005; March 2006 and June 2006 and 10 procurements per each of those months or in each of the quarters. The situation in most of the entities could not warrant the strict adherence to the planning and approach. Some entities either did not have 10 eligible procurement samples for the targeted months, or could not provide 10 eligible

procurements per quarter. The entities were therefore requested to provide all the eligible procurements files in the sampled year 2005/06. Only 11 of the sampled entities could produce at least 40 procurements for review. While 16 sampled entities could not produce more than 20 eligible procurements for review. Therefore in some 7 sampled entities, more than 40 targeted procurements were reviewed to increase the sample size. Using the format in **Appendix One** and the Guidelines in **Appendix Three**, the relevant data were collected.

Table1: The Distribution of the Respondents for the survey on perceptions was as follows:

No.	Category	Covered
1	Media	22
2	Providers	53
3	Civil Society	23
4	Politicians	19
5	Associations	23
6	Oversight Authority	7
7	Others	5
Total numbers of respondents interviewed		152

The other data was collected through procurement review. The procurement reviews were done using a structured format. The data collection coverage is as follows:

Table 2: The Distribution of the Procurements that were reviewed

No	Entity	No. Covered
1	Ministry of Works	45
2	Ministry of Agriculture, Animal Industry and Fisheries	49
3	Uganda Wildlife Authority	23
4	Ministry of Health	14
5	Makerere University	43
6	Public Service	40
7	Parliament	14
8	Uganda Bureau of Statistics	6
9	Ministry of Local Government	24
10	Civil Aviation Authority	40
11	National Medical Stores	21
12	Mulago National Referral Hospital	40
13	National Social Security Fund	34
14	Uganda Prisons	55
15	Ministry of Foreign Affairs	10

16	Auditor General	5
17	Ministry of Finance, Planning and Economic development	43
18	Ministry of Energy & Mineral Development	12
19	Rural Electrification Agency	10
20	Uganda Communications Commission	6
21	Office of the Prime Minister	34
22	Inspector General of Government	16
23	Uganda Police Force	43
24	Butabika Hospital	43
25	National Water and Sewage corporation	29
26	Kyambogo University	19
27	Electoral Commission	40
28	National Council for Higher Education	10
29	National Environmental Management Authority	8
30	Uganda Management Institute	5
31	Uganda National Examination Board	10
32	Uganda Revenue Authority	20
33	Ministry of Internal Affairs	6
34	National Housing And Construction Company Ltd	20
Total		837

The total numbers of entities in the country is 105, and the assessment covered 37 of them representing 35% of the total number. Data from 3 entities visited was not directly useful in assessing the indicators though they provide different reflection of the procurement system in the country. The three entities are:

No	Entity	Remark
1	Management Training and Advisory Centre	Only had micro-procurements
2	Ministry of Water and Environment	It is a new entity created after the 2006 General Election. They could not provide any data
3	National Agricultural Advisory Services (NAADS)	Their procurement follows the PPDA Act 2003 together with another arrangement provided for under their “Basket” funding agreement that require them to conduct procurement in accordance with the World Bank Guidelines. Their practices cannot be comparable with the other samples

Table 3: Entities visited without useful data for the assessment and the reasons

2.4. Data Capturing, Inputting and Analysis

After the data collection, the data was captured using forms in **Appendix One** and **Appendix Two**. Each of the data forms that were filled was reviewed by the Team Leader and the Contract Manager to ensure its eligibility for admission as reliable and credible data. There was a designated Data Management Team consisting data entry

clerk, a statistician and a procurement specialist who handled data inputting and analysis. The Contract Manager was the supervisor of the data inputting and analysis. The procurement specialist was in the Data Management Team, to support and ensure that the coding of information did not distort the data.

The eligible data was entered into Epi Info data files using various codes for ease of analysis and inputting into another programme. The analysis was done through Epi Info; SPSS, STATA and excel, depending on the nature of the data, the analysis required and the expected outcome.

2.5. Reporting, Assessment Management and Quality Assurance

Effective management was considered crucial in ensuring that the Assessment personnel achieved the objectives on time and produced high quality outputs. The Contract Manager was responsible to the PPDA for the management of the Assessment, the performance and outputs, and interaction with the PPDA representatives and other major stakeholders, and also in charge of productivity. The Team Leader was responsible to the Contract Manager for the handling and coordination of the field activities, actual assessment activities and the performance of the assessment personnel.

Quality assurance program was an integral part of the way assessments were managed. The quality of our work was considered to be the degree to which the objectives of effective and efficient data collection and analysis were met. Quality assurance was not achieved efficiently simply by checking for errors and omissions after the work was already completed and resources expended. Rather, it was the establishment of ongoing, embedded procedures and checks that strive to correct potential errors before they happen.

Indicators 13, 22, and 24 are subjective and perception based. The assessment was done through: [a] structured Interview based on sets of specific questions administered to 152 eligible respondents. The sampling and selection was done to ensure that those with critical experiences are chosen. The indicators required reliable and accurate assessment of public perceptions and opinion. Some questionnaires reports for some individuals were rejected during quality assurance review for they were found not reliable, adequate and representative.

The other indicators required quantitative accurate and reliable data. The availability, reliability and integrity of records and data accessed, needed careful considerations. The lack of critical focus on them could have impeded a full and quality assessment of the CPIs. The challenge was appreciated and a system was put in place to ensure that there was adequate quality assurance. The key likely risks considered that could affect the quality were; inaccurate and unreliable data collections, and analyses were considered. The several measures were used not only to mitigate the likely risks, but to also enhance the quality, integrity; accuracy and reliability of the report of the assessment are as follows:

- **Sampling:** The selection of samples representative of the Uganda country CPIs was crucial. Care and due diligence was undertaken to ensure that the sampling procedures ensured quality. For the opinion survey, the targets were to access critical and key respondents. For the sampled procurements, since the total numbers of the cases accessed were lower than the targeted samples, all the available eligible cases provided were reviewed.
- **Data Collection Instrument:** The appropriateness, applicability and focus of the data collection Instrument to ensure that the right, accurate and adequate data was accessed and collected was crucial. Information triangulation principle was used to ensure crosschecking and eliminations of bias and errors. The data collection instrument in **Appendix One** and **Appendix Two** were field tested to ensure that they were appropriate through necessary adjustments.
- **Data Collection Process:** The process of collection of accurate, relevant and adequate data was crucial for the assessment process. To ensure that the data collection process enhances the quality of the assessment, the assessment breakdown structure, with adequate supervisions and information flow system and controlled was applied.
- **Human Factors:** Human related errors and mistakes were considered as a likely impediment to the assessment process. To ensure that the human factor positively enhances the quality assurances, the selection and deployment of personnel in clusters working as a team was used. This was followed by adequate induction and harmonization meeting; regular weekly review meetings; close supervisions and multiple crosschecking of information.
- **Accuracy and Adequacy of Data:** The collection of objective indicators' data based on records and documents of the sampled procurement and any other, only official and authorized documents were used to ensure accuracy. The interviews were conducted by two persons at a time to ensure that accurate and adequate data are captured. The records that were provided by PPDA show that there are 105 entities. 37 samples of the entities was considered adequate, to validate the assessment. The total number of procurements reviewed was 837, adequate to substantially validate the assessment. The validity can be reviewed against this background that 100% of all the procurements provided by the sampled entities, were reviewed.
- **Data Processing and Analysis:** The accurate and adequate data collected from the field can only be useful in the report if appropriately processed and analyzed. This was done through accurate data entry, archiving, control and retrieval system, and adequate system. This was assured through the establishment of the Data Management Team Consisting of data clerk, procurement specialist and a statistician under the direct management of the Contract Manager. Appropriate computer programmed packages were applied as and when it is appropriate.

2.6. Limitations and Constraints of the Assessment

The success of the assessment was limited and constrained by the following factors:

- **Sampling and Sample Size:** From the assessors' point of view, there was technically no sampling done beyond the sampling of the entities to be covered and the financial year 2005/06 to be assessed. All the procurement samples reviewed were those procurement files availed by the sampled entities. This did provide some limitation and constraints to the assessments of the indicators. However, it should also be noted that the target of 40 procurement samples was an overly ambitious target for some entities since the numbers of eligible procurements could not reach 40. While one can argue that the sampled entities were hoarding procurement cases with critical indicators, to avoid negative reflection, the other side of the argument is the actual poor record keeping that they could not assemble and hand in adequate samples.
- **Accuracy and Adequacy of Data:** For the procurement sample, while the data accessed appears fairly reliable, all the files reviewed lacked a lot of data that was required and therefore the adequacy of data was limited and constrained. For example all contract management data was lacking. The entities failed to provide payment and contract management information to enable the assessor to review four (4) indicators. Generally, the procurement transaction records keeping are quite limited and have significant gaps. This limited and constrained the assessment of the affected indicators.
- **Access to Procurement Files:** Access to sample procurement files was constrained due to: [a] poor record keeping by the entities. Each entity wanted to be given time to organize their procurement files first; [b] Misconception and misinterpretation of the exercise by the entities to mean an investigation to find fault. [c] In some entities, the exercise coincided with other activities; i.e. A PPDA audit exercise, while in some instances there was an ongoing World Bank activity, in other cases, the Auditor General's officers were conducting audits in an entity, or had just left; [c] the assessment coincided with the end of the financial year which implied that the entities were engaged in closing the financial year, budgeting and preparing for the next financial year. Therefore the entities could not adequately and promptly provide documentation of the procurement transaction for review. This limited and constrained the assessment.
- **Respondent:** For the perception survey the constraints included: [a] Some of the targeted respondents could not be easily accessed; [b] Some of the respondents were usually busy with their duties so they could not attend to the interviewers at all or would prefer to respond when they had time which meant repeated visits; [c] Some targeted respondents were unwilling to participate in the assessment which meant time and resources were being wasted in approaching them; [d] Some of the respondents approached had not heard about the procurement reforms and knew nothing about the public procurement in the country and can not distinguish between PPDA regulatory functions and those of the entities. Others did not even know about

the structures and operations system of public procurements. At least 18% of the responses could not be input and analysed because information provided was not useful for the purpose of this assessment exercise and their inclusion would have introduced an unnecessary bias.

Despite all the above limitations and constraints, the data accessed, categorized, analyzed was adequate for the purpose of the assessment. The data collected and analyzed provide good overview of the compliance and performance indicator in the country for improving capacity development. Above all the assessment was effective in piloting the OECD-DAC/World Bank Methodology. The data collected and experiences encountered enable the successful establishment of the Financial Year 2005/2006 as the Baseline year with which successive years' progress can be targeted and assessed based on the data reviewed during the assessment.

3.0. UGANDA COUNTRY PROCUREMENT CONTEXT

3.1. Uganda National Information Sheet

Location	East Africa, Africa
Longitudes	29 ⁰ 34'E & 35 ⁰ 0
Latitude	4 ⁰ 12'N & 1 ⁰ 29'
Total surface Area	241,550.6 km ²
Arable Land	197,097 km ²
Irrigated Land	43941 km ²
Area under water & swamps	46,669 Km ²
Countries Bordering	Sudan, Kenya, Tanzania, Democratic Republic of Congo and Rwanda
Climate	Temperature 15 ⁰ -30 ⁰ C, Rainfall 600 – 2,000 mm/year
Altitude(ASL), Minimum Maximum	620 meters, 5110 meters
Natural Resources	Air, water, land, climate, plants and animals
Population (2005 UBOS projection)	27.2 million
Population Growth Rate	3.4%
Birth Rate	Average of 7 children per woman
Infant Mortality Under 5	82: 1,000
Maternal Mortality	506 : 100,000
Life Expectancy	48.1 years
HIV/AIDS Prevalence Rate	6%
Literacy Rate	70%
Religion	Protestants, Catholics, Moslems, Pentecostal, orthodox, African traditional believers
Official Languages	English, <i>Kiswahili</i>
GDP (2005)	Shs 15,134 billion
Income per Capita (2005)	Shs 570,000 (\$ 330)
Inflationary Rate	6.5%

3.2. The Country Context Overview

In Uganda, the public sector management and economic situation revolves around the Poverty Eradication Action Plan, (PEAP). The first covered 2000/1 – 2003/4. The second PEAP covering the year under the CPIs assessment 2005/06 is the PEAP 2004/05 – 2007/8. The second PEAP is grouped under five Pillars:

- Pillar 1: Economic management;
- Pillar 2: Production, Competitiveness and Incomes;
- Pillar 3: Security, Conflict-Resolution and Disaster-Management;
- Pillar 4: Good Governance; and
- Pillar 5: Human Development.

Under Pillar 1: Economic management, the country has experienced economic growth averaging 6.5% per annum since 1991/92. The structure of the economy has been changing, as the share of agriculture fell from 51% in 1991/2 to 39% in 2002/03. Government aims to boost growth from 6.5% to 7% over the medium term through:

- Removal of bureaucratic barriers to investment
- Improvement in transport infrastructure and utility services
- Modernizations/commercialization of agriculture through value addition
- Actions to improve rural access to financial and the SMEs development
- Actions to enhance environmental sustainability
- Security in Northern Uganda
- Continuous focus on HIV prevalence reduction and impact mitigation

The objectives of macroeconomic management are inflation control and private sector-led growth. The public sector deficit has risen from 6% in 1997/8 to over 12% in 2001/2. There is a programme to reduce the deficit to 6.5% of the GDP by 2009/10 and keep it constant thereafter. Domestic revenues were funding 79% of government expenditures in 1997/8, but this fell to 60% in 2001/2. The ratio of NPV to exports has risen to 305% compared to the level achieved at the time of the HIPC debt relief of 150%. The domestic debt was 1% of the GDP in late 1990s but rose to 10% by 2004.

In view of the consequences of an excessive deficit, Government is focusing on enhancing the quality rather than the quantity of public expenditure, so that the deficit reduces. At the same time working with its development partners to improve the modalities of external support, placing particular emphasis on budget support grants, where those for procurement shall be expended through the PPDA established legal framework.

Under Pillar 2: Enhancing production, competitiveness and incomes, the government is striving to restore growth in rural incomes. To promote competitiveness, government will aim at increasing the ability of firms to innovate and adapt to new technology, thus increasing the ability of the private sector to profitably increase market share. Action to promote production, competitiveness and incomes are guided by the policy framework of PMA, MTCS and SEP.

Under Pillar 3: Security, Conflict-resolution and disaster management, the army will be equipped and transformed as guided by the Defense Review, based on the analysis of future security threats and in accordance with resources. This shall include initiatives that are intended to assist areas recovering from disaster and insecurity.

Under Pillar 4: Good Governance, focusing on democratization; justice, law and order; and managing the public sector. This includes the reforms of criminal and commercial justice to be more efficient and effective. There is recognition of improvement in public accountability, though perceptions about corruption remains high. The government would like to build better monitoring and financial controls through the Integrated Financial Management System, procurement reforms, and the publication of transfers to local governments. In investigating and action against corruption, Government is acting on the findings of commissions of inquiry and in

addition, government will expand public information strategies in all sectors.

However, there are concerns of challenges to human resource management in the public sector, including the gap in pay between public and private sectors and between public sectors and autonomous agencies; excessive use of consultancy in some sectors; inadequate supervision; staff absenteeism; inadequate projection of the impact of the HIV/AIDS epidemics on human resources requirements; weak management of the payment and of training and arrears in pension and terminal gratuities. Government is undertaking reform to strengthen performance management through implementing ROM, enhancing capacity in the context of sector strategies, addressing the pay reform strategy, focusing on job evaluation targets of technical cadres and preventing purchasing power of public salaries, and strengthening efficiency and cost control.

Under Pillar 5: Human Development, the country considers that a healthy and well-educated population is both a necessary condition for development and one of the central objectives of development. The focus is on education, health, water supply and other social services.

In Public expenditure to implement the PEAP, since 1997, achievements included the development of sector programmes, expansions in services delivery, and some improvement in efficiency. Challenges that continue in the country include weak implementation capacity, lack of discipline, the development of high cost capital projects, profligacy in some autonomous agencies, and imperfect targeting of services to the poor. In improving the implementation of PEAP, government set the following criteria amongst others to be used in public expenditure:

- Ensuring service delivery is maintained.
- Continue with infrastructure development programme.
- Better prioritized allocation and expenditure.
- Cut back on areas of waste.
- Account for possible increases in unit costs.

The major challenges of M&E include weak coordination arrangements, parallel M&E efforts, poor public management culture, gaps in information, and underused information. Government has developed the National Integrated Monitoring and Evaluation Strategy to address the problem.

3.3. The Country Procurement System

The Public Procurement system in Uganda was centralized and had been in operation for over 30 years without any significant review and reforms. All the procurements were done centrally. However, due to the size of government that had grown considerably over period of time and the challenges that centralized procurement system was characterized by several shortcomings, reform initiative was undertaken.

The Government of Uganda initiated reforms in the public procurement and disposal sector in 1997, following the enactment of the 1995 constitution and the demand for improved governance and public sector management. The reforms were initiated against the backdrop of lack of accountability and transparency and absence of a

culture of value for money procurements. The development partners also recommended to government to put in place appropriate public procurement practices based on international standards which are fair, transparent, competitive and non-discriminatory to all potential providers of goods, services and works.

In light of the above, in 1998, Government set up a task force comprising the Central Government ministries, the Private sector and the donor community led by the World Bank. The task force carried out several consultations and submitted its report in March 1999. The Central Tender Board (CTB) was abolished on March 1, 2000 then the National public procurement Unit (NPPU) was established as the Reformed Central Tender Board under the recommendations of the Reform Task Force. The report had several recommendations that formed the basis for the public procurement system in Uganda.

- (a) The establishment of a procurement regulatory body, the Public Procurement and Disposal of Public Assets Authority (PPDA). The Authority is a Regulating Entity, rather than a Procuring and Disposing body. Regulations, guidelines, forms, codes of conduct and standard bidding documentation complement the law. It was established as an autonomous regulatory body in accordance with section 5 of the PPDA Act, Part II of the PPDA Act and part I of the Regulations deal with the Authority.
- (b) The decentralization of public procurement operations to Procuring and Disposal Entities (PDEs) at central and local government levels; and creation of Contract Committees (CCs) and Procurement and Disposal Units (PDUs) in these entities;
- (c) The establishment of legal framework to [i] regulate the procurement practices; [ii] establish public decentralised procurement institutional framework with a regulatory body; [iii] the public procurement operations and market practices; and [iv] strengthening the integrity and transparency of the Public Procurement System.

The highlights of the above are:

- The Accounting Officer is directly responsible for the procurement function in the Procuring and Disposal Entities under his/her responsibility.
- PPDA was established as a regulatory body i.e. sets standards, monitors compliance, reviews procurement decisions, audits and investigates complaints by the contracting parties and builds capacity in procuring entities.
- The procurement and disposal function decentralized to each government entity under respective Accounting officers appointed by the Permanent Secretary/ Secretary to the Treasury in accordance to the law.
- Contract committees were set up in all entities to adjudicate and award tenders
- Procurement and disposal units were established and supposed to be staffed with procurement professionals to manage the procurement and disposal function.

The Public Procurement and Disposal of Public Assets Act 1 of 2003 was passed by Parliament in November 2002 and was assented to by His Excellency the President in December 2002. The law was gazetted in January 2003 and brought into effect by the Minister of Finance, Planning and Economic Development on 22 February 2003. The

Act set up an institutional framework that governs the public procurement practices. All government departments and other government-owned bodies are obliged to follow the law. The law emphasizes best practices including procurement and disposal principles, rules, complaints/appeal review system, Codes of conduct, as well as suspension of providers for offences and disciplinary measures against public officers who commit malpractices.

The law is also complimented by Regulations, Guidelines, Forms and Standard Bidding Documentation. These serve to assist the procuring and disposing entities and providers of services, supplies and works in carrying out procuring and disposing processes.

The Public Procurement and Disposal of public Assets Authority (PPDA)

It was established as an autonomous regulatory body in accordance with section 5 of the PPDA Act, Part II of the PPDA Act and part I of the Regulations deal with the Authority. The Authority is composed of five departments which are; (a) the corporate office, (b) legal and compliance,(c) Training and capacity Building (d) procurement Audit, inspection and investigation, and (e) Finance and Administration. The authority's functions can be summarized under four main headings:

- **Policy** functions, which include advising Government on procurement and disposal policy.
- **Regulatory** functions, which includes compliance with the law, issuing standard documents, granting exceptions to regulations where appropriate and audit/investigating breaches of the Regulations by procuring and disposal entities or providers.
- **Data management** functions, which includes maintaining a database of providers and other databases and organising a website and other systems for publishing procurement notices.
- **Capacity Building** functions, which includes setting standards for training and professional development of procurement staff and coordinating capacity building activities in the area of procurement and disposal.

The Procuring and Disposing Entities (PDE)

There are 105 procuring and disposing entities at the central government level to which the procurement function was decentralized. According to the PPDA act, 2003, each procuring and disposing entity is composed of; (i) an accounting officer, (ii) a contracts committee (iii) the procurement and disposal unit, and (iv) the user departments.

- i) **The Accounting Officer (AO)** is appointed by the secretary of Treasury, (PPDA Act, and section 26). He/She has the overall responsibility of the execution of the procurement and disposal process in the procuring and disposal entity.

The accounting officer performs the following functions:

- Establishing a Contracts Committee in accordance with the act.

- Appointing the members of a Contracts Committee.
- Causing to be established a procurement and disposal unit staffed at an appropriate level.
- Advertising bid opportunities
- Communicating award decisions.
- Establishing a Procurement and Disposal Unit.
- Communicating awards decisions.
- Certifying the availability of funds to support the procurement or disposal activities.
- Investigating complaints by providers.
- Submitting a copy of the complaints and reports of findings to the Public Procurement and Disposal of Public Assets Authority; and ensuring that the implementation of the awarded contracts is in accordance with the terms and conditions of the awards.

ii) **The Contracts Committee (CC)** is detailed in section 28-29 of the PPDA Act. It consists of a chairperson, a secretary and a maximum of other three members, (one who must be a lawyer) and it approves all procurements. A Contract Committee for each procuring entity performs the following roles:

- Adjudicating of recommendations from the procurement and disposal unit and award of contracts.
- Approving the evaluation committee.
- Approving bidding and contract documents.
- Approving procurement and disposal procedures.
- Ensuring that the best practice in relation to procurement and disposal are strictly adhered to by procuring and disposal entities.
- To authorize the choice of the procurement procedure, solicitation documents, technical and financial reports, contract documents and amendments to an awarded contract.
- To propose delegation of authority to the accounting officer whenever the need arises.
- To award contracts in accordance with applicable procurement or disposal procedures as the case may be.

iii) According to PPDA Act section 31-32 and Regulations 57-61, **A Procuring and Disposal Unit (PDU)** established are by the Accounting Officer to manage and execute all the procurement and disposal activities, support the contracts committee and advice the user Department. The specific roles of this entity include:

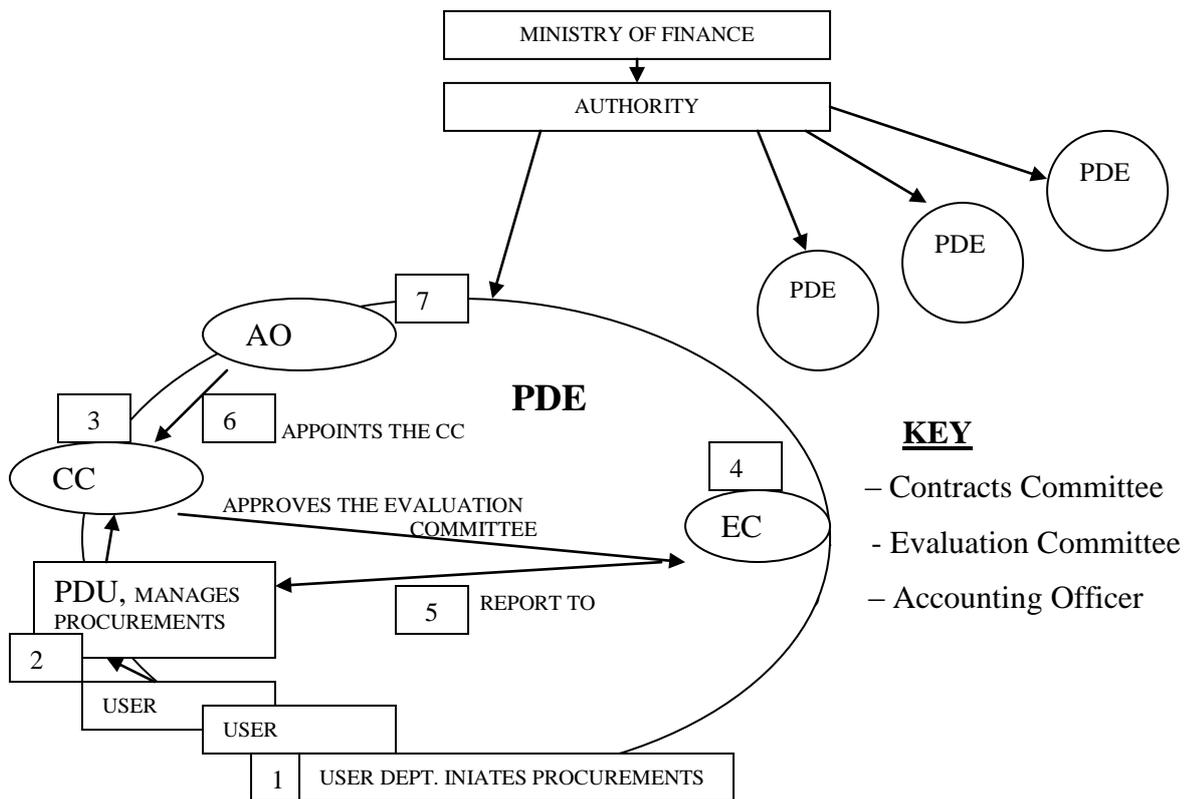
- Manage all procurement activities of the procuring and disposing entity except adjudication and the award of contracts.
- Support the functions of the Contracts Committee and implement its decisions.
- Implement the decisions of the Contracts Committee.
- Liaise directly with the Authority on matters within its jurisdiction.
- Act as a secretariat to the Contracts Committee.
- Plan the procurement and disposal activities of the procuring and disposing entity.

- Recommend disposal and procurement methods.
- Check and prepare statements of requirements.
- Prepare bid documents.
- Prepare advertisement of bid opportunities.
- Issue bidding documents.
- Maintain a providers list.
- Prepare contract documents.
- Issue approved contract documents.
- Maintain and archive records of the procurement and disposal process.
- Prepare monthly reports for the contracts committee.
- Co-ordinate the procurement and disposal activities of all the departments of the procuring and disposal entities.
- Prepare any other such reports as may be required from time to time.

iv) The functions of **the User department** according to the PPDA Act section 34 and its relation with the PDU in Regulations 57-61. The entire procurement process starts and ends with the end-user. The user department performs the following functions;

- Liaise with the PDU through out the Procurement and disposal process to the point of contract placement.
- Initiate procurement and disposal requirements and forward them to the procurement and disposal unit.
- Propose technical inputs and specifications to the PDU where necessary.
- Input with technical evaluation bids received as required by the procurement and disposal unit.
- Arrange for payments of the providers.
- Report any departure from the terms and conditions of an awarded contract to the procurement and disposal unit.
- Forward details of any required contract amendments to the procurement and disposal unit for action.
- Maintain and archive records of contracts management.
- Prepare any reports required for submission to the procurement and disposal unit, the committee or the accounting officer.

The current public procurement and disposal system in Uganda, (Source; PPDA Annual Report, 2005, pg 2)



v) On a case by case, the PDU nominates and contracts committee approves **the tender evaluation committee** according to the PPDA Act section 37. The entire procurement evaluation process is regulated through Regulation 168 to 217.

4.0. THE CPI ASSESSMENT FINDINGS

4.1. Introduction

This Report presents the part of the CPIs data for Uganda covering 27 indicators in addition to the review of other related issues. The application of the CPIs relied on data obtained from a representative sample of contracts and information obtained through interviews or surveys with stakeholders in the procurement system. For assessing the CPIs, the assessor obtained information from samples of relevant procurement processes from existing government statistics and from the surveys and interviews mentioned above. The indicators alone cannot give a full picture of a procurement system that is by its nature complex. They must be seen as a tool used to identify in broad terms the strengths and weaknesses of the system and as support for a more thorough analysis to be carried out.

4.2. Findings of the 27 CPIs.

Indicator 1: Percentage of procurements subject to the legislative framework being assessed (in volume and in number of contracts) carried out through open tendering.

From the monthly procurement reports submitted by entities to the PPDA, the total amount of funds that was spent on procurement in 2005-2006 is 1,277 trillion Ushs. Of this amount 319,450,175,000 was spent by way of open domestic bidding, while under open international bidding the sum was 102,222,597,880. The two methods therefore accounted for 33% of total procurements in the period.

Entities are required to submit their monthly reports to the PPDA for all procurements carried out during that period. In addition, central government entities are also required to submit quarterly reports on procurements above \$ 200,000. these reports are fed into a data base from which these statistics were generated.

Legal Provision: The legal frame work (PPDA Act and Regulations) establish the procurement methods under part vi of the PPDA Act and under part iv, division iii of the PPDA Regulations.

Section 80 of the PPDA Act also determines competitive procurement as the default method of procurement.

Comment: Given that open tendering is the default method of procurement prescribed by the law. The percentage of 33% as the share of procurements carried out through open tendering is low, it implies that less than half of all procurements are carried out through open tendering.

Recommendation: The Authority needs to enforce the requirement for entities to have procurement plans. This will cut on the number of emergency procurements that do not favour the use of open tendering.

Indicator 2: Percentage of [administrative review] cases resolved within the terms established in the legal framework.

All the 8 administrative review cases that were handled in the FY 2005/6 were

handled within the terms established in the legal frame work under part vii of the PPDA Act and under part ix of the PPDA Regulations. So under this indicator the score was 100%.

Legal provision: The grounds, time limits and submission of administrative reviews are well defined in sections 343, 344 and 345 of the PPDA Regulations respectively.

Comment: Given the few number of administrative review applications, it implies that level of awareness of this provision in the law could be low, rather than providers being comfortable with the outcomes of the procurement process. In that regard the Authority should step up capacity building among providers to let them know of provisions within the law for them to seek redress if they are not satisfied with the conduct of the procurement process.

Recommendation: The Authority should start thinking of having in place a separate body to handle the administrative reviews. As providers become more aware of the provisions within the law for them to seek redress, more applications will be received and the Complaints Review Committee who have other day to day activities could find it difficult to handle all these complaints in the required time.

Indicator 3: Number of staff involved in procurement in the central government that receive formal training in the year.

1,012 staff from Central Government received training in the financial year under review on the procurement law and good practices in procurement.

Legal Provision: Section 7 (c) of the PPDA Act and Regulation 11 of the PPDA Regulations spells out one of the functions of the ppda as that of training, setting standards and professional development of procurement cadre.

Comment: There is a training and capacity building programme under the PPDA that is run by the Training and Capacity Building Department that is sponsored by the UNDP. The programme carries out training at the request of the entities and on the initiative of the PPDA to address particular subjects of concern. There are 12 modules under the capacity building strategy in which staff at the central Government level that are involved in procurement will be trained.

Recommendation: The Training and capacity building programme should now be extended to provide on hands training in the procurement function to the procurement practitioners on top of the modules introducing the practitioners to the law.

Indicator 4: Average waiting time to get in a formal training event.

On average staff at the central Government level take up to 6 months to get in a formal training event organised by the PPDA.

Legal Provision: The PPDA law and Regulations are silent on the average waiting time for the procurement staff to get in a training event.

Comment: Every staff at central government level involved in procurement takes part in at least 2 training sessions a year. In addition to a training retreat that is held for procurement officers of Central Government entities ever year, these officers get at

least one more training arranged by the Training and Capacity Building department at PPDA.

Recommendation: As the number of procurement staff at the central government and local government levels grows, it may be difficult for the PPDA to continue providing adequate training to all of them. It is therefore better for PPDA to give adequate training to a few of the staff from each organisation so that they may pass on those skills to the rest.

Indicator 5: Number of procurement audit recommendations pending after one year. Of the 67 recommendations that were made in the procurement audit reports for the FY 2005/6, 24 were not implemented representing 36%.

Legal provision: The PPDA is mandated under section 7 (j) to institute procurement or disposal audits during the bid preparatory process, execution of contracts and performance audits after completion of the contract.

Comment: The Authority is required to carry out follow up on the entities where procurement audits were carried out to assess the level of implementation of the recommendations made in the procurement audits. However because of low staffing levels, follow ups in these entities has been minimal.

Recommendation: The Authority should step up on the number of follow up visits to entities where procurement audits have been carried out so that Entities may step up implementation of the recommendations made in the audit reports. The Millennium Challenge Corporation threshold country project which commences later this year will provide support for this activity.

Indicator 6: Percentage of complaints processed within the time limits in the legal framework

All the 8 cases handled by the Complaints Review Committee were processed within the time limits in the legal framework, thus representing a compliance level of 100%.

Legal provision: The Law under Regulation 347 (6) requires the authority to issue its decision in writing within 21 working days after receipt of the complaint.

Comment: The PPDA Board delegated its Authority to a Complaints Review Committee that meets regularly to listen to and make decisions on the merits of complaints received, this has enabled the complaints to be processed within the required time as members of this committee are staff of PPDA and can therefore be summoned at short notice to handle a complaint unlike the Board.

Recommendation: The Authority should explore ways of setting up an appeals body independent of the Authority. As the complaints become many, it may be difficult for all complaints to be handled in the required time given that members of CRC have other tasks they perform other than CRC tasks.

Indicator 7: Percentage of decisions taken through the appeals mechanism that are enforced.

All the 8 decisions that were taken through the appeals mechanism were fully enforced

Legal provision: This indicator is covered under Regulation 347 (7) (a) which requires the Authority to communicate its decision that includes the corrective measures to be taken.

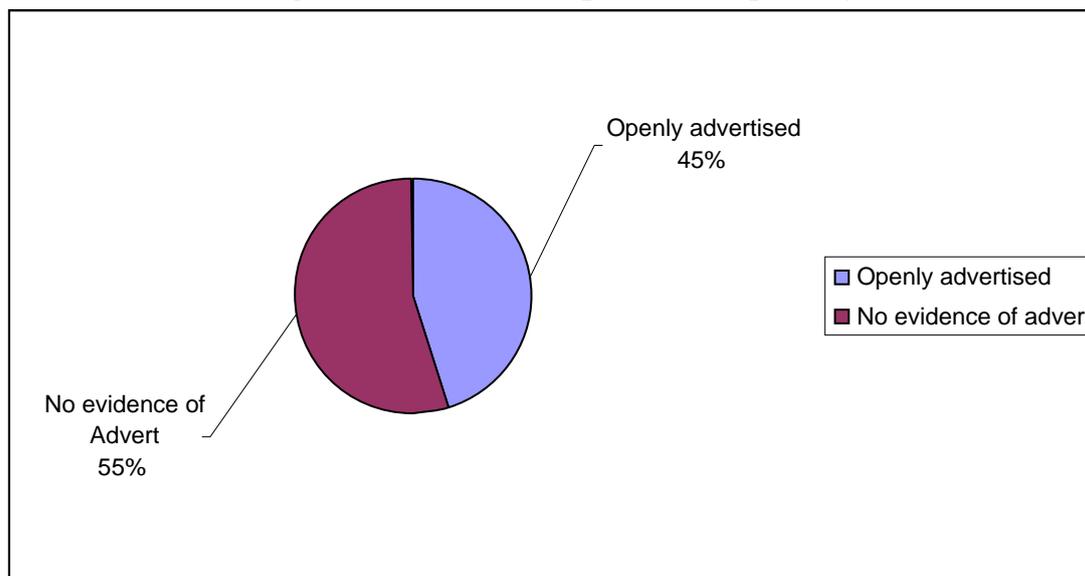
Comment: The Complaints Review Committee holds delegated authority from the Board to hear administrative reviews though the decisions are submitted to the Board for endorsement. Decisions of the Board are communicated to the accounting officers and the appellants. The law under regulation 347 (7) spells out that the decision of the authority shall indicate: whether the application is upheld or rejected; the reasons for its decision; and any corrective measures to be undertaken.

Indicator 8: Percentage of favourable opinions from the appeals mechanism

Of the 8 complaints handled, only 1 was appealed to the Inspectorate of Government, none was appealed in the courts of law. 87.5% of the opinions from the appeals mechanism were therefore favourable.

Comment: The Public Procurement and Disposal of Public Assets Authority has in place a Complaints Review Committee (CRC) that was set up by the Board and it handles all appeals and administrative reviews that come up to the Authority. If not satisfied with the Authority's decisions, complainants can take their grievances to the courts of law or the Inspectorate of Government, a body set up by the Constitution to fight all forms of corruption.

Indicator 9: Percentage of invitations for open tenders publicly advertised



Numbers of open tenders reviewed was 162, of which 73 representing 45% had evidence of advertisement in public media and 89 representing 55% had no evidence of adverts in the files reviewed. While the assessors did not find hard evidence of advertisement in 55% cases, the likely causes of this high rate is poor record keeping where copies of advertisements or any evidence was not filed or made available. The

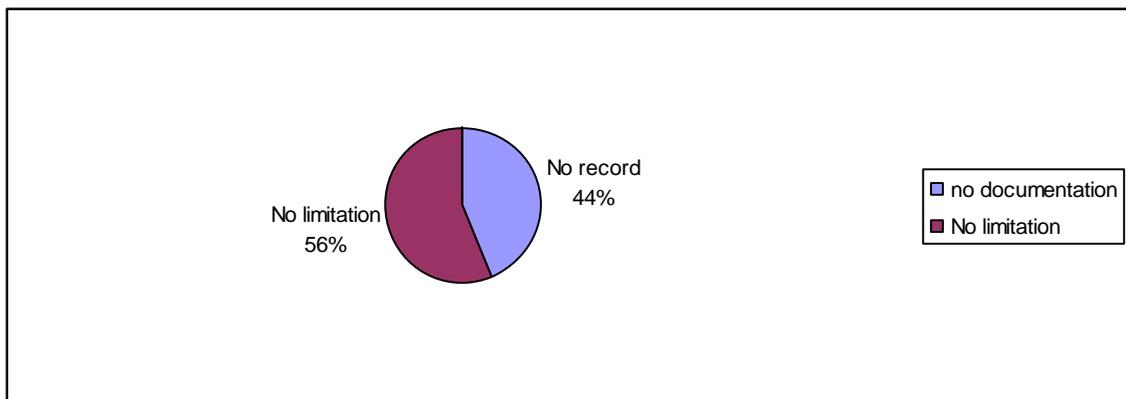
other unlikely situation is that procurements that were not open tendered were wrongly recorded as open tenders and presented as such to the assessors.

Legal Provision: The indicator is considered to be applicable to both domestic and international open tender as provided for in **PPDA Act Sect 80 and 81. Reg. 113 (2)** “Open domestic bidding shall be by public advertisement of a bid notice in at least one newspaper of wide national circulation.” **Reg. 114 (2)** “Open international bidding shall be by public advertisement of a bid notice in at least one publication which has a wide international circulation.

Comment: It is the considered view that whatever is not advertised publicly is not open tender, because the legal definition requires that open tenders must be advertised publicly and if it is not, then it can not qualify to be an open tender.

Recommendation: In Uganda’s case, the Indicator may be modified as “number of tenders by financial thresholds as provided for by the Guidelines Ref. No. 1/2003 that would have qualified for open tender as a percentage of open tender of the same FY.” This is important in line with the **PPDA Act Sect. 51** provide Open competitive bidding as default method of procurement. It is apparent that, there are significant procurements cases that should have gone through open tender based on the thresholds conducted through other methods, particularly the big works contracts in Ministry of works.

Indicator 10. Percentage of open tender documents that include provisions limiting participating for reasons other than qualifications or acceptable exclusions;



Total numbers of procurements reviewed were 162. 71 cases representing 44% had no documentation for the determination of the indicator. All the 91 cases with the documentation representing 55% had no provision limiting participation other than capability and legal requirements.

Legal Provision: Act Sect 44 “A bidder shall not be excluded from participating in public procurement and disposal on the basis of nationality, race, religion, gender or any other criterion not related to qualification, except to the extent provided for in this act”.

Comment: There are a lot of other procurements both by number and value which are done through other procurement methods other than open tender.

Recommendation: For Uganda's case we recommend that, the percentage is not limited to open tendering but should cover all the procurement methods except micro-procurements.

Indicator 11. Percentage of tenders rejected in each process;

Open Domestic

- Total number of bids reviewed= 744
- Total number of bids rejected = 389
- Percentage of bids rejected = **52.3%**

Open International

- Total number of bids reviewed= 639
- Total number of bids rejected = 385
- Percentage of bids rejected = **60.3%**

Restricted Domestic

- Total number of bids reviewed = 328
- Total number of bids rejected = 93
- Percentage of bids rejected = **28.3%**

Restricted International

- Total number of bids reviewed = 15
- Total number of bids rejected = 2
- Percentage of bids rejected = **13.3%**

RFQ and RFP

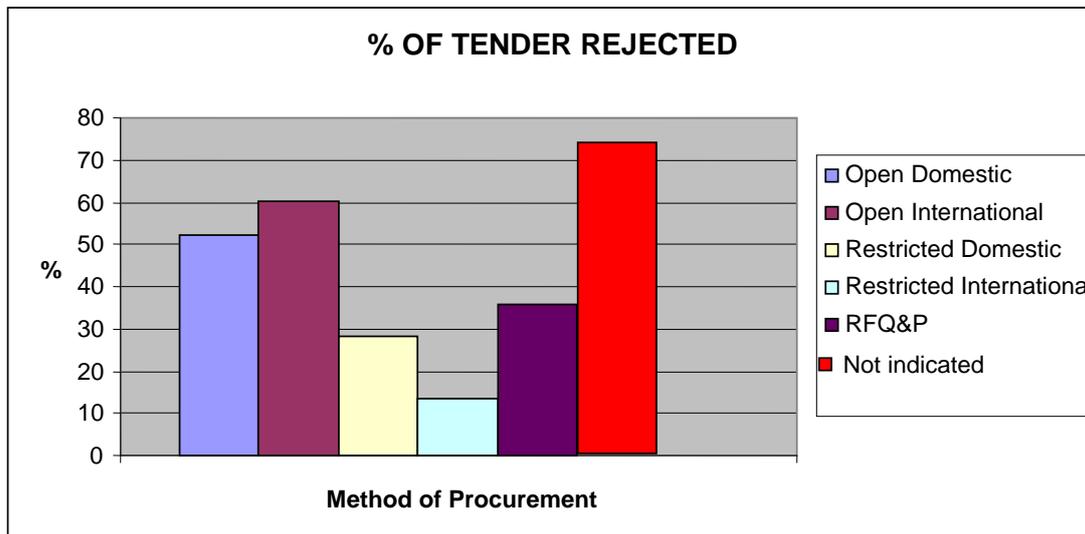
- Total number of bids reviewed =1854
- Total number of bids rejected = 666
- Percentage of bids rejected = $(480/1337)*100 =$ **35.9%**

Not indicated

- Total number of bids reviewed = 105
- Total number of bids rejected = 78
- Percentage of bids rejected = **74%**

Total percentage of all procurements

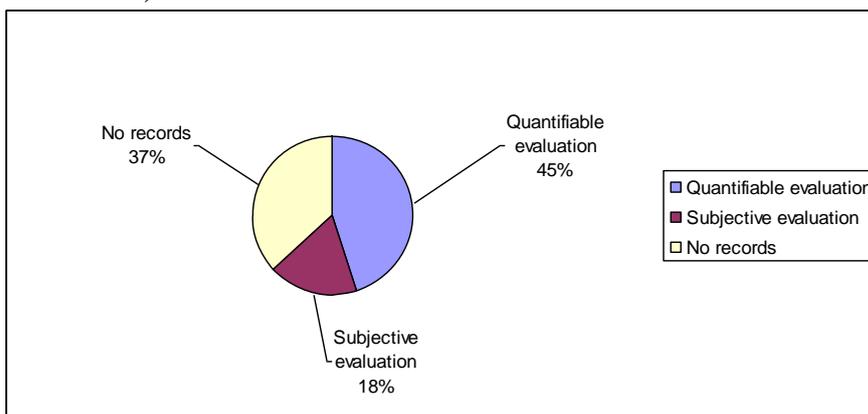
- Total number of bids reviewed = 3675
- Total number of bids rejected =1612
- Percentage of bids rejected = **43.8%**



Legal Provision: PPDA Act Sect 63 “All methods for the selection of bidders to be invited to bid shall allow for fair and equitable selection and ensure maximum competition.” **Reg. 188 (4) (b)** “the method of detailed evaluation shall be in accordance with the methodology selected and the solicitation document and may use “A pass/fail system against a minimum technical standard detailed in the statement of requirements to determine whether a bid is substantially responsive to the minimum standard required.” **Reg. 188 (5)** “Any bid which is not substantially responsive to the minimum standards does not reach a minimum score required shall be rejected and not evaluated further”.

Comment: The bids responsiveness criteria considered are: Valid Trading License, VAT Registration (*In the recent past Uganda Revenue Authority has advised against use of VAT registration in procurement practices through public advertisement*), Company registration, Tax clearance, NSSF payment, Power of Attorney, Audit books of Account for the last 3 years, suspension by PPDA/blacklisting. However the list of the requirements from the above varies from entity to entity. It is also apparent that the rejection at the preliminary evaluation using the above can be abused and reduces on “the fair and equitable selection which ensures maximum competition.”

Indicator 12. Percentage of tenders including non quantifiable or subjective evaluation;



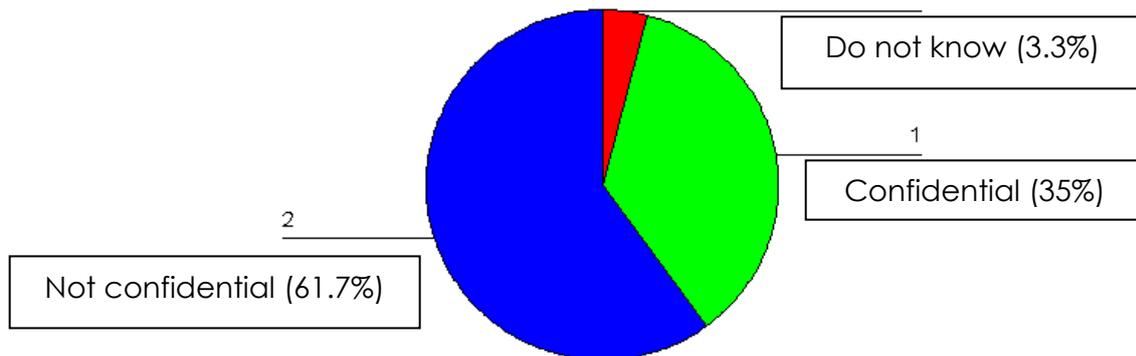
The total numbers reviewed were 837 procurements. 309 of the cases had no records to determine the indicator. 377 of the cases had quantifiable evaluations. 151 cases representing 18% had non quantifiable subjective evaluation. The non quantifiable and subjective evaluations were particularly in the cases of consultancy and in the areas evaluating the methodology for conducting the assignment and experiences in similar assignments.

Legal Provision: Reg. 188 (4) “the method of detailed evaluation shall be in accordance with the methodology selected and the solicitation document may use:-

- (a) An assessment of whether the bid conforms to all the terms and conditions of the solicitation document, including the statement of requirements, without material deviation or reservation.
- (b) A pass / fail system against a minimum technical standard detailed in the statement of requirements to determine whether a bid is substantially responsive to the minimum standard required.
- (c) A merit point system with a variable number of points stated in the statement of requirements to obtain a total score indicating the relative quality of each bid; or
- (d) A combination of paragraph (a), (b) and (c).

Comment: The issue of non quantifiable or subjective evaluation is not substantially covered in the law with clarity not being emphasised.

Indicator 13. Public perception of confidentiality of tender evaluation process;



Total valid respondents are 152. 5 respondents representing 3.3% do not know whether the tender evaluation is confidential or not. 53 respondents representing 35% consider it to be confidential, while 94 respondents representing 61.7% consider it to be non-confidential.

Legal Provision: Act 47 “A procuring and disposing entity shall not, except when required to do so by an order of court, disclose any information where the disclosure would:-

- (a) amount to breach of the law
- (b) Impede law enforcement
- (c) Prejudice legitimate commercial interest of the parties
- (d) Inhibit fair competition; or
- (e) In any way not be in the public interest

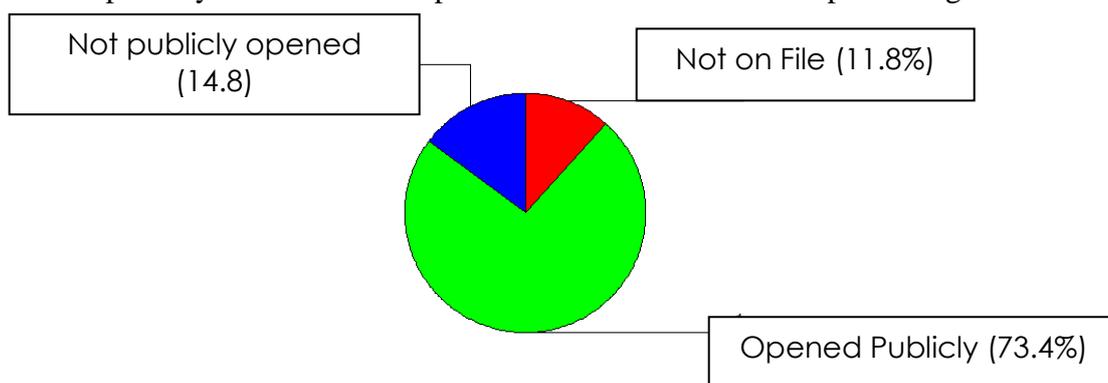
Until the successful bidder is notified of the award.

Comment: The Indicator is well provided for in the legal provision.

Recommendation: Capacity building on the need and value of confidentiality at the entities and the ethical provisions under the Fifth Schedule of the PPDA Act 2003 should be stepped up. Particular public awareness should be undertaken, so that the bidders do not put the entities personnel under undue pressure to disclose information about tender evaluation process.

Indicator 14. Percentage of tenders opened publicly and recorded

There were 837 procurements reviewed, 614 procurements representing 73.4% were publicly opened and recorded, 124 procurements representing 14.8% were not publicly recorded and 99 procurements had no record representing 11.8%.



Legal Provision: Act 69 “All bidding processes shall include a formal bid receipt and bid opening

Reg. 160 (1) “Open and restricted bidding processes shall include a public bid opening and the solicitation document shall contain instructions to bidders regarding:-

- (a) date and time of the bid opening
- (b) precise location of the bid opening and the information to be read out and recorded at the bid opening”.

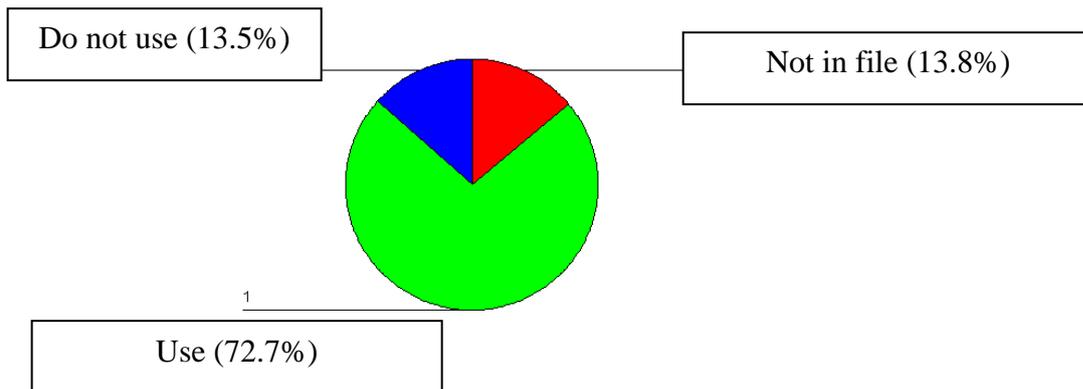
Reg. 164 (1) “The bid opening shall be recorded using PP Form 35 in the Ninth Schedule.” **Reg. 164 (2)** “Any person who attends or participates in a bid opening shall sign Part 2 of PP Form 35 in the Ninth Schedule to indicate his or her attendance.”

PP Form 35 is provided for the recording of public opening of bids covering records of the bids received and attendance.

Comment: The Indicator is well provided for in the legal provision. However, **Reg. 160 (1)** limits public bid opening to open and restricted bidding. While **Reg. 163(4)** “bidders representative shall not be permitted to attend Internal bid openings.” There is no legal provision clarifying circumstances and condition for application of **Reg. 163(4)**.

Recommendation: All bids other than micro-procurement should be publicly opened.

Indicator 15. Percentage of tenders that use model tender documents or clauses;



There were 837 procurements reviewed, 608 procurements representing 72.7% use model tender documents, 113 procurements representing 13.5 % do not use model tender documents, while 116 procurements representing 13.8% had no records for the determination of whether they use model tender do document or not.

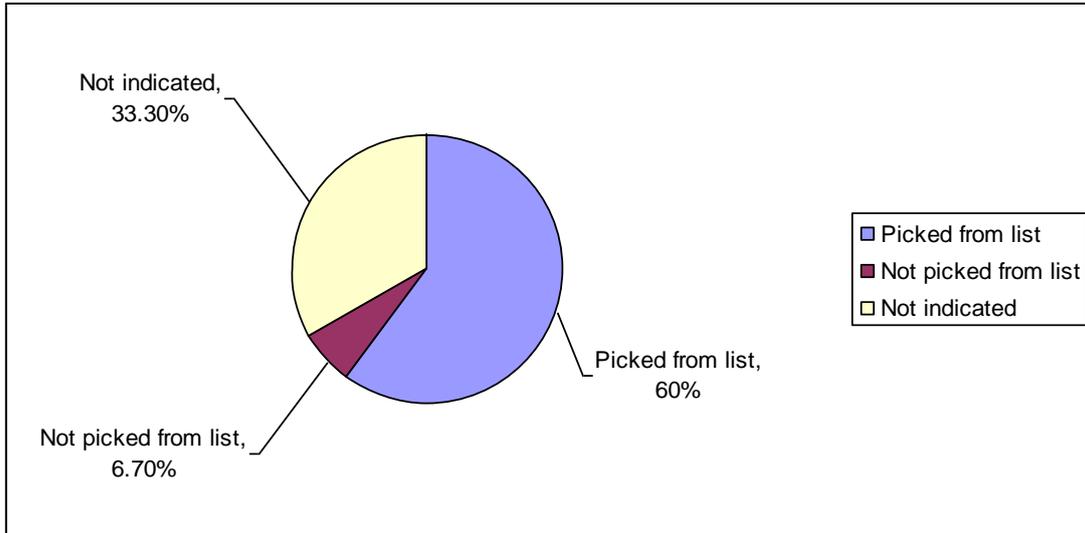
Legal Provision: PPDA Act Sect. 62 (1) “A procuring and disposal entity shall use the standard documents provided by the Authority as models for drafting solicitation documents for each individual procurement or disposal requirements.

Reg. 128 (1) “The use of standard solicitation documents issued by the authority, as the basis for each individual solicitation document shall be mandatory, except where otherwise provided in the regulations.

Comment: The indicator is well provided for in the law. The findings show that generally entities are following it except in RFQs procurements.

Indicator 16. Percentage of cases where prequalification was used appropriately as prescribed in the legal framework;

There were 484 procurements reviewed. 290 procurements representing 60% had at least three bidders invited from the pre-qualification lists. In 33 procurements cases representing 3.7%, the pre-qualification lists were not used appropriately as prescribed in the legal framework. While for 161 procurement cases, representing 33.3% had no records to enable the determination of whether the pre-qualification list was used appropriately. There was no evidence of a rotation in picking from the lists; it appears that in all the sampled entities, they never used a rotation. Proper rotation is not being used. There is evidence that some providers on the lists are invited more and were accessing business more than others on the lists. There was also evidence that, in all the sampled entities, there were many pre-qualified providers that were not invited to bid at all.

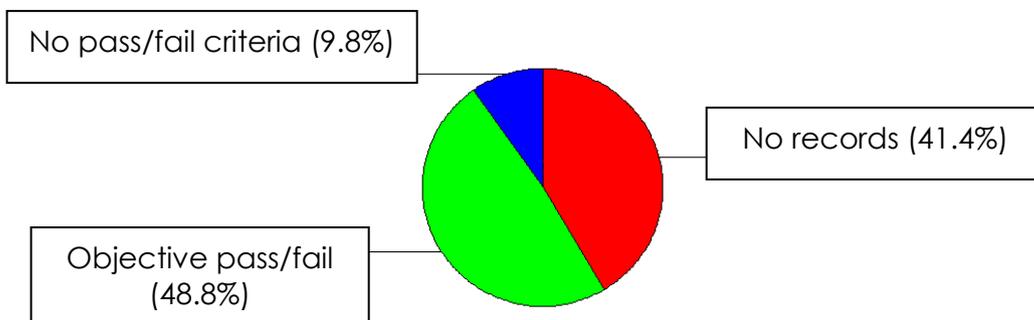


Legal Provision: The **Reg. 126 (1)** “Prequalification may be used to pre-qualify a bidder for a group of similar contracts to facilitate the preparation of a shortlist.” **Reg. 126 (4)** “Where pre-qualification is used for a group of contracts, a procuring and disposal entity shall rotate pre-qualified provider on successive short list.”

Comment: The appropriate use of prequalification is in: [a] rotation of the short list; [b] short listing and inviting a minimum of 3 bidders; and [c] micro-procurement and RFQs/RFPs.

Recommendation: PPDA to work with the entities to promote the rotation in the use of pre-qualifications lists.

Indicator 17. Percentage of cases that used objective pass/fail prequalification criteria as opposed to subjective qualitative ones;



There were 837 procurements reviewed. 408 procurements representing 48.8% used an objective pass / fail criteria in pre-qualification, 82 procurements representing 9.8% did not use objective pass/fail criteria and 347 procurements representing 41.4% did not have records for assessing the indicator.

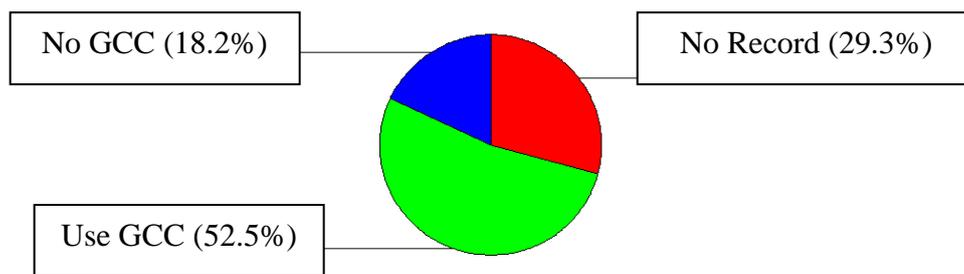
Legal Provision: The **Reg. 188 (4) (b)** “A pass/fail system against a minimum technical standard detailed in the statement of requirement to determine whether a bid

is substantially responsive to the minimum standard required.

Comment: The application of pass/fail is where the requirement is discrete. There is no adequate legal regulation for an objective based rather than subjective evaluation criteria in prequalification.

Indicator 18. Percentage of tenders that use the General Conditions of Contract, standard clauses or templates as applicable;

There were 837 procurements reviewed. 439 procurements representing 52.5% use GCC, 152 procurements representing 18.2% did not use GCC, and there were no records for 245 procurements representing 29.3%. There are cases where the clauses used in the solicitation documents varied from those in the actual contract, without evidence of negotiation and reasons for changes in the clauses



Legal Provision: Reg. 128 (1) “The use of standard solicitation documents issued by the authority, as the basis for each individual solicitation document shall be mandatory, except where otherwise provided in the regulations.

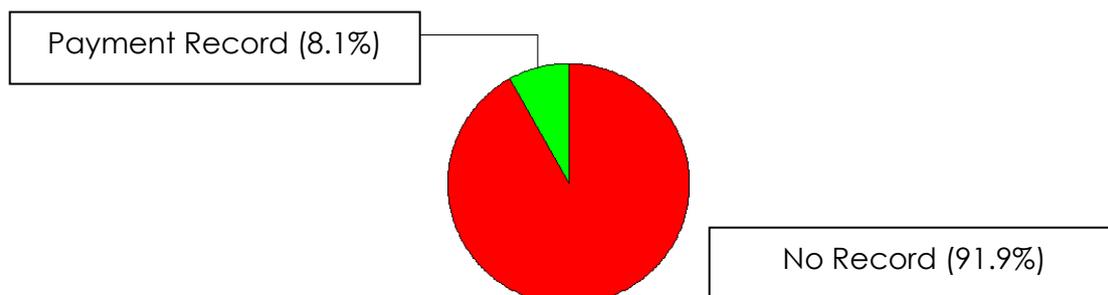
The **Act 62 (2)** “All solicitation documents shall:-

- (a) detail the terms and conditions which shall apply to any resulting contract
- (b) contain the general conditions of contract

Or a statement of the general conditions of the contract which shall be apply

Comment: The Indicator is provided for in the legal framework.

Indicator 19. Percentage of payments made late (e.g. exceeding the contractually specified payment schedule);



Out of the 837 procurements reviewed, only 68 procurements had payment records representing 8.1%. 769 procurements representing 91.9% did not have records for verification of the indicators. It is considered that there were not enough records or

evidence accessed to assess the indicator

Legal Provision: Reg. 256 (2) “A provider shall make a request for payment to a procuring and disposing entity in accordance with the terms of the contract placed by the procuring and disposing entity”.

The **Reg. 255** “The payment period shall be thirty working days from certification of invoices except when it is valid in the special conditions of the contract”.

Reg. 256 (4) “Where the payment request is accurate and in accordance with the terms of the contract. A procuring and disposing entity shall satisfy it for payment in accordance with the terms of the contract”.

Comment: The indicator is adequately provided for in the legal framework. Across the board, the entities did not provide access to payment records, except the Ministry of Agriculture, Animal Industry and Fisheries.

Recommendation: PPDA to put a lot more emphasis on regulating and ensuring that entities establish and maintain a complete and adequate procurement transaction file in accordance with the law.

Indicator 20. Percentage of major contracts without completion reports;

In all the sampled entities, there were no records or evidence to assess the indicator.

Legal Provision: Reg. 259(1) “A user Department shall nominate an existing member of staff with appropriate skills and experience, or who is supervised by a member of staff with appropriate skills and experience as a contract manager.”

The **Reg. 260 (f)** “The contract manager shall submit reports on the progress / completion of the contract as required by procuring or disposal unit or the accounting officer”.

Comment: The law does not mandate / provide for completion reports to be produced by the Contract manager, unless “required by procuring / disposal units or accounting officers”. In all the sampled entities there were no records or evidence that entities were formally appointing contract managers, and there was no completion report provided to the assessor. From discussions with the procurement units and other staff from the entity, there were cases particularly works and consultancy contracts where completion reports were produced.

Recommendation: PPDA should put emphasis on ensuring compliance with the appointment and production of progress and completion reports.

Indicator 21. Average time after contract completion for completion reports to be prepared;

In all the sampled entities, there were no records / evidence availed in order to assess the indicator.

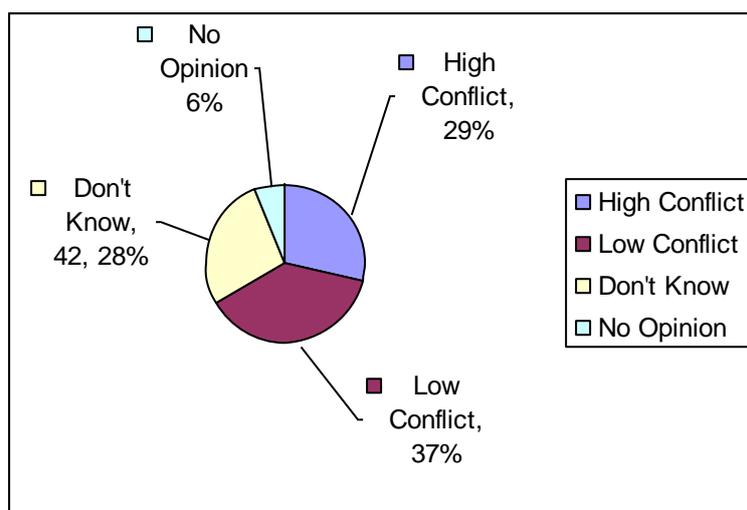
Legal Provision: No legal provision / time period for the production for the

completion report.

Recommendation: PPDA should put emphasis on ensuring compliance in production of completion reports within the shortest time possible.

Indicator 22. Percentage of those surveyed that perceive the regulatory function to be free of conflict;

The opinion survey covered 152 respondents, of which 44 respondents representing 29% say there is a high conflict of interest, 57 respondents representing 37.5% say low conflict; 42 respondents representing 27.7% do not know, and 9 respondents representing 6.5% had no opinion. Most respondents particularly those in the private sector had no idea of the “regulatory function.” There was also a misconception of PPDA as responsible for the procuring and disposing function of the Government.



Legal Provision: No direct or indirect provision could be identified for this indicator.

Recommendation: There is need for increased public awareness about PPDA as a regulatory body, what it does and how it functions. Awareness on how the private sector can do business with Government of Uganda through procurement process needs to be stepped up.

Indicator 23. Average number of days for procurement cycle from tender advertisement to contract award;

Open Domestic

-120 procurements considered
- Days of cycle = **180 Days**

Open International

-42 procurements considered
- Days of cycle - **141 Days**

Restricted Domestic

-80 procurements considered
Days of cycle - **74 Days**

Restricted International

-4 procurements considered
-Days of cycle - **57 Days**

RFQ&RFP

-515 procurements considered
-Days of cycle - **68 Days**

Direct

-46 procurements considered
- Days of cycle - **43 Days**

No record of method indicated

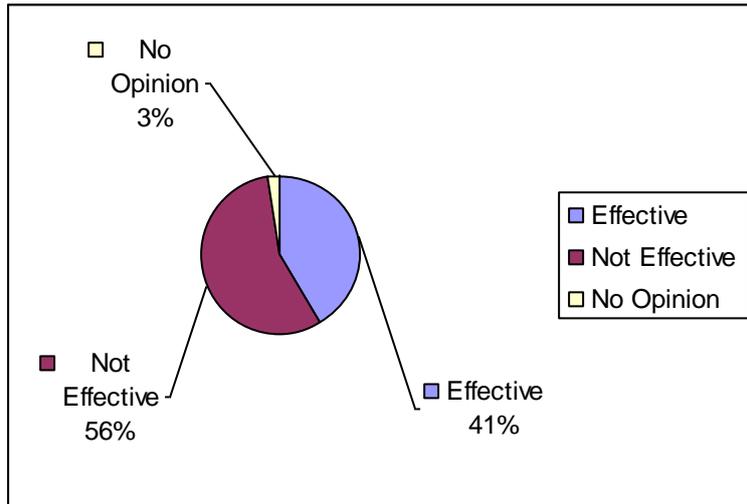
-30 procurements considered
-Days of the cycle - **62 Days**

Legal Provision: The law only provides for the advertisement period under **Reg. 141**, and bidding period under **Reg. 145**. There is no provision for the overall indicator requirements.

Comment: The data for Restricted International Bidding appears to be small. The above result should only be considered as indicative not reflective of the practices.

Indicator 24. Opinion on effectiveness of mechanisms to engage with relevant organizations or agencies;

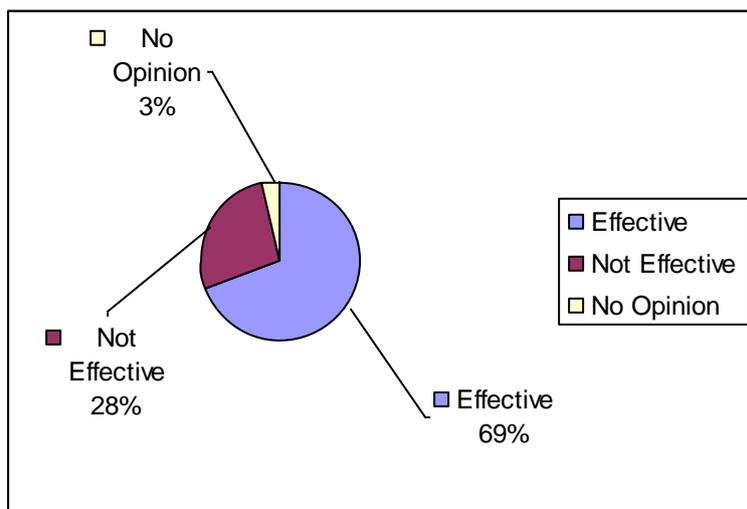
(A) Private sector engaging effectively with PPDA



The opinion survey on whether the private sector engages effectively with PPDA showed that: Total opinions were 152. 85 respondents representing 56% say not effective, 63 respondents representing 41% say effective, and 4 respondents representing 3% had no opinion.

(B) Private sector engaging effectively with the Procurement entities

The opinion survey on whether the private sector engages effectively with Procuring and Disposal Entities showed that: Total opinions were 152. 42 respondents representing 28% say not effective, 105 respondents representing 69% say effective, and 5 respondents representing 3% had no opinion.



Legal Provision: No particular legal provision.

Comment: The indicator is vague.

Recommendation: In adopting the indicator PPDA needs to revise it, by being more specific about: the mechanism and partnership as presented on page 51 of the Methodology version 4. This should be an opinion on effectiveness of appeal and compliant review mechanism.

Indicator 25. Average number of tenders submitted in each process;

Open Domestic

- Total number of bids received = 744
- Total number of procurements = 120
- Average No. = **6.2**

Open International

- Total number of bids received =639
- Total number of procurements =42
- Average No. =**15.2**

Restricted Domestic

- Total number of bids received =328
- Total number of procurements =80
- Average No. =**4.1**

Restricted International

- Total number of bids received – 15
- Total number of procurements - 6
- Average No. – **2.5**

RFQ&P

- Total number of bids received – 1854
- Total number of procurements - 514
- Average No. – **3.6**

Direct

- Total number of bids received – 44
- Total number of procurements - 44
- Average No. - **1**

Not Indicated

- Total number of bids received – 105
- Total number of procurements - 30
- Average No. – **3.5**

Total

- Total number of bids received – 3670

- Total number of procurements – 837
- Average no. of bids received – **4.4**

Legal Provision: There is no particular legal provision.

Indicator 26. Evidence in contracts surveyed that contract administration is timely;

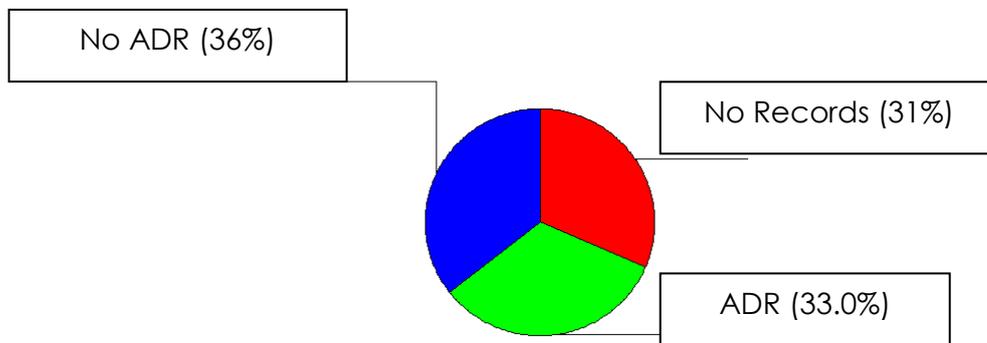
Out of the 837 procurements reviewed, only 9 procurements had payment records, representing 1%; 16 procurements representing 2% had contract manager appointed. The data accessed was very low for the assessment of the indicators. There were not enough records or evidence provided and accessed to assess the indicator. The lack of access to adequate data by the assessors was because the contract management information was kept by the user departments and therefore scattered within the entity. Also the user departments did not keep the records organized so as to ease of access and verification.

Legal Provision: The **Reg. 258(3)** “Upon receipt of a contract, a contract manager shall prepare a contract implementation plan, using PP Form 60 in the Ninth Schedule, and forward a copy to procurement and disposal unit for monitoring purposes.” PP Form 60 footnote states that, “Contract implementation plan to be prepared for all contracts except those under micro procurement. To be submitted to the Procurement and disposal unit by the contract manager within five working days of receipt of the contract.”

Comment: The element of timely contract administration was considered to be: [a] Timely appointment of the Contract Manager as provided for in the legal framework; [b] The timely and adequate preparation of the PP Form 60; [c] Adherence to the prepared PP Form 60 and the contract management plan; [d] acknowledgement of deliveries in writing; [e] prompt certifications and payments. The PP Form 60 appears to be inadequate for appropriate contract implementation plan. It does not cover the necessary items, element breakdown, responsibility centres, M&E system, and benchmarks.

Recommendation: Proper record keeping and the establishment of procurement action files that should contain all procurement and contract management documents must be emphasised.

Indicator 27. Percentage of contracts that include adequate dispute resolution procedures; and



The total numbers of procurements reviewed were 837. 276 procurements representing 33% had a provision for dispute resolution, while 299 representing 36% did not have dispute resolution provisions and 262 representing 31% did have records for the verification of the indicators.

Legal Provision: PPDA Act Sect. 62 (1) “A procuring and disposal entity shall use the standard documents provided by the Authority as models for drafting solicitation documents for each individual procurement or disposal requirements.

Reg. 128 (1) “The use of standard solicitation documents issued by the authority, as the basis for each individual solicitation document shall be mandatory, except where otherwise provided in the regulations.

Comment: The model documents by PPDA do have provisions for dispute resolution.

4.3. Outstanding Weakness

Record Keeping: As noted in the Users Guide, the use of the CPIs will need to be determined on a country basis taking into consideration the specific capacities and issues that exist in the country. However:

The key issue related to the success of measuring compliance and performance is the provision of reliable, transparent and timely data and information.

The record keeping and establishment of adequate procurement transaction files is poor across the board. Some indicators could not be assessed due to lack of adequate and reliable data and information. Even where the indicators have been assessed, the degree of reliability and validity has been limited and constrained due to the lack of “*provision of reliable, transparent and timely data and information.*” The data and information that was accessed by the assessor could only be achieved after a series of unsuccessful visits to the entities.

CPIs provide information that is useful to the management of the system and can also pin point specific areas of risk or weakness in the implementation process. As there were no agreed standards for performance for each country, it would most likely take more time to research and develop. The short term objective could be to find out the degree to which the system is following its own legal framework or what the perception of compliance is in those cases where the indicator cannot be measured quantitatively. However without the provision of a reliable, transparent and timely

data, the usefulness of CPI assessment is limited and constrained.

Therefore one of the significant weaknesses of the procurement system in Uganda is the lack of “*provision for reliable, transparent and timely data*”. The implication is that the regulatory authority, PPDA is limited and constrained when it comes to carrying out its oversight functions without access to *reliable, transparent and timely data / information* on what is going on at the entities. Even accountability and transparency to stakeholders is significantly compromised. There is a need to urgently and critically deal with the challenge faced in the provision of reliable, transparent and timely data / information.

Contract Management: The realisation of the value of a successful tendering process / the inherent value for money can be achieved through successful contract implementation. The adequacy and reliability of the statement of requirements in meeting the need for the procurement is finally tested through contract management process.

There are no records and evidence across the sampled entities for the appointment of contract managers after contract signing as provided for in the legal framework. Invariably, contract management reports could be provided by the entities. The records for contract management are scattered. The payment records and information are in finance departments and other contract management records are in various user departments within the entity.

In contract management, there is a need to enforce the appointment of contract managers in all cases. However this should be accompanied with capacity building development programme in contract management for the user department to improve the contract management.

Rate of non responsive Bids: Data for indicator 3 shows that high percentages of bids are rejected as being non responsive due to the requirement to prove compliance with their tax obligations for the last 3 years. There may be a need to review whether the compliances of this additional requirement should be considered as a basic first or as additional requirements that must be met before contract signing. The implication of this suggestion is that technical and commercial competition is considered as a prerequisite first in procurement and thereafter, before entering into a contract, the successful bidders have to demonstrate compliance with taxation, NSSF, etc. The benefit is that maximum competition in procurement process is promoted as a prerequisite without compromising other public goods and obligations of the providers.

Public Perception of tender Evaluation Confidentiality: The public perception of the tender evaluation confidentiality is low. There is a need for an increased emphasis on ensuring improvement in confidentiality perception not only on evaluation but the entire public procurement.

Rotational Use of Prequalification List: The rotational use of prequalification list across the Board is poor. Some pre-qualified providers never get invited to bid, while others are repeatedly invited and accessing contracts repeatedly. There is a need to encourage a systematic rotation and to increase the minimum number of bids to be

invited from 3 to at least 5 to offer business opportunity to more pre-qualified providers and increase competition with the likely benefits of better value for money

Dispute Resolution Mechanism: The main concern is with the Local Purchase Orders. The LPOs being used at the entities are not standardised, with clear dispute resolution mechanism provision. There is need to standardise all LPOs the various entities are using. The standardisation should include the provision of adequate dispute resolution mechanism.

4.4. Benchmarking Compliance and Performance Sheet

The table below is adopted from the template provided in Annex 1, of the OOECD-DAC/World Bank Methodology. It is being used to summarize the findings of the assessment and give an overview of the situation and of the strengths and weaknesses of the system under assessment.

The “Status and Trend” column after the Compliance and Performance Indicators (CPIs) provides the comment on the severity of risks in the particular area if the indicator is a matter of concern. It should be noted that the assessment was the first of its kind and therefore trends analysis comments is not possible. The column should be read as a snap shot at the procurement system compliance and performance indicators.

The Columns for Actions Proposed and Priority form the basis for the development of a capacity development plan linked to a prioritized risk mitigation strategy to be implemented.

This table summarizes the findings of the assessment and gives an overview of the situation/ strengths and weakness of the system under assessment. The “Status and Trend” provides the comments on the severity of risk in the particular area.

No	Indicator	Status and Trend	Performance Data	Action Proposed	Priority
1	Percentage of procurements subject to the legislative framework being assessed (in volume and in number of contracts) carried out through open tendering.	<p>Given that the default method of procurement is open tendering, this percentage is low.</p> <p>In order to prevent adhoc and emergency procurements that inhibit the use of competitive bidding methods. The ministry of finance, planning and economic development ,while issuing the budget call circular requires entities to submit their procurement plans with their budgets</p>	<p>From the monthly reports submitted by entities the total amount of funds that was spent on procurement in 2005-2006 is 1,277 trillion Ushs. Of this amount 319,450,175,000 was spent by way of open domestic bidding, while under open international bidding the sum was 102,222,597,880. The two methods therefore accounted for 33% of total procurements in the period.</p>	<p>The requirement for procurement planning in entities as spelt out under Regulation 96 of the PPDA Regulations needs to be enforced.</p> <p>Capacity building in this area needs to be stepped up.</p>	High
2	Percentage of [administrative review] cases resolved within the terms established in the legal framework.	The grounds, time limits and submission of administrative reviews are well defined in sections 343, 344 and 345 of the PPDA Regulations respectively.	All the 8 administrative review cases were handled within the terms established in the legal frame work under part vii	To continue to hold hearings and provide redress on all applications for	Medium

No	Indicator	Status and Trend	Performance Data	Action Proposed	Priority
			of the PPDA Act and under part ix of the PPDA Regulations.	administrative review.	
3	Number of staff involved in procurement in the central government that receive formal training in the year.	<p>There is a training and capacity building programme that is sponsored by the UNDP. The programme carries out training at the request of the entities and on the initiative of the PPDA to address particular subjects of concern.</p> <p>There are 12 modules under the capacity building strategy in which staff at the central Government level that are involved in procurement will be trained.</p>	1,012 staff from Central Government received training in 2006/7 on the procurement law and good practices in procurement.	To expand the training and capacity building programme at both the central and local government levels.	High
4	Average waiting time to get in a formal training event.	Every staff at central government level involved in procurement takes part in at least 2 training sessions a year. In	6 months	To continue to provide procurement staff with training to meet their needs.	High

No	Indicator	Status and Trend	Performance Data	Action Proposed	Priority
		<p>addition to a training retreat that is held for procurement officers of Central Government entities ever year, these officers get at least one more training arranged by the Training and Capacity Building department at PPDA.</p>			
5	<p>Number of procurement audit recommendations pending after one year.</p>	<p>The Authority is required to carry out follow up on the entities where procurement audits were carried out to assess the level of implementation of the recommendations made in the procurement audits. However because of low staffing levels, follow ups in these entities has been minimal</p>	<p>Of the 67 recommendations that were made in the procurement audit reports for the FY 2005/6, 24 were not implemented representing 36%.</p>	<p>The Authority should step up on the number of follow up visits to entities where procurement audits have been carried out so that Entities may step up implementation of the recommendations made in the audit reports. The Millennium Challenge Corporation threshold country project which commences in 2007 will provide support for this activity.</p>	<p>Medium</p>
6	<p>Percentage of complaints processed within the time limits in the legal framework.</p>	<p>The Law under Regulation 347 (6) requires the authority to issue its decision in writing within 21 working days after receipt of the</p>	<p>All the 8 cases handled by the Complaints Review Committee were processed within the time</p>	<p>The Authority should explore ways of setting up an appeals body independent of the</p>	<p>Medium.</p>

No	Indicator	Status and Trend	Performance Data	Action Proposed	Priority
		complaint.	limits in the legal framework.	Authority. As the complaints become many, it may be difficult for all complaints to be handled in the required time given that members of CRC have other tasks they perform other than CRC tasks.	
7	Percentage of decisions taken through the appeals mechanism that are enforced.	The Complaints Review Committee holds delegated authority from the Board to hear administrative reviews though the decisions are submitted to the Board for endorsement. Decisions of the Board are communicated to the accounting officers and the appellants. The law under regulation 347 (7) spells out that the decision of the authority shall indicate: whether the application is upheld or rejected; the reasons for its decision; and any corrective measures to be undertaken.	All the 8 decisions that were taken through the appeals mechanism were fully enforced.	To continue to enforce decisions of the Board.	Medium
8	Percentage of	The Public Procurement and	Of the 8 complaints	To continue to operate	medium

No	Indicator	Status and Trend	Performance Data	Action Proposed	Priority
	favourable opinions from the appeals mechanism.	Disposal of Public Assets Authority has in place a Complaints Review Committee (CRC) that was set up by the Board and it handles all appeals and administrative reviews that come up to the Authority.	handled, only 1 was appealed to the Inspectorate of Government, none was appealed in the courts of law. 87.5% of the opinions from the appeals mechanism were therefore favourable.	the appeals mechanism fairly and effectively	
9	Percentage of invitations for open tenders publicly advertised.	By law, open tender must be publicly advertised. Otherwise it can not be an open tender. The severity of risk associated with this indicator is low.	It is only 45% of the Entities that had records of advertisement. The greater challenge is poor record keeping that accounts for the 55% that lack of evidence of public advertisement.	Motivation for proper record keeping and severe punitive measures for poor record keeping should be undertaken	High priority on eliminating poor record keeping.
10	Percentage of open tender documents that include provisions for limiting participation for reasons other than qualifications or acceptable exclusions.	PPDA Act Sect 44 “A bidder shall not be excluded from participating in public procurement and disposal on the basis of nationality, race, religion, gender or any other criterion not related to qualification, except to the extent provided for in this act”. The severity of risk associated	All the 91 cases with documentations for assessing the indicators representing 55% had no provision limiting participation other than capability and legal requirements. Lack of documentation in 45% cases is high and need to	Motivation for proper record keeping and severe punitive measures for poor record keeping should be undertaken	High priority on eliminating poor record keeping.

No	Indicator	Status and Trend	Performance Data	Action Proposed	Priority
		with this indicator is low.	be addressed		
11	Percentage of tenders rejected in each process.	Legal framework provides for preliminary acceptance or rejection of bids as a basis for responsiveness. The severity of risk of reducing competition in the procurement process and loss of value for money is high.	Overall rejection is 43.8% which is higher than the 40% provided for in the OECD-DAC / World Bank methodology. By distribution in accordance with procurement methods, restricted international, restricted domestic and RFQ/RFP indicators appear okay. The concern is with open tender at 58.3% rejection and those not indicated standing at 74%	To promote competition, PPDA should assess the merit and demerit of allowing for seeking written clarification to enable those who could have qualified but did not submit copies of the required documentations may proceed to detailed evaluation.	High priority program should be developed to mitigate risks associated with high non-responsiveness in building efficiency and effectiveness the procurement system.
12	Percentage of tenders including non quantifiable or subjective evaluation.	The issue of non quantifiable or subjective evaluation is not substantially covered in the legal framework. The severity of risk of reducing competition in the procurement process and loss of value for money is high in the cases of subjective and non quantifiable evaluation	While it appears that it is only 18% that had subjective or non quantifiable evaluation, if the 37% of procurement due to lack of documentations was discounted, the severity of risk is at 48.9%	There is need to develop more detailed evaluation guidelines to reduce areas of subjective and non quantifiable evaluation. Capacity building for the PDU to provide adequate guidance to evaluation committee need to be put in place.	High priority should be placed on reducing subjective evaluation to bear minimum. And even then, mechanism to reduce abuse of the evaluation process should be put in place.

No	Indicator	Status and Trend	Performance Data	Action Proposed	Priority
13	Public perception of confidentiality in tender evaluation process.	Legal framework provides confidentiality in the evaluation process. The severity of the risk is high because the lack of confidence in the evaluation process reduces the participation of potential quality bidders and promotes the unscrupulous providers.	61.7% believe that the tender evaluation is not confidential.	Capacity building regarding the need, to value confidentiality by the entities.	Medium
14	Percentage of tenders opened publicly and recorded.	The indicator is well provided for within the legal framework. However, Reg. 163(4) limited the public opening without adequate circumstances for its application. PP Form 35 is provided for recording public opening of bids covering records of the bids received and attendance. The severity of risk is low.	73.4% were publicly opened and recorded.	All bids other than micro-procurement should be publicly opened. Hence there is need to revisit Reg. 163(4) and Reg. 160 (1) .	Low
15	Percentage of tenders that use model tender documents or clauses.	The use of standard solicitation documents issued by the authority, as the basis for each individual solicitation document is mandatory by law. The indicator is well provided for in the law. The entities are	72.7% use model tender documents. The model tender document assessed was strictly the use of the PPDA provided one as required by law. Other model documents noted	The law obligates the entities to use model documents. The indicator should be adjusted and assess what type of modifications are to be done in the bid data	Low

No	Indicator	Status and Trend	Performance Data	Action Proposed	Priority
		generally following it. The severity of risk is low.	but not considered.	sheets. And draft contract data sheet.	
16	Percentage of cases where prequalification was used appropriately as prescribed in the legal framework.	The appropriate use of prequalification is in: [a] rotation of the short list; [b] short listing and inviting a minimum of 3 bidders; and [c] micro-procurement. The severity of risk is high for lack of systematic rotation, inviting some providers more than others and not inviting some providers on the list at all.	There was no evidence of rotation in picking from the lists. Proper rotation is not being used. There is evidence that some providers on the lists are more invited and accessing business more than others. Some providers on the lists are not invited at all.	Emphasis should be put in regulating and ensuring systematic rotation and ensuring attempts are made to invite as many bidders as possible. The threshold should be raise from 3 to at least 7 in a given procurement process.	High
17	Percentage of cases that used objective pass / fail prequalification criteria as opposed to subjective qualitative ones.	The Reg. 188 (4) (b) “A pass/fail system against a minimum technical standard detailed in the statement of requirement to determine whether a bid is substantially responsive to the minimum standard required. The severity of risk is medium.	35% used pass/fail criteria, while in 54.7% cases there were no data to review.	Emphasis to ensuring proper record keeping. Attempt should be made in regulating subjective evaluation processes.	Medium
18	Percentage of tenders that use the General Conditions of Contract, standard clauses or templates as applicable.	The indicator is adequately covered by the legal framework. The severity of risk is low.	52.5% use GCC, 18.2% do not and there was no record for 29.3%. There are cases where clauses used in the solicitation	Emphasis should be put in consistency in placing the right draft contract in the tender document and using the same in	

No	Indicator	Status and Trend	Performance Data	Action Proposed	Priority
			documents vary from those in the actual contract, without evidence of negotiation and reasons for changes in the clauses.	entering into a contract for the procurement.	Low
19	Percentage of payments made late (e.g. exceeding the contractually specified payment schedule).	By legal requirement, The payment period shall be thirty working days from certification of invoices. Government commitment to control escalation in domestic debt requires that Accounting Officers only enter into contracts where funding is available. The severity of risk is high for the consequence of delayed payment includes a breach of contract and strains the resources of the providers because it locks working capital for the provider.	No record or evidence provided to assess the indicator	Motivation for proper record keeping and severe punitive measures for poor record keeping should be undertaken	High priority on eliminating poor record keeping,
20	Percentage of major contracts without completion reports.	The Reg. 260 (f) “The contract manager shall submit reports on the progress or completion of the contract as required by procuring or disposal unit or the	No record or evidence provided to assess the indicator. The appointment of contract manager is not being done	Emphasis should be put on the appointment of contract managers and ensuring that they provide reports as	High priority should be put on the appointment of competent contract managers by the

No	Indicator	Status and Trend	Performance Data	Action Proposed	Priority
		accounting officer”. The law does not obligate that completion report shall be produced by the Contract manager. The severity of risk is high for progress and completion is the means for accountability, evidence for satisfactory compliance and performance.	across the board.	required by law.	users department under the supervision of the accounting officer.
21	Average time after contract completion for completion reports to be prepared.	No legal provision for the time for the production for the completion report. The severity of risk is high for completion report is the means for accountability, evidence for satisfactory compliance and performance.	No record or evidence accessed to assess the indicator	Should be treated along the recommendation for indicator 12 above.	High
22	Percentage of those surveyed that perceive the regulatory function to be free of conflict.	It is apparent that this indicator is not well understood by the public due to lack of knowledge on how PPDA functions. The severity of risk is medium.	The opinion survey shows that: 29% say high conflict, 37% say low conflict; 28% do not know, and 6% had no opinion. Some people interviewed did not know that Public procurement regulatory body PPDA exist let alone the	PPDA should increase public awareness about itself but in particular on how providers can participate in public procurement and do business with the Government of Uganda.	medium

No	Indicator	Status and Trend	Performance Data	Action Proposed	Priority
			procurement reforms undertaken by government of Uganda. There is also a perceived confusion amongst others between PPDA as a regulatory body and a procurement body.		
23	Average number of days for procurement cycle from tender advertisement to contract award.	The law only provide for the advertisement period under Reg. 141 , and bidding period under Reg. 145 . There is no provision for the overall indicator requirements. Lack of a procurement plan constrains the ability to judge whether it was meeting user's needs as expressed in the procurement. The severity of risk is medium	Open domestic procurement 180 days; open international 141 days, Restricted domestic 74 days, Restricted international 57 days, RFP/RFQ 68 days; direct 43 days, Not indicated 62 days	Emphasis should be put in adequate procurements planning and ensuring that the procurement cycle meets user's needs.	Medium
24	Opinion on effectiveness of mechanisms to engage with relevant organizations or agencies.	No particular legal provision was identified. The indicator is vague. The severity of risk is low. The respondents considered engaging more from the point of business opportunities. Hence see more opportunity at the entities than PPDA.	Engaging with regulatory effectiveness is at 41.7%; engaging with entities: effective at 69.1%,	.	Low

No	Indicator	Status and Trend	Performance Data	Action Proposed	Priority
25	Average number of tenders submitted in each process.	There is no particular legal provision. The severity of risk is medium for the overall average is above 3 that are normally considered adequate. The average could have been higher, but there are many business people who have not internalised how to do business with government through procurement.	The average is 4.4.	There is need to educate the private sector about doing business with government through participating in the procurement process.	Medium
26	Evidence in contracts surveyed that contract administration is timely.	There is adequate legal provision. The severity of risk is high for lack of data and information for assessment.	No substantial data was provided to determine this indicator due to poor record keeping. There is also no evidence that the entities are using PP Form 60 for planning and ensuring timely contract administration	Emphasis should be placed on the contract administration using PP Form 60 and adherence to the plan	High
27	Percentage of contracts that include adequate dispute resolution procedures.	There is adequate legal provision. The severity of risk is medium.	33% had dispute resolution provision, 36% did not and there were no record to determine 31 % of the cases.	Emphasis to be put in using model tender document and draft contract therein.	Medium

5.0. COMMENTS AND APLICABILITY OF THE CPI TOOLS

5.1. Introduction

Under the auspices of the joint World Bank and OECD Development Assistance Committee procurement roundtable initiative, developing countries and bilateral and multilateral donors worked together to develop a set of tools and standards that provide guidance for improvement in procurement systems and the results they produce. There has been development of the methodology for application of the baseline indicators and associated compliance and performance indicators. The latest version of this methodology is version 4 and was released in July 2006.

The CPIs deal with how the system actually operates. They are related to the application of the legal framework and to the prevailing procurement practices in the country.

The methodology is being field tested in a number of pilot countries. Uganda was selected to be among the pilot countries to field test this methodology. This chapter discusses the tool, pointing out areas that either need improvement, or Uganda can adopt even when the overall international tools remained unchanged. The approach adopted is elective comments and applicability of the CPIs tool. It focuses on selected area identified and appropriate comments.

5.2. Applicability of the Methodology

The use of sets of predetermined CPIs in monitoring the effectiveness of reforms, assessing the procurement practices, identification of weaknesses to address, to provide guidance for improvement in procurement systems and the results they produce cannot be over emphasized. CPIs provide information that is useful to the management of the system and can also pin point specific areas of risk or weakness in the implementation process. However, as noted in the Users Guide, the use of the CPIs will need to be determined on a country basis taking into consideration the specific capacities and issues that exist in the country and the decisions of those participating in the assessment.

The strength of the tool and opportunities it offers lies in:

Legal Framework: The application of the CPIs is focusing on assessing existing practices against the country legal requirements, benchmarked against international best practices. Therefore in the use and application of the CPIs, each country needs to identify which of the legal provision or clauses on top of the applicable Baseline indicators that becomes compliance and performance indicators to be assessed.

The structure or layout of the CPIs to the country specific could be along the Pillar of procurement while recognizing the various legal provisions as it is the case now, or along the arrangement of legal framework of each country while recognizing the pillars of procurements and acceptable best practices. For Uganda case, the indicators could be arranged along the legal framework layout. E.g.: Procurement principles; procurement rules and processes; Procurement Planning; Methods of procurements;

Pre-qualifications; Solicitation Documents; Tendering/bidding; Evaluation; contract documents and contract management.

Flexibility and Country Specifics: The application of the CPIs is to be determined on a country basis taking into consideration the specific capacities and issues that exist in the country. This approach avoids the usual challenges of international standardizations that do not recognize local conditions and other variations amongst countries.

Capacity Building: The understanding behind the CPIs assessment is to provide a basis upon which countries can formulate a capacity development plan to improve its procurement system. Similarly development partners can use the common assessment to develop strategies for assisting the capacity development plan and to mitigate the risks in the individual operation.

The capacity building approach should be used to eliminate multiple procurements practices and mainstreaming best practices into “one country procurement system” with all the international best practices and local capacity. During the course of the assessment, the assessors came across challenges of entities in complying and performing in accordance with more than four (4) procurement systems. E.g. PPDA base system for government budget funds; World Bank procurement system for their funded projects; ADB procurement system for their funded projects; EU procurement system for their funded projects a. In addition, there may be other bi-lateral funded projects that require a different procurement system. Instead of building capacity, multiple procurement practice is weakening the development of capacity in the affected entities. In NAADS, as an entity, the procurement Institutional framework is established in accordance with PPDA procurement systems of Uganda. While procurement operations and market practices, legal framework operates based more on the World Bank system than the PPDA system. The entity is struggling to meet both procurement systems.

Updating Information and Trend Analysis: The tool provides for regular reviews for updating information, monitoring trends and providing basis for better projection and predictability. The lessons from previous assessment shall enable the next assessment to be better and also to provide trend analysis showing progress, rate of change in progress and the direction of progressions.

Countries Benchmarking: The CPIs assessment shall enable the participating countries to benchmark their performances in procurements. This shall enable learning from best practices amongst themselves. Therefore, there shall be need to promote sharing of the CPIs Assessment Reports either through the OECD-DAC / World Bank round table, or through publishing on a website or any other appropriate means.

5.3. Thematic Categorisation of CPIs and Systematic Flow

The arrangement of the indicators in the methodology is based on the pillars of procurement system. In designing instrument for data collection, it was found to be cumbersome if one is focusing on data per indicators. For example indicators 7, 10, and 19 are about contract. Indicator 7 and 10 are under pillar 2 on page 49. However

in between, the tool considers prequalification. Then indicator 19 on contract provision of ADR is on page 51, with many other issues in between. Therefore the thematic and systematic flow of handling contract issues is interrupted by many other indicators that are not related to contract. It is recommended that the thematic issues adopted should consolidate various indicators into a series. Like the indicators 11, 12, and 13 for contract management indicators are in good series though 18 is yet again outside.

5.4. Clarity

Some indicators are vague. For example:

For indicator 16 on effective mechanism for engagement between relevant organisations or agencies and the private sector, the focus is on effective mechanism for partnerships between the public and private sector. The definition of relevant organisation or agencies is not clear, and the other thing is that the word "partnership" has varying meaning and interpretations between those in public sector, private sector and civil society. So the area and issues of partnership is not clear.

Another example is indicator 18, evidence that that contract administration is timely. This is vague and encompassing many other indicators, some of which are already identified as stand alone including indicator 11 percentage of payment made late; indicator 12 percentages of major contracts without completion reports; and indicator 13, average time for completion report preparation. While others that were not covered include, certification of the deliveries to be in conformity with the contractual requirements, warranty/defect liability management, rejection of deliveries due to poor quality and non conformity with the contracts; the degree of time overrun are not covered.

Therefore, there is need for more clarity in some indicators by either splitting them or/and eliminating vague ones.

5.5. Comprehensiveness

The indicators are not comprehensive enough in covering adequate "set of tools and standards" to assess quality and effectiveness of the national systems related to the application of the regulations and to the prevailing procurement practices, at least for Uganda. For example:

[a] Indicators for assessment of procurement planning and use of procurement plans are lacking.

[b] Indicators for assessment of estimate and contract price outcome or budget overrun are lacking. This would highlight issues of unit cost, effectiveness and efficiency of resource use in procurement and comparison amongst countries in similar conditions.

Therefore, there is need for making the tool and standard more comprehensive.

APPENDIX ONE: FORMAT FOR THE REVIEW OF PROCUREMENT RECORDS

**“COLLECTION OF DATA TO REVIEW THE COMPLIANCE AND
PERFORMANCE INDICATORS”**

1. Entity
2. Procurement
3. Year/Month

4. **Indicator 1: Percentage of invitations for open tenders publicly advertised**

(Check copy of advert, or the receipt for payment to the media,

If the copy of the advert is not on file, check for the draft that was sent to the media house and record the date when the advert was supposed to run).

Indicator 2: Percentage of open tender documents that include provisions limiting participating for reasons other than qualifications or acceptable exclusions (Focus on no. 7 and record if any requirement unfairly limits participation)

5. Procurement method. Domestic..... International

6. advertisement qualification eligibility requirement

.....
.....
.....
.....
.....

7. Evaluation criteria

.....
.....
.....
.....
.....

8. Unnecessary restrictive requirements

.....
.....

.....

Indicator 3: Percentage of tenders rejected in each process

(Check Evaluation Reports & Bi Documents.)

- 9. Number of bids received (as per record of bid receipt).....
- 10. Number of bids that passed the preliminary evaluation stage. (as per CC minutes).....
- 11. $\frac{9-10}{10} \times 100$ =indicator required
9

Indicator 4: Percentage of tenders including non quantifiable or subjective evaluation (sample opinion of the evaluators for mainly services from the E.R)

- 12. Review of evaluation criteria
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.....

- 13. Review of evaluation report
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- 14. Subjective criteria
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.....
.....
.....

Indicator 6: Percentage of tenders opened publicly and recorded

- 15. Is there satisfactory documentation of bid opening? (As per record of bid opening)? Yes.....No.....

Indicator 7: Percentage of tenders that use model tender documents or

clauses (check bidding documents)

16. Used model tender document? Yes.....No.....

Indicator 10: Percentage of tenders that use the General Conditions of Contract, standard clauses or templates as applicable (check draft contract)

17. Used GCC, Standard clauses or templates? Yes.....No.....

Indicator 8: Percentage of cases where prequalification was used appropriately as prescribed in the legal framework

(Focus on all except open tender)

18. Is list for main procurement items on file? Yes.....No.....

19. Were invited bidders drawn from the pre-qualified list? Yes.....No.....

20. Did they invite all on pre-qualified list or they rotated? Yes.....No.....

Indicator 9: Percentage of cases that used objective pass/fail prequalification criteria as opposed to subjective qualitative ones

(Checking how the admission to the prequalification list was done)

21. Used pass/fail prequalification criteria (as per ER) Yes.....No.....

Indicator 11: Percentage of payments made late (e.g. exceeding the contractually specified payment schedule)

22. payment made late

i. Yes.....No.....

ii. Yes.....No.....

iii. Yes.....No.....

iv. If yes, state Reasons for late payment

.....
.....
.....
.....

Indicator 12: Percentage of major contracts without completion reports

(Works, >100m, services/consultancies > 50m, supplies > 70m)

23. Major contract with completion report Yes.....No.....

24. Note reasons why there are no reports.....
.....
.....

Indicator 13: Average time after contract completion for completion reports to be prepared

25. When contract was completed.....

26. When contract report was prepared.....

27. Time overrun in contract report preparation.....

28. If delayed, reasons for delay
.....
.....

Indicator 15: Average number of days for procurement cycle from tender advertisement to contract award (only open tenders)

29. Date of invitation to bid.....

30. Date of contract award.....

31. The duration of the cycle.....

Indicator 17: Average number of tenders submitted in each process

32. Note the number of tender review of no. 3 above.....

Indicator 18: Evidence in contracts surveyed that contract administration is timely

33. Review delivery/deliverables requirement like Delivery date, GRN, GDN, verification and certification of delivery, payment, progress reports, commissioning.

34. Is the contract manager appointed?

Indicator 19: Percentage of contracts that include adequate dispute

resolution procedures

35. Any dispute resolution procedures mentioned in contract?
Yes.....No.....

APPENDIX TWO: FORMAT FOR OPINION SURVEY

**COMPLIANCE AND PERFORMANCE INDICATORS SURVEY
QUESTIONNAIRE**

Part 1 Interviewer information

1. Name of Interviewers:.....
2. Date of interview:.....

Part 11 Bio data of respondent

3. Age: 20-30 31-40 41-50 51 and above

4. Category of respondent:

Providers Media Civil society Politician
Oversight Authority Association Others

If others specify.....
.....
.....

5. Gender: Male Female:

Part 111 Public Perceptions of confidentiality of tender evaluation process (Sec. 47 of the PPDA Act, 2003)

6. Have you ever participated in the tendering process? Yes N

7. Have you heard about tender evaluation process? Yes N

(ii) If yes, in what capacity?

Provider Media Civil society Politician

Oversight Authority Association Others

Others,
specify.....

8. In your opinion, is tender evaluation process confidential?

Yes

No

Have you ever heard of circumstances where information during the tender evaluation process has been disclosed before the successful bid award?

Yes

No

9. Which information is normally leaked during tender evaluation process

a) The best evaluated bidder

b) The lowest bidder

c) Bidders who have been rejected at preliminary evaluation

d) Progress of the evaluation process

e) Others, specify:.....

10. [a] In a scale of 1 to 10, what is your scale of perception of confidentiality of evaluation process?

(1: Extremely confidential, 10: Not confidential)

[b] Any comments about evaluation process

Part 1V: The Public Procurement Regulatory function in Uganda

11. Have you ever heard of the Public Procurement and Disposal of Public Assets Authority (PPDA) Yes

12. What is your opinion on the effectiveness of PPDA in executing its regulatory function in the country?

Very effective Effective Not effective Do not Know

13. What do you think is the level of PPDA influence on the procuring entities in conducting the procurement?

Very high High low very low Do not know

14. How do you rate the level of competence of procuring entities in conducting public procurement?

Very high High low very low Do not know

15. What do you think is the level of independence of procuring entities in conducting public procurement?

Very high High low very low Do not know

16. Is there conflict between the PPDA regulatory function and the Procurement function of the procurement entities in the country?

Very high High low very low Do not know

18. If yes, mention the areas of conflict, if any?
.....
.....
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.....
.....
.....

Part V Effectiveness of the mechanisms to engage with relevant organisations or agencies

19. Is the procurement law or regulations effective in utilising the services of other government institutions (IGG, Police, Auditor General, etc)

Very Effective Effective Not Effective

20. Do you think the existing procurement legal and regulatory framework provides for an effective mechanism for appeal and complaint review system?

Very effective Effective Not effective Do not know

21. If yes, in your opinion, to what extent do you think the complaint review mechanism is independent with regard to resolving complaints?

Very independent partially independent

Not independent Do not know

22. In your opinion, how is the private sector engaging effectively with PPDA?

Very Effective Effective Not Effective

23. In your opinion, how is the private sector engaging effectively with the procuring entities?

Very Effective Effective Not Effective

APPENDIX THREE: FIELD DATA COLLECTION GUIDELINES

No	Indicators	Source of Data	Method
1	Percentage of invitations for open tenders publicly advertised.	Copy of advertisement of payment for the advertisement in the procurement transaction file	No. of open tender procurements advertised as a percentage of the total open tender procurements
2	Percentage of open tender documents that include provisions limiting participating for reasons other than qualifications or acceptable exclusions.	Advertisement and Solicitation documents	Review of the evaluation criteria looking at any limitations requirements
3	Percentage of tenders rejected in each process.	Record of bid receipt; and notice of the best evaluated bidders	No. of best evaluated bidders as percentage of the no. of bids received.
4	Percentage of tenders including non qualifiable or subjective evaluation.	Solicitation documents review of the evaluation criteria looking at any non qualifiable or subjective evaluation requirements	No of samples with non qualifiable or subjective evaluation as percentage of the overall no. of sample procurements
5	Public perception of confidentiality of tender evaluation process.	Target group (Providers, Associations, Civil society, Policy makers, media, academia)	Structured interviews of respondents
6	Percentage of tenders opened publicly and recorded.	Solicitation documents and Record of bid opening	No of samples opened publicly as percentage of the overall no. of sample procurements
7	Percentage of tenders that use model tender documents or clauses	Solicitation document	No of samples with model tender documents or clauses as percentage of the overall no. of sample procurements
8	Percentage of cases where prequalification was used appropriately as prescribed in the legal framework.	Invitation list to at least 3 providers based upon PPDA	No of samples cases where prequalification was used appropriately as percentage of the

		Guideline 1/2003 and Record of bid receipt	overall no. of sample procurements
9	Percentage of cases that used objective pass/fail prequalification criteria as opposed to subjective qualitative ones.	Solicitation documents' evaluation criteria and Evaluation report	No of samples cases that used objective pass/fail prequalification criteria as percentage of the overall no. of sample procurements
10	Percentage of tenders that use the General Conditions of Contract, standard clauses or templates as applicable.	Solicitation documents' attached draft form of contract and signed contracts	No of samples cases that use the General Conditions of Contract, standard clauses or templates as percentage of the overall no. of sample procurements
11	Percentage of payments made late (e.g. exceeding the contractually specified payment schedule.	Contract terms and condition of payment and actual Payment documentations	No of samples cases that payments were made late as percentage of the overall no. of sample procurements
12	Percentage of major ¹ contracts without completion reports.	Contracts and contracts management reports	No of samples cases of major contracts without completion reports as percentage of the overall no. of sample procurements
13	Average time after contract completion for completion reports to be prepared.	Contracts and contracts management reports	Sum of all the sampled time lag for completion report to be produced divide by the no. of samples
14	Percentage of those surveyed that perceive the regulatory function to be free of conflict.	Target group (Providers, Associations, Civil society, Policy makers, media, academia)	Structured interviews of respondents. No of those who perceive the regulatory function to be free of conflict as percentage of the overall no.
15	Average number of days for procurement cycle from tender advertisement to contract award.	Letter of Invitation or advertisement; evaluation report and minutes of the CC award decision	Shall be done for various procurement methods and over all. Sum of all the sampled number of days for procurement cycle from tender advertisement to contract award divide by the no. of samples

¹ Major contracts are considered to be those with contract price of at least US\$ 200,000.

16	Opinion on effectiveness of mechanisms to engage with relevant organizations or agencies.	Target group (Providers, Associations, Civil society, Policy makers, media, academia)	Structured interviews of respondents
17	Average number of tenders submitted in each process.	Record of bid receipt	Shall be done for various procurement methods and over all. Sum of all the sampled number of tenders submitted in each process divide by the no. of samples
18	Evidence in contracts surveyed that contract administration is timely.	Contract and contract management records and reports.	Review the variation the variation between the provisions in the contracts and those contains in the contract management records and reports.
19	Percentage of contracts that include adequate dispute resolution procedures.	Contract	Examine the contract to find out if adequate dispute resolution procedures were included in the sample contracts

**APPENDIX FOUR: PPDA INTRODUCTORY LETTER FOR DATA
COLLECTION**



Public Procurement and Disposal of Public Assets Authority

1 Pilkington Road, 14th Floor, Workers House, P.O. Box 3925, Kampala, Uganda

Tel: +256 (041) 311100 Fax: +256 (041) 344858

Our Ref: PPDA/031/000

Your Ref:

11th May 2007

The Accounting Officer

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RE: SURVEY ON THE COMPLIANCE AND PERFORMANCE INDICATORS

Uganda was selected to be among the pilot countries in the pilot exercise of the OECD – DAC Joint Venture for Procurement. The purpose of this exercise is to field test the new common methodology that was released in July 2006 for assessment of national procurement systems. The methodology comprises of two types of indicators, the Baseline Indicators (BLIs) and Compliance and Performance Indicators (CPIs). The CPIs which are the subject of this survey deal with how the system actually operates. They are related to the application of the regulations and to the prevailing procurement practices in the country.

This is therefore to introduce you to Associated Procurement Consultants, the firm that has been contracted by PPDA to collect data that will be used in assessing the Compliance and Performance Indicators. The information being gathered is solely for the purpose of this exercise in constructing national data on public procurement.

Please accord them the necessary cooperation and access to procurement documents carried out by your entity during the last 3 financial years.


Edgar Agaba
EXECUTIVE DIRECTOR

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