



MAPS

Methodology for Assessing
Procurement Systems

Assessment of the National Public Procurement System September 8, 2021



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Assessment Report Volume II

Completed Pillars I to IV Matrices

Assessment Report Volume III

All the complementary and supplementary information relating to this assessment is included in a separate Volume III of this report. The contents of Volume III are as follows:

- 1) GOU letter dated July 18, 2018 relating to AfDB support of the MAPS assessment
- 2) Concept Note, including the composition of the Assessment Steering Committee, list of the documents reviewed and websites consulted, list of stakeholders consulted, list of PDEs for sample transactions, list of participants in the validation workshop, minutes of steering committee meetings
- 3) Private Sector Survey Questionnaire and Results
- 4) Review of transactions – methodology of selection of sample and review
- 5) List of Stakeholders Consulted
- 6) Private Sector Assessment/Bidder's Questionnaire
- 7) Consolidated Procurement Data
- 8) Links to important reports and documents

Acronyms

AfDB	African Development Bank
AG	Auditor General
AO	Accounting Officer
BEB	Best Evaluated Bidder
CC	Contracts Committee
CG	Central Government
CSO	Civil Society Organization
CoST	Construction Sector Transparency Initiative
CTB	Central Tender Board
DP	Development Partners
EC	Evaluation Committee
E-GP	Electronic Government Procurement
E-Learning	Electronic Learning
FY	Financial Year
GOU	Government of Uganda
GPP	Government Procurement Portal
ICT	Information and Communications Technology
IFMS	Integrated Financial Management System
IG	Inspectorate of Government
IGG	Inspector General of Government
IPPU	institute of Public Procurement Professionals
LG	Local Government
MASC	MAPS Assessment Steering Committee
MAPS	Methodology for Assessing Procurement Systems
MDAs	Ministries, Departments and Agencies
MDALGs	Ministries, Departments, Agencies, and Local Governments
MoFPED	Ministry of Finance, Planning and Economic Development
MoLG	Ministry of Local Government
MSMEs	Micro, Small and Medium Enterprises
MTEF	Medium Term Expenditure Framework
NDP	National Development Plan
NMS	National Medical Stores
NPSPP	National Public Sector Procurement Policy
OAG	Office of the Auditor General
PDEs	Procuring and Disposing Entities
PDU	Procurement and Disposal Unit
PPDA	Public Procurement and Disposal of Public Assets Authority
PPDPA	Public Procurement and Disposal of Public Assets Act

PPDAT	Public Procurement and Disposal of Assets Appeals Tribunal
REAP	Resource Enhancement & Accountability Program (REAP)
RFP	Request for Proposals
RFQ	Request for Quotation
ROP	Register of Providers
SBDs	Standard Bidding Documents
SMEs	Small and Medium Enterprises
SOEs	State-Owned Enterprises
TAC	Technical Advisory Committee
UGX	Uganda Shillings
VFM	Value for Money
WB	The World Bank
UD	User Department
USD	United States Dollars
UNCITRAL	United Nations Commission on International Trade Law

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Executive Summary

Background

1. Uganda, a landlocked country, is endowed with a rich and diverse natural resource base, a variety of agro-ecological climates and ample rainfall across 75% of the country. The population of Uganda is estimated to be 43 million people as of January 1, 2019 (UN). Administratively, Uganda is divided into four regions (Northern, Central, Eastern, and Western) and subdivided into 135 districts, 31 municipalities, and 10 City Authorities. An elected council administers each local and urban authority. Lower administrative units at sub-county and division levels, are governed by a tiered structure of elected councils. Each council consists of elected members with the political and judicial power to manage local affairs.

2. The relative peace and stability in the country has enabled the introduction of several public-sector management reforms, including procurement reforms, which have contributed to a sustained period of economic growth and poverty reduction. Policy and legal frameworks continue to improve through public sector management reforms with implementation challenges being addressed through institutions that the reforms have created. Uganda has been able to introduce significant economic and structural reforms and sustain its economic growth rates over the last three decades. The country has achieved remarkable results in overall poverty reduction, even though poverty rates remain high in some regions. From 1992 to 2013, the percentage of Ugandan households living in poverty nearly halved. The GDP per capita stood at US\$794.3 in 2019. (The World Bank).

3. In April 2013, the Government of Uganda (GOU) launched the Uganda Vision 2040 which is aimed at successfully harnessing the country's abundant economic opportunities to transform the country into a competitive middle-income economy. Under the Uganda Vision 2040, the GOU is addressing the strategic bottlenecks that have been constraining the country's socio-economic development since her independence, including, among others, ideological disorientation, weak private sector and civil society, underdeveloped human resources, inadequate infrastructure, small market, inadequate industrialization, and underdeveloped services and agriculture sectors. The GOU has been deploying its efforts to achieve the Vision goals through short and medium-term national development plans.

4. The Government National Development Plan III (NDPIII 2020/21 – 2024/25) aims to build on the progress made, learn lessons from the planning and implementation experiences of NDP I and NDP II, and also seek to surmount some of the challenges encountered. The goal of this Plan is to “Increase Household Incomes and Improve Quality of Life of Ugandans”. The goal will be pursued under the overall theme of Sustainable Industrialization for inclusive growth, employment and sustainable wealth creation. The key objectives of the Plan are: (a) enhance value addition in key growth opportunities; (b) strengthen the private sector to create jobs; (c) consolidate and increase the stock and quality of productive infrastructure; (d) enhance the productivity and social wellbeing of the population; and (e) strengthen the role of the state in guiding and facilitating development.

5. The Accountability Sector Strategic Investment Plan (ASSIP) 2017/18 - 2019/20, highlighted the strategic direction for the country to enhance public contract management and performance. Through the accountability sector, the government is increasing transparency and accountability in public procurement through the introduction of e-Government Procurement (e-GP) system. In addition, the country has a comprehensive National Public Sector Procurement Policy (NPSPP) 2019 with clear goals for public procurement system development. Given the

importance of the private sector to, among others, the public procurement, the GOU has launched the National Strategy for Private Sector Development 2017/18-2021/22.

6. The GOU is currently implementing the Public Financial Management (PFM) Reform Strategy, which covers a new phase of PFM reforms from FY2018/19 to FY2022/23. The goal of the strategy is “To enhance resource mobilization, improve planning and public investment management, and strengthen accountability for quality, effective and efficient service delivery”. The strategy deals with most public procurement cross-cutting issues.

7. The GOU spends trillions of shillings each financial year for the procurement of goods, works and services needed to execute its mandate of service delivery to the citizens. In 2019, the public procurement accounted for 60% of government expenditure, and approximately 30% of the nation’s Gross Domestic Product (GDP), which is the largest share of GDP under the direct control of the Government. Therefore, any improvement in the public procurement system will have a significant financial effect on service delivery.

8. The GOU has embarked upon multiple reforms for the country’s economic development. In the wake of these ongoing wide-ranging reforms, and the large expenditure on public procurement (60 per cent of government expenditure annually), the GOU decided to have a fresh look at its public procurement system. The GOU decision to ask AfDB’s support in carrying out the assessment is based on two key objectives: (a) to continuously align public procurement acts and regulations with its ongoing economic reform agenda; and (b) to enhance the performance of the public procurement system for increasing the effectiveness of public expenditure in delivering quality and timely public services.

9. The modern procurement reform process in Uganda, which began in 1997, led to various legislative and policy changes that have shaped the current legal and institutional framework and procurement practices in Uganda. The outcome of the 1997 wave of procurement reforms was the enactment of the Act in 2003. The Act repealed both the Regulations of 1977 and the Public Finance (Procurement) Regulations of 2000 and created the Public Procurement and Disposal of Public Assets Authority (PPDA) as the Regulator of all public procurement and disposal of public assets. The current public procurement legal and regulatory framework hereinafter referred to as “the framework”) comprises the following:

- 1) The 1995 Constitution of the Republic of Uganda
- 2) The National Public Sector Procurement Policy 2019
- 3) PPDA Act 2003 as amended in 2014 and 2021
- 4) The PFM Act 2015
- 5) PPDA Regulations 2014
- 6) Local Government Act 1997
- 7) Local Government PPDA Regulations of 2006

Assessment Objectives

10. The main objective of the assessment is to identify strengths, weaknesses and gaps of the system, and to determine whether the system is consistent with universally used good procurement practices and standards. Another associated objective is to help the GOU prioritize its efforts in public procurement reform to enable balanced accountability mechanisms between the government, citizens, and private sector; governance of risk management in the procurement cycle; application and monitoring of sustainable public procurement, including gender equality; integration of the public procurement system with the overall public finance management,

budgeting and service delivery processes; and elaboration of a roadmap for next generation of reforms to make public procurement a strategic function, and a tool for the country’s economic development through improving the effectiveness of public expenditure and by enhancing timeliness and quality of public service delivery.

Methodology

11. The assessment was carried out using the Methodology for Assessing Procurement Systems (MAPS)¹ which is an international standard and the universal tool to evaluate public procurement systems. For a comprehensive review of the system, the following four pillars of the MAPS were used: (I) Legal, Regulatory And Policy Framework; (II) Institutional Framework And Management Capacity; (III) Procurement Operations And Market Practices; and (IV) Accountability, Integrity And Transparency. Each Pillar has a number of indicators and sub-indicators. There are 14 indicators and 55 sub-indicators, which, taken together, present the criteria for a snapshot comparison of the system against the stated principles. The indicators are expressed in qualitative and quantitative terms. MAPS deals only with public procurement. That is why this report does not cover disposal of public assets.

12. The use of the MAPS framework helped the assessment team to take stock of the public procurement reforms, including the amendments to the Act of 2003, use of new and innovative approaches, and interactions among different public procurement stakeholders; carry out a gap analysis to identify the strengths and weaknesses of the public procurement system with a view to informing the GOU of the risks that the weaknesses of the system create for the use of public funds and their possible mitigation; and prioritize efforts in public procurement reform to enable formulation of a policy and development of a strategy and action plans aimed at harnessing existing strengths and addressing identified gaps to achieve a modernized, harmonized and effective system.

13. The assessment team reviewed a sample of 185 procurement transactions as follows 81 for goods, 47 for works, 28 for consulting services and 29 for non-consulting services from 20 PDEs of which 12 were at the central and 8 at local government levels. Uganda has a total of 374 PDEs (198 at Central level and 176 at LG level). The selected transactions were representative of different procurement methods stipulated in PPDA Act covering goods, works, and consultancy and non-consultancy services. In addition, procurement data were collected as required under different indicators. Provision of the data showed a strong commitment of the GOU to this exercise. However, in the absence of a system to capture data at the source, the data provided was incomplete. Feedback from the private sector was obtained from 58 participants/firms through a carefully designed electronic survey on private sector’s perception of the public procurement system.

14.. The assessment was carried out by joint GOU-AfDB team comprising international and national consultants led by a Senior Procurement Specialist from the African Development Bank (AfDB), and the Government-appointed Technical Assessment Committee (TAC). The TAC comprised senior government officials who are experts in law, procurement, finance, governance, etc. AfDB also made its senior staff with relevant expertise available to support the assessment team.

15. [The assessment findings and recommendations will be shared with the GOU MAPS Assessment Standing Committee (MASC) members and their feedback sought and incorporated in the report. In addition, the findings

¹ <http://www.mapsinitiative.org/methodology/i>

and recommendations will be validated through a national consultation workshop to which representatives from the government, procuring and disposal entities, development partners, academia, civil society organizations, procurement professionals, professional associations, and private sector, including providers will be invited. The main objective of the workshop is to obtain stakeholders' consensus on the assessment findings and recommendations.]

16. The assessment team planned to commence field work, including visits to PDEs and collect the data from the procurement transaction files in March/April 2020. However, the COVID-19 lockdown restrictions did not allow this exercise and it had to be rescheduled to February/March of 2021. Additionally, the assessment meetings had to be conducted via zoom and other digital means. The international consultant interfaced with the counterparts and the national consultant via audio/video meetings. However, the national consultant did interface with different stakeholders, as and when possible, despite the difficult conditions created by the pandemic.

Main Strengths

17. The public procurement legal and regulatory framework in Uganda is generally comprehensive, adequately recorded, harmonized, coordinated, and organized hierarchically and follow a well-established order of precedence. Several procurement guidelines, Standard Bidding Documents (SBDs) for goods, works and services and templates support the framework.

18. An amendment to the Act came into force on July 2, 2021. The amendment mainly relates to the functions of PPDA and its Board of Directors; provision for electronic records and communication; aggregation of procurement requirements; marginalized groups under reservation schemes; removal of PPDA from the administrative review process; appointment of a Registrar for PPDA; the powers of the High Court in procurement proceedings; amendment of the Kampala Capital City Authority Act and the Local Governments Act with respect to procurement. The LG and CG Regulations are planned to be amended to make them consistent with the 2021 amendment.

19. The legal and regulatory framework includes a menu of well-defined procurement methods and conditions of their use. Open Bidding is designated as the preferred procurement method. It also provides for a system to accredit alternative procurement systems to help meet PDEs' specialised needs. A separate Public Private Partnership (PPP) Act 2015 and Guidelines provide for public-private financial arrangements, procurement methods, etc.

20. While MoFPED is responsible for advising the Government on all public procurement and disposal policies, principles and practices (2021 amendment to the Act), a well-functioning body, PPDA, has a clear mandate to regulate and oversee public procurement. Functions of PDEs are well defined. Large PDEs are well organised to carry out their procurement functions.

21. The GOU Strategy for Implementing Electronic Government Procurement (e-GP) in Uganda 2014-2019 guides in the design and implementation of e-GP. The e-GP Guidelines were also issued in April 2020. The e-GP system will automate all public procurement process cycle for the acquisition of goods, works, and services. This is expected to enhance the Value for Money (VfM), efficiency, integrity, transparency, and fairness aspects of public procurement. It will also help address the serious challenges of corruption, non-compliance with the

procurement Act and Regulations, across Procuring and Disposing Entities (PDEs), continuous delays in delivery of supplies and services, and wastage of resources through uncompetitive and closed purchases. In addition, the e-GP will help in controlling forgery of documents, such as bid and performance securities through linking the system with banks and insurances. The system has been developed with the assistance of the World Bank and is currently being piloted in 11 PDEs and it is planned to be enrolled to all PDEs by the end of 2022. The World Bank funded vendor was terminated. The e-GP local solution developed by local developers is now being rolled out so far in 11 entities.

22. The GOU has designed and developed an e-GP system which is being piloted in several key PDEs. The system is planned to be rolled-out gradually to all PDEs. As an initial component of the e-GP system, the Government Procurement Portal (GPP) has been launched as a first step towards automatization of all procurement processes. The GPP provides public procurement stakeholders free access to procurement plans, bid invitations, best evaluated bidder notices, signed contracts, register of providers, and suspended providers. It is expected that once rolled out the e-GP system will not only enhance the transparency and efficiency aspects of public procurement, it will also integrate public procurement with the country's public financial management and other governance systems.

23. The country has a functional complaint review mechanism. All public officials involved in procurement are required to declare any situation of conflict of interest in conducting and managing procurement. PPDA regularly conducts audit of procurement. A strong anticorruption legal framework is also in place.

Main Issues and Possible Solutions

24. The following key issues relating to legal and regulatory framework have been identified:

- a) Inconsistencies between the Act and LG Regulations.
- b) Prequalification is used for shortlisting firms rather than for determining which meet the eligibility and qualification requirements of bidders for large complex contracts.
- c) Absence of a provision on model technical specifications and common specifications standard,
- d) Lack of a provision publication of bid complaints and their resolution on easily accessible sites and within specified time frames.
- e) SBDs are not fully consistent with the Act and Regulations.
- f) Sector specific SBDs are yet to be prepared.
- g) Lack of appropriate contractual dispute resolution mechanisms, such as a Dispute Review Expert or Board, for large value contracts.
- h) No legal provision for enhancing the role of civil society in public procurement.

25. The above-mentioned weaknesses can be addressed through, among others, comprehensive amendment of the current Act and Regulations.

26. Strategic procurement planning is not practiced which results in higher costs of goods, works and services and lower procurement performance. Needs analysis, methodology for accurately estimating costs of goods, works and services, such as market research, and their proper packaging into procurement contracts, etc., are not reflected in the procurement plans. Multi-year procurement planning has been stipulated in the 2021 amendment to the Act

but it is yet to be implemented. Procurement plans are not finalised immediately after budget approval to allow PDEs sufficient time to complete contract awards, conclusion and completion within the FY. This situation can be resolved by mandating PDEs, through a provision in the Act, to finalize and publish their procurement plans by July 15 each FY. Budgets are appropriated for procurement, but the availability of actual funds is not timely resulting in procurement delays. Initiation of a procurement without the confirmation of the availability of funds in full does not lead to economic and efficient procurement and not helpful in achieving value for money. The weak procurement planning also leads to situations where PDEs must make procurement requests which are not budgeted for.

27. The Act does not include a provision on correct estimation of costs of the required goods, works, and services. Also, there appears to be no feedback mechanism reporting on budget execution, in particular regarding the completion of major contracts. Currently budget allocation and expenditure is tracked for one financial year. Timely release of allocated budgetary funds can help expedite procurement processes including contract execution.

28. Procurement data collection is manual. PPDA collects procurement data but it is neither complete nor accurate as the data is not yet fully captured automatically at the source. Similarly, less than 50% of key procurement information, such as procurement plans, invitations to bids, etc., are published. Procurement data analyses are not systematically used for policy formulation and performance measurement. Electronic versions of procurement Acts, Regulations Guidelines, etc., are not accessible throughout the country due to poor internet in some areas. Electronic filing and retrieval system with security protocols to protect records is yet to be introduced. With the e-GP roll out, PPDA should be able to capture procurement data at the source for analyzing it and using the results for mid-course procurement improvements, keep the concerned government agencies informed about the procurement system performance, and generate more meaningful reports for the public, PPDA needs to take urgent measures to increase publication of key procurement information. Also, there is need for introduction of an indicator-based public performance measurements system. Procurement record keeping is inadequate.

29. The Act requires PPDA to audit public procurement. This is not an international practice as the oversight role of public procurement regulatory bodies in most countries consists of monitoring rather than auditing. Furthermore, the relevant MAPS assessment criterion does not list auditing as one of the functions of a regulatory body. PPDA's regulatory role may conflict with its audit role especially in cases of transactions where its staff are called upon to help PDEs resolve procurement issue. Audit of public procurement is mostly carried out by the external auditor (Supreme Audit Institution – The Office of the Auditor General) and internal auditors anchored in the Ministry of Finance and/or in every key government entity. These arrangements allow the regulatory bodies to focus on their regulatory, monitoring and support roles. While PPDA needs to continue playing its essential monitoring role, the internal and external audit bodies need to be strengthened to conduct procurement audits more systematically and effectively. For this purpose, they can benefit from a comprehensive manual on and training in conducting procurement. In addition, all oversight bodies need to improve coordination of their audit/oversight activities.

30. A centralized procurement body for consolidated procurement, i. e. procurement of frequently used common items of goods, works and services, does not exist. Establishing a centralised body at macro level for consolidated procurement has become a common universal procurement practice and needs to be provided for in the framework in line with the NPSPP 2019. Alternatively, a system could be introduced where, every FY, MoFPED or PPDA's Board nominates a suitable PDE to carry out combined procurement in bulk on behalf of the

other PDEs. The 2021 amendment to the Act provides for aggregation of procurement requirements from PDEs' procurement plans. Such aggregated requirements shall be procured according to a guideline to be issued.

31. While PPDA carries out procurement training programs for different stakeholders, these do not fulfill the country's procurement training needs. Furthermore, procurement skills gap analysis and a training needs assessment have not yet been carried out. Similarly, efforts to professionalization public procurement have been made but these are inadequate and slow. A competencies framework for public procurement does not exist.

32. Design, development and delivery of a regular procurement training program can be successfully done in collaboration with the existing sources of training, including the Civil Service College of Uganda, universities, private sector training institutions, etc. However, carrying out of skills gap and training needs analyses and preparing a procurement capacity building strategy are prerequisites for such a program. In order to ensure that public procurement system functions efficiently and helps achieve value for money, it would be necessary, in the short term, to arrange for mandatory supply-driven procurement trainings for all public officials involved in public procurement, and, in the long term, to create institutionalized and sustainable training mechanisms that meet the training needs of all public procurement stakeholders. Such mechanisms should include multi-level training courses along with testing, certification and accreditation arrangements. In order to attract and retain qualified candidates to procurement, it will also be necessary to expedite professionalization of public procurement.

33. Provisions for citizens' engagement and for a formal transparent process of consultation with different stakeholders on public procurement improvements are not included in the framework. Dialogue with the private sector on procurement needs enhancement. A regular procurement capacity building program for the private sector needs to be implemented.

34. Monitoring of integrity in public procurement needs to be strengthened. National statistics on corrupt activities specific to procurement should be collected and published. Public procurement can benefit by enhancing the role of civil society in anti-corruption. A fraud and corruption reporting system, such as a hotline, and follow up of reported allegations is needed.

35. The selection and review of a sample of actual procurement transactions (files) was also carried out. The assessment covered 185 procurement transactions sampled from 20 PDEs or of 5% of the total of 374 PDEs. The 20 PDEs based on the criteria that included: spend volume (high, medium and low) and sector (energy, roads, water, agriculture, health, education). The sample transaction files were randomly and sometimes purposely chosen and comprised of a mix of supplies, works, consultancy services and non-consultancy services. The assessment covered the key decision making areas during the course of the procurement process, including procurement planning, selection and contracting and contract management. The key findings if the review of the sample transactions are as follows:

- Out of the 20 PDEs, only two provided procurement plans in PPDA recommended format. For the PDEs which provided the procurement plans, a sample of 10-15 transactions was chosen. For the PDEs which did not provide their procurement plans, 7 – 12 transactions were selected in consultation with the PDU.
- In the absence of procurement plans, it is difficult to establish if needs analysis are conducted which calls for the market research. Budgets for the PDEs remain the single source of procurement plans and budgets are largely derived from annual user department work plans.

- In the absence of needs analysis, the requirements and desired outcomes of contracts cannot be clearly defined. 85% of the transaction files were incomplete. The records available on file are those providing evidence of procurement initiation up to contract signature. Contract management and implementation records were not on file for over 35% of transactions. Some records which should be in the procurement files are available in the finance department which limits accessibility.
- All PDEs are able to produce clear specifications for goods and quantities required bills of quantities and statement for works and the terms of reference for services. Most of these specifications were standard in nature and not restrictive.
- Only one procurement transaction included a bid complaint.

36. The above-mentioned findings of the transactions review affirm the overall assessment findings with regard to selection and contracting especially procurement planning, time taken in awarding contracts, bid complaint review mechanism, contract management and procurement records. A survey of the private sector and CSOs has yielded the same results. The transactions review and survey reports are available in the separate Volume III

Consolidated Recommendations and Action Plan

37. The consolidated recommendations included in Chapter 4 of this report are prioritised in terms of the impact and degree of readiness of the current system. The GOU may consider converting these actions into a detailed action plan identifying the resources required to implement them, and sources of funding, and timeline for each action. Meanwhile, implementation of the following high impact actions in the short term would result in improving the performance of the system:

- 1) Remove identified obstacles, including access to internet, in speeding up e-GP roll out.
- 2) Improve standard procurement documents.
- 3) Improve the procurement processes and practices which are identified as areas of weakness. Introduce an expanded indicator-based public procurement measurement system.
- 4) Streamline procurement planning process, timeline, and availability of funds to ensure that procurement is concluded and completed within the fiscal year.
- 5) Enhance civil society's role in different stages of the procurement cycle.
- 6) Implement a two-week compliance training program to be mandatorily completed by all public officials involved or to be involved in public procurement.
- 7) Take measures to remove any obstacles in private sector's participation in competition for government contracts.
- 8) Improve the dialogue on public procurement with the private sector, civil society and citizens, including creating procurement training opportunities, customised to their needs.
- 9) Publish all annual reports on the PPDA website,
- 10) Make a fraud and corruption reporting hotline functional and a system to follow up on such reports.
- 11) Strengthen access to information, data standardization and categorization using international standards such as the OC4IDS (Infrastructure Data Standard and the OCDS.
- 12) Review and institutionalize legal mechanisms to create an enabling environment with clear channels for engagement and feedback

1. Introduction

Background

In Uganda, the modern public procurement reform process began in 1997. The 1997 wave of procurement reforms resulted in the enactment of the Public Procurement and Disposal of Public Assets Act, 2003 (the Act) and Regulations which became effective on February 21, 2003. The Act created the Public Procurement and Disposal Authority (PPDA) and strengthened the decentralisation of the procurement function to the Procuring and Disposing Entities (PDEs). The Act first amended in 2011 became effective on March 3, 2014. The latest amendment to the Act became effective on July 2, 2021. New Regulations, Guidelines and Standard Bidding Documents (SBDs) and several templates were also issued in 2014. The 2014 amendment provided, among others, for the creation of the Public Procurement and Disposal of Public Assets Appeals Tribunal (PPDAT). In order to harmonise the public procurement legal frameworks of the central and local governments, the Local Governments (Amendment) Act was enacted in 2006.

The 2021 Amendment to the Act relates to the functions of PPDA and those of its Board of Directors; includes provisions on e-GP, sustainability initiatives, electronic records and communication and aggregation of procurement requirements; includes new procurement methods; provides for marginalised groups (women, youth, people with disabilities and SMEs) under reservation schemes; removes PPDA from the administrative review process; provides for the appointment of a Registrar of the Appeals Tribunal; clarifies the powers of the High Court in procurement proceedings; includes provisions on amendments to the Kampala Capital City Authority Act and the Local Governments Act with respect to procurement and for related matters.

Strategic Context and Rationale for Assessment

The World Bank (WB) assessed the public procurement system of Uganda in 2004² and African Development Bank (AfDB) in 2011. In addition, the Public Expenditure and Financial Accountability (PEFA) Assessment 2017 reviewed some aspects of the public procurement system.³ The findings and recommendations of the WB and AfDB assessments contributed to the development of the legal and regulatory framework and improvement of procurement practices. Nevertheless, these assessments are now outdated. Furthermore, the Government of Uganda, (GOU) has embarked upon comprehensive reforms for the country's economic development. In the wake of these ongoing wide-ranging reforms, and the large expenditure on public procurement (60 per cent of government expenditure annually), the GOU decided to have a fresh look at its public procurement system. The GOU decision to ask AfDB's support in carrying out the assessment is based on two key objectives: (a) to continuously align public procurement acts and regulations with its ongoing economic reform agenda; and (b) to enhance the performance of the public procurement system for increasing the effectiveness of public expenditure in delivering quality and timely public services.

Assessment Objectives

² <https://openknowledge.worldbank.org/handle/10986/14563>

³ <https://www.pefa.org/node/706>

The GOU, with the technical and financial assistance from AfDB, conducted this assessment with the main objectives of:

- 1) identifying strengths, weaknesses and gaps of the system, and to determine whether the system is consistent with universally used good procurement practices and standards; and
- 2) helping the GOU prioritize its efforts in public procurement reform to enable:
 - a) balanced accountability mechanisms between the government, citizens, and private sector;
 - b) governance of risk management in the procurement cycle;
 - c) application and monitoring of sustainable public procurement, including gender equality;
 - d) integration of the public procurement system with the overall public finance management, budgeting and service delivery processes; and
 - e) elaboration of a roadmap for next generation of reforms to make public procurement a strategic function, and a tool of country's economic development through improving the effectiveness of public expenditure and by enhancing timeliness and quality of public service delivery.

Scope of Coverage

The study covered 12 selected central government ministries, departments and agencies (MDAs) and 8 local governments and agencies covering key sectors of the economy such as energy, agriculture, water and environment, health, education, and transport – all considered as PDEs. The entities with specialized procurement procedures, including medicines and medical supplies, referral hospitals, and public universities were also included. The assessment included a review of 185 sample procurement transactions from a select group of entities at both the central and local government levels for Financial Years (FY) 2017/18, 2018/19, 2019/20, and 2020/21 A survey of the private sector and Civil Society Organizations (CSOs) was also carried out.

Methodology

The Methodology for Assessing Procurement Systems (MAPS)⁴, which is an international standard and the universal tool to evaluate public procurement systems, was used for conducting this assessment. For a comprehensive review of the system, the following four pillars of the MAPS were used: (I) Legal, Regulatory and Policy Framework; (II) Institutional Framework and Management Capacity; (III) Procurement Operations and Market Practices; and (IV) Accountability, Integrity and Transparency. The assessment focused sharply, among others, on e-GP, contract management, sustainable procurement, and citizens' engagement. The Pillars have a total of 14 qualitative and quantitative indicators and 55 sub-indicators, which help make a snapshot comparison of the system against the stated principles. The assessment team followed the following three-step methodology:

Step 1: Review of the system applying assessment criteria expressed in qualitative terms.

To provide detailed information related to this comparison (actual situation versus assessment criteria) and on changes under way.

Step 2: Review of the system applying a defined set of quantitative indicators (applying at least the minimum set of quantitative indicators defined).

Step 3: Analysis and determination of substantive or material gaps (gap analysis).

⁴ <http://www.mapsinitiative.org/methodology/i>

Sub-indicators that exhibit a ‘substantive gap’ are to be clearly marked to illustrate the need for developing adequate actions to improve the quality and performance of the system.

The MAPS framework helped the assessment team to:

- 1) take stock of the public procurement reforms, including the amendments to the Act, use of new and innovative approaches, and interactions among different public procurement stakeholders;
- 2) carry out a gap analysis to identify the strengths and weaknesses of the public procurement system with a view to informing the GOU of the risks that the weaknesses of the system create for the use of public funds and their possible mitigation; and
- 3) prioritize efforts in public procurement reform to enable formulation of a policy and development of a strategy and action plans aimed at harnessing existing strengths and addressing identified gaps to achieve a modernized, harmonized and effective system.

The outcome of the assessment would help the country to improve the performance of its public procurement system. This enhanced system performance would help the GOU to ensure proper utilization of public resources to achieve value for money, and thus lead to economic growth.

The MAPS’ Pillar III considers the operational efficiency, transparency, and effectiveness of procurement at the PDE level. For this assessment, this was determined through the review of a sample of actual procurement transactions. The assessment team reviewed a sample of 185 procurement transactions for goods, works and services from 20 PDEs at the central and local government levels. The selected transactions were representative of different procurement methods. In addition, procurement data were collected as required under different MAPS’ indicators. Provision of the data showed a strong commitment of the GOU to this exercise. The procurement data provided a solid foundation for analysis and recommendations under Pillar III.

Feedback from the private sector was obtained through a carefully designed electronic survey on private sector’s perception of the public procurement system. The survey had the following objectives:

- Ascertain the experience of contractors, suppliers, and consultants in getting information about procurement business opportunities and in bidding for public contracts.
- Gauge the involvement of the private sector in public procurement legislative and regulatory development, including amendments to the existing laws and regulations.
- Learn about the factors that encourage or discourage participation of contractors, consultants and suppliers in bidding for government contracts; and about bidders’ knowledge and use of the bid complaint review mechanism.
- Understand the extent to which the private sector is aware of the risks of fraud and corruption in procurement and its impact on their decision to participate or ignore government tenders.
- Ascertain the state of dialogue and partnership between the GOU and the private sector on public procurement and existence of any outreach and procurement training program.

A list of the documents consulted in carrying out this assessment is at Annex 1. This report comprises the main report, and two volumes. The completed Matrices for the four MAPS Pillars are included in Volume II. A summary of the survey and feedback obtained is given in Volume III. The survey responses were analyzed and reflected under different indicators of this report.

Assessment Team and Stakeholders

AfDB's MAPS team conducted the assessment in close collaboration with the GOU counterpart teams; it consisted of the AfDB staff and international and national consultants with extensive experience in conducting such assessments. AfDB also made available to the assessment team its staff specialized in areas such as public procurement law, e-GP, governance, etc. The GOU on its part, through the Ministry of Finance, Planning and Economic Development (MoFPED), set up MASC and a Technical Advisory Committee (TAC).

The MASC, chaired by the Permanent Secretary to the Treasury, MoFPED, included the Commissioner, Procurement Policy and Management (MoFPED); Executive Director PPDA; Executive Director, National Planning Authority; and the representatives from AfDB and the World Bank. The MASC provided oversight and overall direction for the assessment; ensured delivery of the assessment report; fostered positive communication outside of the Committee regarding the assessment progress and outcomes; received and reviewed assessment findings and recommendations before endorsement by the GOU; and actively promoted implementation of these recommendations.

The TAC comprised the officials from MoFPED's Procurement Policy and Management Department; PPDA; Ministry of Local Government (MOLG); Resource Enhancement & Accountability Program (REAP); Monitoring and Evaluation Unit; Kampala Capital City Authority (KCCA); Bank of Uganda; Ministry of Health; and the Construction Sector Transparency Initiative (CoST)⁵ - African Freedom of Information Centre. The TAC's responsibilities included:

- a) Facilitation of meetings with selected PDEs identified for the assessment and specifically for collection of data and review of sample procurement transactions for assessment of quantitative indicators;
- b) in collaboration with the MASC, resolution of issues that are likely to impede the assessment and propose ways to address the identified challenges;
- c) assistance and guidance to the assessment team as needed in preparation of the MAPS matrices for its four Pillars, review of the completed matrices and data analytics for quality assurance, and suggestions for improvements therein; and
- d) Reporting to the MASC on progress of the assessment and answering any questions raised by the MASC members; and record minutes and decisions of the MASC meetings for implementation.

The key stakeholders consulted during the assessment included, among others, the central government ministries, local governments, government agencies including PPDA, oversight bodies, private sector, including consulting firms, contractors and suppliers, professional associations such as IPPU, civil society, procurement capacity building entities, etc.

Information Sources and Data collection

⁵ CoST is a multi-stakeholder initiative in 20 countries, including Uganda. Its objectives are to: (a) create a information sharing platform on implementation of public infrastructure projects; (b) promote transparency, accountability and value for money in the delivery of public infrastructure; and (c) strengthen the capacity of CoST members to collect, analyze and disseminate construction sector information.

Information from the central and local governments' policy and legal frameworks was used in the qualitative assessment. Particularly the National Public Sector Procurement Policy (NPSPP) 2019, the PPDA Act 2003 and the amendments thereto, the detailed regulations and guidelines issued by PPDA provided the needed information about policy, legal, and regulatory framework. Previous country procurement assessments and relevant studies conducted were also useful.

Data for quantitative indicators came from the database on public procurement operations and market practices focussing on contracts awarded and completed within the FYs 2017/18, 2018/19, 2019/20, and 2020/21 for selected MDAs and local governments.

The sources of information consulted for this assessment included, among others, MAPS 2018, AfDB Country Strategy Paper 2017-2021, budget monitoring and accountability units reports, policy and legal frameworks, PPDA annual and audit reports, Auditor General's reports, internal audit reports, PPDAT decisions, PEFA assessments, spend analysis reports, Uganda Bureau of Statistics reports, investigation reports by IGG and PPDA, procurement transactions files, interviews and surveys with stakeholders, relevant studies, country assessment reports, Integrated Financial Management System (IFMS), National Development Plan, Accountability Sector Strategic Investment Plan, PFM Reform Strategy, e-GP Strategy 2016, the National Public Sector Procurement Policy 2019 and the National Strategy for Private Sector Development 2017/18-2021/22.

Assessment Phases

The assessment was initiated in late 2019 but because of the COVID-19 pandemic completed in May 2021. It had three key phases as follows:

Phase I - Initiation

- identifying and informing all stakeholders of the study;
- establishing the assessment team, including selection of consultants;
- establishing the MASC. and TAC;
- preparing the concept note including assessment methodology, timeline, sources of data; field visits, interviews and surveys; and
- identifying the sources of information and documents relevant to the assessment.

Phase 2 - Assessment

- conducting the desk review of procurement laws, regulations and processes;
- carrying out interviews with identified key agencies;
- carrying out review of a sample of procurement transactions;
- collecting and analysing procurement data;
- conducting survey of the private sector and analyzing its results; and
- preparing draft procurement assessment report using the MAPS template.

Phase 3 - Validation

With a view to ensuring validity and credibility of the assessment findings, the following validation process was followed: \

- 1) The draft assessment report was shared with the MASC members for review and their feedback incorporated in the report;
- 2) Because of the pandemic, a virtual validation workshop was held and the detailed findings of the assessment and recommendations were shared with the participants. The representatives from the government, PDEs, development partners, academia, civil society organizations, procurement professionals, professional associations, private firms, and other business and bidding communities were invited to the workshop.
- 3) TAC inputs for the draft report and valuable comments were received and included in the final draft report.
- 4) AfDB conducted internal peer reviews and quality assurance check of the draft report;
- 5) The draft report will be submitted to the MAPS Technical Advisory Group (TAG) and updated based on its comments;
- 6) Depending on improvements in the conditions created by the pandemic, the key findings and recommendations of the assessment report will be presented to a broad group of stakeholders including government bodies, private sector, civil society and Development Partners; and
- 7) The final report will be shared with GOU for approval for publication.

Impact of COVID-19 on Assessment

With respect to the MAPS exercise, the Assessment Team intended to hold in-person interviews with the key public procurement stakeholders, representing relevant government entities, PDES, civil society, and Development Partners, both multilateral and bilateral active in Uganda, it was supposed to commence field work that included visit to PDEs and extraction of data from the procurement transaction files in March/April 2020. However, the COVID-19 lockdown restrictions did not allow this exercise and it had to be rescheduled to February/March of 2021. Additionally, the assessment meetings had to be conducted via zoom and other digital means. The international consultant interfaced with the counterparts and the national consultant via audio/video meetings. However, the national consultant did interface with different stakeholders, as and when possible, despite the difficult conditions created by the pandemic.

2. Analysis of Country Context

2.1. Political, economic and geo-strategic situation of the country

General

As shown on the map below, Uganda is a landlocked country bordered by Tanzania, Kenya, South Sudan, Democratic Republic of Congo and Rwanda. However, Uganda is endowed with a rich and diverse natural resource base, a variety of agro-ecological climates and ample rainfall across 75% of the country. The population of Uganda is estimated to be 43 million people as of 1st January 2019 (UN). With the support of the AfDB, World Bank and other Development Partners (DPs), Uganda has been able to introduce significant economic and structural reforms and sustain its economic growth rates over the last three decades. The country has achieved remarkable results in overall poverty reduction, even though poverty rates remain high in some regions. From 1992 to 2013, the percentage of Ugandan households living in poverty nearly halved. The GDP per capita stood at US\$ 794.3 in 2019.



Political Context

Uganda has experienced political stability in the last 34 years. After a period of political turbulence, military takeovers associated with a near complete collapse of the economy, the current leadership since 1986 has steadily overseen a complete turnaround of the country from anarchy to a relatively peaceful and stable country. This has enabled the introduction of several public-sector management reforms, including procurement reforms, which have contributed to a sustained period of economic growth and poverty reduction. Policy and legal frameworks continue to improve, through Public Sector Management reforms with implementation challenges being addressed through institutions that the reforms have created.

Economic Overview

Uganda experienced high growth rates over two decades (the country's average growth between 1990 and 2010 reached nearly 7% before slowing down to around 5.7% between 2011 and 2015 and to about 4.8% in 2016, recovering to an average of 6.1% in 2017 and 2018. On a per capita basis, real GDP growth declined from the average of 3.6% during the 1987-2010 period to 2.2% and 1.6% in 2015 and 2016, respectively, mainly driven by the country's high population growth rate. Strong growth continues to be driven by agriculture and services, with a recent pick-up in industry. Agriculture employs 70% of the work force and accounts for 24.2 % of the GDP for 2019/2020. The country's industrial sector is small and is dependent on imported inputs such as refined oil and heavy equipment. A number of supply-side constraints, including insufficient infrastructure, lack of modern technology and corruption hamper productivity.

The sector contributes 19.9% of GDP but employs only 8% of the workforce. The most important sub-sectors are the processing of agricultural products, the manufacture of light consumer goods and textiles, and the production of beverages, electricity, and cement. Most industries are small, local firms with limited manufacturing value addition, while the larger industries in the country are predominantly foreign owned. The services sector in Uganda represents 47.6% of GDP and employs 22% of the active population; however, it is detached from primary sectors like agriculture and manufacturing, thus lacking the ability to spur economic growth. The ICT sector is one of Uganda's fastest-growing sectors, recording double-digit growth over the last few years, largely driven by the telecommunications sub-sector.

The Government has formulated a development strategy aimed at successfully harnessing the country's abundant economic opportunities to generate higher economic growth. Uganda Vision 2040 aims to transform the country from a predominantly peasant and low-income economy into a competitive middle-income economy. The Government National Development Plan III (NDP III FY2020/21 to 2024/25), aims at increasing household incomes and improved quality of life of Ugandans, pursued under the overall theme of sustainable industrialisation for inclusive growth, employment and sustainable wealth creation. The NDP III has five strategic objectives namely: enhancing value addition in key growth opportunities; strengthening the private sector to create jobs; consolidating and increasing the stock and quality of productive infrastructure; enhancing the productivity and social wellbeing of the population; and, strengthening the role of the state in guiding and facilitating development. In NDPIII the Government has identified sectors with the highest potential to generate the desired economic transformation. It priorities three productive sectors (agriculture; mineral, oil and gas; and tourism) and two social sectors (infrastructure and human and social capital).

The Accountability Sector Strategic Investment Plan (ASSIP) 2017/18 - 2019/20, highlights the strategic direction the country is taking in its effort to enhance Public Contract Management and Performance. Through the accountability sector, the government intends to increase transparency and accountability in public procurement by implementing e-government procurement (e-GP) system. Engaging and strengthening the capacity of ministries, departments and agencies and local governments (MDALGs) and non-state actors in contract management and performance; strengthening contract monitoring, reporting mechanisms and follow-up audits and recommendations; supporting the development of the Institute of Procurement Professionals of Uganda; and developing a National Local Content Strategy are some of the key measures being taken by the Government to enhance public contract management.

Social Context

Uganda is among the few sub-Saharan countries that have succeeded in achieving their Millennium Development Goal (MDGs) on poverty reduction. The proportion of people living below the poverty line declined from 56.4 per cent in 1992/93 to 21.4 per cent in 2016/17 surpassing the MDG target of halving the proportion of the population living in extreme poverty by 2015. Major demographic trends include high rates of population growth and urbanisation. A particular social concern is the rapidly increasing youth population's inability to secure sustainable employment. Uganda's youth unemployment remains one of the biggest challenges. About 48.3% of Uganda's population is below 15 years and 32% of the youth were estimated to be unemployed in 2013. The country faces challenges related to limited labour market capacity to absorb the large numbers of youth entering the market every year, and the mismatch between available skills and labour market needs. To address the youth problem, the Government has developed a 10-year Strategy for Uganda's Skills Development and Vocational Training. During the assessment the focus was on how the social, economic and environmental issues relate to public procurement under the existing legal framework.

The GOU continues to be committed to achieving the sustainable development goals, most of which line up with the National Vision 2040 ("A Transformed Ugandan Society from a Peasant to a Modern and Prosperous Country within 30 years") -- the national vision statement of the country. Uganda has shown tremendous improvement in some SDG indicators and focus areas, but much work remains to change the country from a predominantly low income to a competitive upper middle-income country within 30 years having a per capita income of USD 9,500. Improvements in these measures would ensure significant poverty reduction, health care access for all, especially for women and girls, and better access to water and sanitation sources.

Development Challenges

Despite the good progress Uganda has made in growing the economy and reducing poverty levels, the country still faces significant development challenges. Major challenges include rising income inequalities across gender, age groups, and regions, multiple structural problems that include low levels of industrialisation and declining total factor productivity. The underlying main causes of these challenges are inadequate infrastructure, human capital, and public institutional capacity. To redress these problems and achieve its Vision 2040 development goals, GOU is implementing the NDPIII 2020-25.

2.2. The Public Procurement System and its links with the public finance management and public governance systems

The GOU spends trillions of shillings each financial year for the procurement of goods, works and services needed to execute its mandate of service delivery to the citizens. In 2019, the public-sector procurement accounted for a significant 60% of government expenditure, approximately 30% of the nation’s Gross Domestic product (GDP), which is the largest share of GDP that is under direct GOU control. More details on public procurement as a share of GDP and the sectors with the largest share in the public expenditure are shown in Tables 1 and 2 below. However, the data on public procurement expenditure were not available. It is recommended that the Procurement Policy and Management Department of MoFPED generate such data and keep it up to date.

Table 1 - Public Procurement as a Share of GDP (UGX Trillions)

Description	2017/2018	2018/2019	2019/2020	2020/2021 (Projected)
1. Total Expenditure and Net lending	20,169	24,206	28,122	37,252
2. Current Expenditure on Purchase of Goods and Services	10,902	12,312	14,823	19,052
3. Capital Expenditure				
(i) Domestic	4,297.9	5,898.60	8,096.82	12,887
(ii) Foreign	3,268.2	4,148.51	3,966.93	
4. GDP Fiscal Year at current prices	20.1%	18.4%	20.3%	24.7%
5. Public procurement expenditure ⁶		-	-	-

Sources: Annual Budget Performance Report FY 2017/18; Annual Budget Performance Report FY 2018/19; and Annual Budget Performance Report FY 2019/20

Table 2 - Sectors with largest share in the Government Public Expenditures

Sector	2017/18	2018/19	2019/2020
Education	2,114.36	2,514.61	2,993.03
Infrastructure	2,374.88	3,080.74	3,190.80
Energy	463.84	624.08	473.96
Health	939.59	1,267.41	1,547.25

Sources: Annual Budget Performance Report FY 2017/18; Annual Budget Performance Report FY 2018/19; and Annual Budget Performance Report FY 2019/20.

The Public Procurement and Disposal of Public Assets Act 2003 as amended in 2014 and 2021 establishes the institutional set-up for public procurement in Uganda. MoFPED is responsible for putting in place appropriate procurement policies, and legislation and for supervising the agency that regulates, and the entities that carry out public procurement in Uganda. The institutions established under the Act include the Public Procurement and PPDA as regulator and overseer; the Public Procurement and Disposal of Public Assets Appeals Tribunal (PPDAT);

⁶ Data not available.

PDEs for actual procurement transactions’ implementation. MoFPED is also responsible for the appointment of the Board of Directors of PPDA and the members of the Appeals Tribunal.

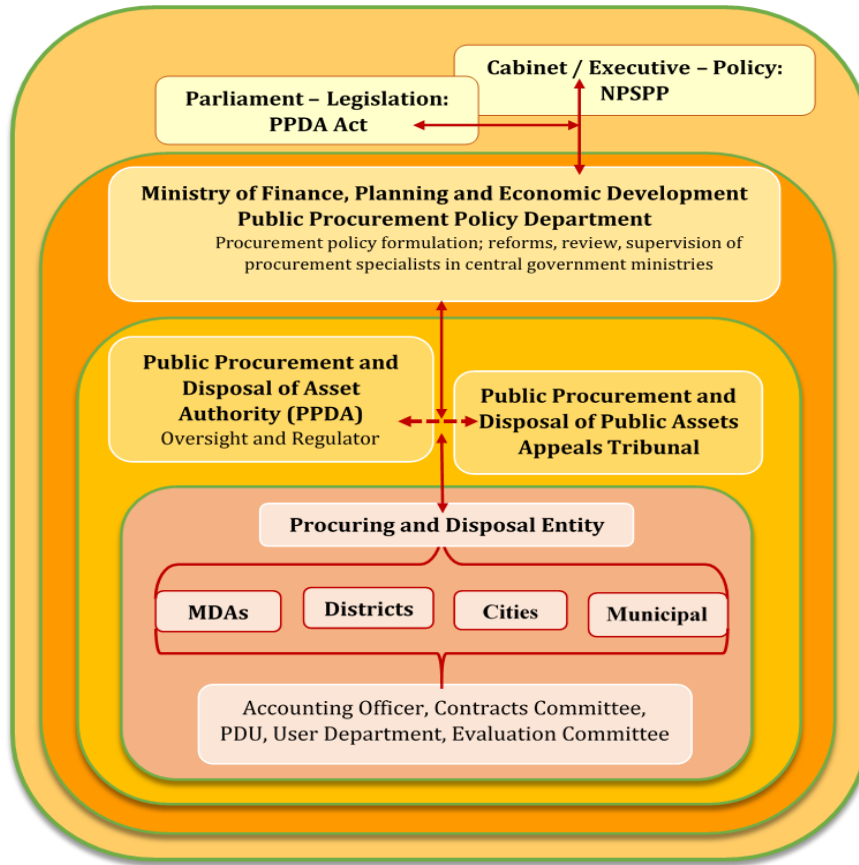
According to the 2021 amendment to the Act, MoFPED’s role is to advise Government on all public procurement and disposal policies, principles and practices. The amendment stipulates that the Minister may in writing give directions to PPDA on policy related matters and requires PPDA to give effect to those directions.

The MoFPED Procurement Policy and Management Department (PPMD) has responsibility that include management and coordination of public sector procurement reforms; formulation, implementation, monitoring and review of the public-sector procurement policy; legal and institutional framework; and the supervision of procurement specialists in central government, mainly ministries. The PDEs comprise Ministries, Agencies and Departments (MDAs), Hospitals, Public Universities, and Local government institutions (Districts and Municipal Councils) that get financing from the consolidated fund. The public procurement system in Uganda comprises of 374 PDEs including 24 ministries, 37 missions, 58 departments and agencies, 20 hospitals, 12 public universities, 47 SOEs 135 district local governments, 31 Municipal and 11 City Councils. The high spend sectors include road infrastructure; energy; water and environment; education; health, and security.

PPDA is an autonomous oversight and regulatory body. It is responsible for executing the government policy on public procurement, PPDA advises PDEs on the application of the Act, and regulations and guidelines under the Act. Its regulatory functions comprise issuing guidelines, investigating breaches of the law, and carrying out performance audits of government contracts and public bodies’ performance. In addition, PPDA collects data on the allocation of government contracts. PPDA is governed by its Board of Directors which is appointed by the MoFPED. The Board operates through the following committees: Audit and Risk Committee; Advisory Committee; Complaints Review Committee; and Human Resources Committee.

The role of PPDA in the decentralized system regulates and guides procurement and disposal processes by offering support and building capacity in the PDEs. Each PDE is composed of an Accounting Officer, a Contracts Committee, a Procurement and Disposal Unit (PDU), a User Department (UD), and an Evaluation Committee, which must act independently and not interfere unduly in the operations of others. The chart below shows the institutional framework of public procurement in Uganda:

Figure 1 – Organization of Public Procurement



The public procurement system of Uganda is well integrated with Public Finance Management System. For example, the Budget Execution and Accountability thematic area includes undertakings such as implementing budgets as appropriated; operationalizing the contingency fund; aligning the sector plans to NDP III; Automating assets register across all PDEs; enforcing compliance with the existing asset management policies, laws and regulations; establishing an integrated projects data bank; providing adequate counterpart funds; rationalizing and harmonizing salary; amending PPDA legal frame work; implementing the National Public-Sector Procurement Policy Intents; implementing the local content strategy; implementing e-GP; revising and enforcing service delivery standards; managing sanctions/rewards in line with Public Service Rewards and Sanctions Framework; executing oversight recommendations; integrating/interfacing of systems and rolling out systems to all Government entities.

The Public Financial Management (PFM) Reform Strategy, which covers a new phase of PFM reforms from FY2018/19 to FY2022/23, has the goal “To enhance resource mobilization, improve planning and public investment management, and strengthen accountability for quality, effective and efficient service delivery”. It has the following six objectives:

1. to enhance resource mobilization for Uganda’s sustainable development;
2. to enhance policy-based planning and budgeting for allocative efficiency;
3. Objective 3: to strengthen public investment management (PIM) for increased development returns on public spending;
4. to strengthen the effectiveness of accountability systems and compliance in budget execution;

5. to improve transparency and accountability of local government PFM; and
6. to strengthen oversight and PFM governance for the sustainability of development

Within this framework of objectives, the strategy deals with most public procurement cross-cutting issues, as listed below.

- Multi-year commitments reflected in annual budgets;
- Costing exercise to improve accuracy and comprehensiveness; Link to PIM work on project preparation and costing;
- Procurement delays, cost escalation, low value for money;
- Enhanced VFM in public procurement for large, complex public procurements: Capacity, transparency and automation;
- Incomplete and stand-alone accountability systems – risk of inaccuracy, inefficiency, fraud;
- Non-compliance with procurement and PFM procedures;
- Vulnerability of IT Systems security;
- Weak local government planning and budgeting; centralized/uncoordinated planning;
- Weak oversight and unclear roles of audit committees;
- Need for enhancement of accountability and performance monitoring in delivery of services in key sectors (roads, education, health and agriculture services) etc.

Specific key interventions (outputs) in the Public Financial Management (PFM) Reform Strategy focusing on public procurement include:

- Enhancing institutional, legal and regulatory framework for governance of public procurement system. Also involves oversight committee of central agencies (MoFPED, PPDA, Office of the Prime Minister (OPM), and National Planning Authority (NPA)) established for large value procurement actions;
- Strengthening capacity in contract management including identifying priority sectors for rolling out Green Public Procurement; operationalizing and integrating contract management functionality on e-GP/IFMS and develop contract management manual; and elaborate technical basis to support Green Public Procurement, and to enhance PPDA staff awareness on Green Public Procurement;
- Improving procurement monitoring for managing large and complex procurements in selected sectors/MDAs. Including introduction independent parallel bid evaluation (IPBEM) in high spend sectors for strategic/complex procurements;
- Building capacity and agreeing principles for greening public procurement systems and functions across government; and
- Strengthening capacity in public procurement, including development of the Local content implementation strategy and rollout of the E-learning system across government;

The last PEFA in Uganda is dated January 23, 2018. Overall, the results of the PEFA show that public financial management systems in Uganda are strong and reforms have improved systems as the PFM Reform Action Plan has been operationalized.

2.3. National Policy objectives and Sustainable Development Goals

The Government spends trillions of shillings each financial year on the provision of goods, works, and services needed for public service delivery. Public sector procurement accounts for 60% of Government expenditure, approximately 30% of the nation's gross domestic product (GDP) (NPSPP 2019), which is the largest share of GDP under the direct GOU control. Therefore, the strengthening of public procurement systems is central to achievement of concrete economic and sustainable development as well as effective management of institutions.

In April 2013, the GOU launched the Uganda Vision 2040 which is aimed at successfully harnessing the country's abundant economic opportunities to transform the country into a competitive middle-income economy. Under the Vision, the GOU is addressing the strategic bottlenecks that have constrained the country's socio-economic development since her independence, including, among others, ideological disorientation, weak private sector and civil society, underdeveloped human resources, inadequate infrastructure, small market, lack of industrialization, underdeveloped services sector, under-developed agriculture. It is conceptualized around strengthening the fundamentals of the economy to harness the abundant opportunities around the country. The GOU has been deploying its efforts to achieve the Vision goals through short and medium-term national development plans.

The Accountability Sector Strategic Investment Plan (ASSIP) 2017/18 - 2019/20, highlights the strategic direction for the country to enhance public contract management and performance. Through the accountability sector, the government intends to increase transparency and accountability in public procurement by implementing e-Government Procurement (e-GP) system. Some of the key measures to enhance public contract management are as follows: engaging and strengthening the capacity of ministries, departments and agencies and local governments (MDALGs) and non-state actors in contract management and performance; strengthening contract monitoring, reporting mechanisms and follow-up audits and recommendations; supporting the development of the Institute of Procurement Professionals of Uganda; and developing a National Local Content Policy. Uganda is the 142nd least corrupt nation out of 180 countries, according to the 2020 Transparency International Corruption Perceptions Index.

The National Public Sector Procurement Policy (NPSPP) prepared by the MoFPED and approved by the Cabinet in April 2019 provides guidance on the strategic direction of public procurement. This policy strongly advocates for procurement as a socio-economic tool in fostering economic development and transformation. Through Sustainable Public Procurement, the policy will open doors for inclusive growth to the industry, innovation, local content, the environment and support for marginalized groups among others.

2.4. Public Procurement Reform

The public procurement reforms in Uganda began with the enactment of the Public Finance Act in 1964. The Act centralised the public procurement function in the Ministry of Works and the Ministry of Public Service. The Public Finance (Tender Boards) Regulations (1977) established the Central Tender Board (CTB) for regulating and controlling the purchase or sale of supplies or equipment and the award of contracts for supplies or services or building and civil engineering works within set threshold limits.

The modern procurement reform process started in 1997. This process led to various legislative and policy changes that have shaped the current legal and institutional framework and procurement practices in Uganda. The outcome of the 1997 wave of procurement reforms was the enactment of the Public Procurement and Disposal of Public Assets Act, 2003. The Act repealed both the Regulations of 1977 and the Public Finance (Procurement) Regulations of 2000 and created PPDA as the Regulator of all public procurement and disposal of public assets.

PPDA Act, 2003 and its attendant Regulations became effective on 21st February 2003. The Act decentralised the procurement function to the PDEs, making them responsible for managing all procurement activities, including the preparation of statements of requirements, procurement planning, bidder selection, contracting and execution of contracts.

With respect to local governments, reforms took place with the enactment of the Local Government Act 1997, which required every district council to establish a district tender board to regulate procurement services, and the 1998 Local Governments Financial and Accounting Regulations to help implement the Act. The Local Governments (Amendment) Act 2001 categorised local government councils into district councils, lower local government councils, and administrative units within the district.

In order to harmonise the procurement legal framework of local government with that of central government, the Local Governments (Amendment) Act of 2006 was enacted and subsequently the district tender boards established by the Local Governments Act of 1997 were abolished.

The Act was first amended in 2011 and the amendment came into force on March 3, 2014 (S.I. No. 3 of 2014). New Regulations and Guidelines as well as standard bidding documents and forms were also issued in 2014. One of the major outcomes of the 2014 amendment was the creation of PPDA Appeals Tribunal as a second level of appellant body after PPDA, which is the first level of appeal from administrative review decisions made by Accounting Officer at PDE level. PPDA Appeals Tribunal is independent and has a clear mandate for bid complaint handling. The latest amendment to the Act, which came into effect on July 2, 2021 provided, among others, for removal of PPDA as the first level of appeal, due to conflict of interest.

The following are the ongoing key developments in Uganda’s public procurement:

a) e-Government Procurement (e-GP)

The GOU in its effort to improve procurement performance and value for money is implementing e-GP. The GOU has an e-GP strategy that will guide in the design and implementation of e-GP. The E-GP system will automate all the activities of Government procurement process cycle for the acquisition of goods, works, and services. This is expected to enhance the efficiency and transparency aspects of public procurement. It will help address the serious challenges of corruption, non-compliance with the procurement Act and Regulations, across PDEs, continuous delays in delivery of supplies and services, and wastage of resources through uncompetitive and closed purchases. The system has been developed and on July 2, 2021. rolled out as a pilot in 11 Entities and later on be rolled out to all Government agencies in the next three years.

b) National Public Sector Procurement Policy (NPSPP)

To provide guidance on the strategic direction of public procurement, the MoFPED developed a comprehensive National Public Sector Procurement Policy (NPSPP) approved by the Cabinet in April 2019. The key NPSPP objectives are as follows:

- a) Enhancement of good governance; in public procurement.
- b) Strategic positioning of the public procurement at policy and operational level.
- c) Use of procurement as a tool for attaining sustainable and socio-economic development.
- d) Alignment of public procurement objectives with national objectives
- e) Incorporation of supply chain management practices within the public procurement system.
- f) Promotion of the use of science, technology and innovation (STI), for stimulating public and private investment.

It is envisaged that the policy will introduce a paradigm shift from the traditional approach of looking at public sector procurement as an administrative function to a strategic function that facilitates socio-economic development

and transformation. The sensitisation on the policy is ongoing and some of the policy intents are being implemented, such as sustainable procurement, amendment of PPDA Act, e-GP among others..

c) The Institute of Procurement Professionals of Uganda

In 2008, the procurement professionals in Uganda with support from MoFPED, PPDA and DPs formed the Institute of Procurement Professionals of Uganda (IPPU), a privately registered non-profit organisation with the objectives of bringing together both the public and private sector procurement and supply chain professionals in Uganda to ensure that they conduct themselves professionally and maintain best procurement practices in carrying out their work. The Principles of the Institute of Procurement and Supply Chain Management of Uganda (ISCMU) Bill 2020 were submitted to Cabinet for Approval. Once the Principles are approved, this will give impetus for developing the Bill. The ISCMU Bill once enacted into law will regulate the procurement and supply chain profession in Uganda and replace the IPPU. The public procurement capacity and the status of the public procurement profession will be assessed.

d) Involvement of Civil Society Organisation in public procurement

PPDA involves Civil Society Organisations (CSOs) as one of the key stakeholders in public procurement reforms and as such regularly engage them in public procurement training and capacity building. The CSOs keenly access public procurement information monitor contracts and sensitise the public. In 2018, PPDA and the Africa Freedom of Information Centre (AFIC) entered a five-year partnership. This partnership champions open contracting and access to information about service delivery. The CSOs are also involved in the national budgeting process. The CSOs' involvement in public procurement will be assessed in depth.

2.5. COVID-19 and its Impact

In Uganda, the first case of (COVID-19) was identified on 20th March 2020. This was preceded by a Presidential address made on 18th March 2020, where the President, with approval of the Cabinet and National Task force for COVID-19 imposed restrictions which included: closure of borders with some countries, schools and all other education institutions, stopping religious gatherings of any form, closed business operations, that were categorized as non-essential, and imposed travel restrictions both internally and internationally. With several additional measures implemented, Uganda managed to keep the number of registered positive cases of Covid-19 below 150 until 20 May 2020, when there was partial relaxation of lockdown measures.

By March 2021, the country of over 44 million people had recorded relatively low COVID-19 numbers: 40,593 cases of COVID-19 and 334 deaths since the beginning of the pandemic in 2020. Considering the dire situation in many countries and the fact that the virus has killed over 2.6 million people worldwide, Uganda has been rated very successful at fighting COVID-19, (Global Fund 2021).

Following the relaxation of lockdown measures on 21 May 2020, the number of infections started to rise quickly. The rise in COVID-19 infections in the second wave has seen Uganda striving to cope with the pandemic and the stringent 42-day lockdown beginning 18th June 2021. More stringent measures to control COVID-19 transmission after it recorded over 1000 new cases per day on 2 June – its highest tally ever at the time, mostly among people aged between 20 and 39 years. By the time the GOU imposed a second lockdown June 18, hospitals were teeming with COVID-19 patients, many in need of oxygen, which was difficult to come by. As of 24th July 2021, the COVID-19 numbers had cumulatively stretched to 92,762 cases of COVID-19 and 2569 deaths.

The COVID-19 pandemic has brought unique challenges for the GOU with respect to public financial management and public procurement to guarantee continued public infrastructure and service delivery. Uganda, just like in the OECD countries, public procurement strategies and infrastructure plans are at the frontline of the responses to the COVID-19 crisis. The government has to procure essential health products and services needed in the immediate response to the COVID-19 crisis while at the same time it has to ensure the smooth and accountable management of ongoing contracts needed for ensuring public services to the citizens. Public investment, be it for obtaining necessary health products and supplies, or for providing essential public services and maintaining relevant infrastructures (physical and digital), is channeled mainly through public procurement.

In line with the above, the PPDA Authority issued a circular on the conduct of procurement activities during the lockdown period as a result of COVID-19. The Circular among others provides guidance on receipt and opening of bids, pre-bid meetings and site inspections in light of travel restrictions; halting of administrative reviews and handling of critical procurements.

According to the Minister of Finance, Planning and Economic Development, Uganda's Covid-19 response measures strained the implementation of the FY2019/20 budgets. They added costs on several activities that were not foreseen or planned for, and forced the government to resort to supplementary budgets to cover the gaps. The pandemic has also affected the FY2020/21 budget and caused pressure on already limited resources, as the government allocates funds to various Covid-19 response activities and revises downwards revenue collection targets for the current and next financial year.

A key challenge for Uganda's response to Covid-19 is how to balance response measures with the need for continued implementation of service delivery and development programs in line with the country's medium- and long-term development targets. Allocation of budget resources for Covid-19 response shows low government expenditure in some sectors and poor targeting.

3. Assessment

Pillar I - Legal, Regulatory and Policy Framework

Uganda’s governance system comprises Central Government (CG) and Local Governments (LGs). The current public procurement legal and regulatory framework (hereinafter referred to as “the framework”) comprises the following:

1. The 1995 Constitution of the Republic of Uganda
2. The National Public Sector Procurement Policy 2019
3. PPDA Act 2003 as amended in 2014 and 2021
4. The PFM Act 2015
5. PPDA Regulations 2014
6. Local Government Act 1997
7. Local Government PPDA Regulations of 2006

Guidelines (2014, 2017, 2018, and 2020), and Circulars support the framework. Standard Bidding Documents (SBDs) for goods, works and services are also available. At the LG level, the Procurement Regulations of 2006 are based on, although not fully consistent with, the main Act as amended in 2014. In addition, several Procurement Guidelines were issued in 2006, 2007 and 2008. In 2020, PPDA issued a circular on the conduct of procurement activities during the lockdown period caused by COVID-19. The Circular among others provides guidance to PDEs on receipt and opening of bids, and suspension of pre-bid meetings and site inspections during the lockdown period. During this period PPDA discontinued holding administrative review meetings. However, it continued to receive complaints. According to the circular, all COVID-19 related procurement and procurement exempted from the lockdown would continue to be undertaken by PDEs.

The latest amendment to the Act came into force on July 2, 2021. This amendment mainly relates to the functions of PPDA and its Board of Directors; electronic records and communication; aggregation of procurement requirements; marginalized groups under reservation schemes; removal of PPDA from the administrative review process; appointment of a Registrar for PPDA; the powers of the High Court in procurement proceedings; amendment of the Kampala Capital City Authority Act and the Local Governments Act with respect to procurement; and introduction of new procurement methods for complex, specialised and strategic goods, works and services

Uganda’s public procurement legal and regulatory framework is generally comprehensive, adequately recorded, harmonized, coordinated, and organized hierarchically and follows a well-established order of precedence. The framework is adequately complemented by the Anti-Corruption Act (2009) as amended (2013), the Penal Code (1950) as amended, the Inspectorate of Government Act (2002), the Public Finance Management Act (2015), the Leadership Code Act (2002), Whistle Blower Protection Act (2010), Arbitration and Reconciliation Act (2000), Code of Conduct and Ethics for Uganda Public Services (2005), the Access to Information Act (2005), Public Service Standing Orders, and the National Audit Act 2008.

The CG Regulations comprise 11 and the Guidelines 16 separate documents. This scattered nature of these documents may make it difficult for public officials involved in Procurement as well as for Service Providers to

easily read, follow, and cross reference them. This may adversely affect effective implementation of the framework. The CG Regulations and Guidelines as consolidated documents would make them more user friendly and enhance compliance and efficiency.

According to a circular published on the PPDA website, in light of the 2021 amendment to the Act, PPDA is undertaking a review of the Procurement Regulations. PPDA will not only update CG and LG Regulations, and make them consistent with the main Act, as amended. Furthermore, PPDA may also consider updating the value thresholds for selecting and using procurement methods, and various SBDs to make them fully consistent with the Act. Although the need for updating the thresholds would depend on changes in market conditions, these need to be updated every three years.

Uganda issued its National Public Sector Procurement Policy (NPSPP) in 2019. This Policy comprehensively deals with different aspects of public procurement and provides a clear road map for a sound public procurement system. However, since the framework was introduced earlier than the NPSPP, the legal framework is being gradually updated. Similarly, it also needs to be aligned with the National Risk Management Strategy of 2018, and the Leadership Code as amended.

Overall Strengths

- Clear, comprehensive, and coordinated legal frameworks governing CG and LGs’ public procurement.
- A well-functioning regulatory and oversight body - PPDA.
- PPDA website allowing public procurement stakeholders free access to information.
- Existence of comprehensive e-GP Guidelines.
- Freely accessible standard bidding documents for goods, works and services.
- Mandatory provision to pre-disclose eligibility and qualification criteria during procurement process.
- Well-defined procurement methods.
- Open Bidding designated as the preferred procurement method.
- Requirement that all public officials involved in procurement declare any situation of conflict of interest in conducting and managing procurement.
- Presence of a functional bid complaint review mechanism.

Overall Weaknesses

- The Act and Regulations are not consistent with the NPSPP 2019 although the 2021 Amendment is a movement in that direction.
- Prequalification is used for shortlisting firms rather than for determining their eligibility and qualification for large complex contracts.
- Slow bidding processes including repetitive eligibility and qualification documentary requirements, their manual processing, and submission of fake documents by providers.
- Absence of model technical specifications and common specifications standards.
- Lack of provision in the framework for publication of bid complaints and their resolution on easily accessible websites and within specified time frames.
- Electronic versions of procurement Acts, Regulations Guidelines, etc., not accessible throughout the country.
- Scattered nature of CG Regulations on PPDA website affecting their user friendliness and compliance.
- Absence of security protocols to protect records (physical and/or electronic).
- The SBDs for works not suitable for procurement of major works.

- Sector-specific SBDs are yet to be prepared.

Indicator 1. Public Procurement Legal Framework

Findings

Sub-indicator 1(a) – Scope of application and coverage of the Legal and Regulatory Framework

The framework applies to all public procurement of goods, works, and non-consulting and consulting services carried out with budgetary funds. Therefore, all government entities, including State-Owned Enterprises (SOEs) are subject to the framework. The Defense and National Security, which include Defense Forces, Police Force, Prisons Service, Intelligence Services and National Security Council, are also subject to the framework. These services carry out their procurement based on a dual list of the required items that PPDA approves annually. The required goods, works and services on the open and restricted lists are subject to open and restricted procurement methods respectively.

In 2010, the GOU adopted a Policy of Public-Private Partnership (PPP) as a tool for the provision of public services and public infrastructure. Subsequently, the PPP Act was enacted in 2015, which provides for and regulates PPP arrangements for the mobilization of private sector resources for public financing, construction, operation and maintenance of development projects or concessions. The PPP Act includes detailed provisions on different procurement procedures suitable for PPP arrangements, including a provision on the treatment of unsolicited bids. Both the PPP and the Procurement Acts include, among others, financing of PPP projects through Build Own Operate (BOO), Build Own Transfer (BOT), Build Own Operate Transfer (BOOT), concessions, etc.

The Acts, regulations, guidelines and circulars currently in force are published on PPDA website <https://www.ppda.go.ug>, and are easily accessible and downloadable free of cost, although only in the areas where internet coverage is available. The Uganda Printing and Publishing Corporation prints and publishes these documents through bookshops at a reasonable price. Since internet services are not available everywhere in the country, it would be useful, until the necessary expansion of the internet takes place, to make these documents available in hard copies to key stakeholders, especially Small and Medium Enterprises (SMEs), in such areas.

Sub-indicator 1(b) – Procurement methods

The Act establishes the procurement methods unambiguously at an appropriate hierarchical level along with the associated conditions for their use. One of the conditions for the use of any procurement method is the mandatory prior approval of the Contract Committee (CC) which is appointed by the Accounting Officer (AO). The methods include open international bidding; open domestic bidding; restricted domestic bidding; restricted international bidding; quotation/proposal method; direct procurement; and micro-procurement for goods, works and non-consultancy services. For consultancy services, the Act provides for quality and cost based selection method; quality based selection method; fixed budget selection method; least cost based selection method; and the consultants' qualifications selection. The Regulations includes detailed provisions on use of Force Account. For the LGs, these methods are open bidding; selective bidding; micro-procurement; and community purchase.

The 2021 amendment to the Act has added new procurement methods which include: electronic reverse auction, the competitive dialogue method and the competitive negotiation method for complex, specialized or strategic goods, works or services.

PDEs are required to use Framework Agreements (FAs) for frequently occurring needs of commonly used items. FAs are based on pre-agreed unit prices over a period of time, and where quantity and timing of the requirements cannot be defined in advance. Splitting of a procurement to avoid the use of a competitive procurement methods is prohibited. According to the information made available to the assessment team, the number of contracts awarded to local providers is continuously high and contract values overwhelmingly low. This may be indicative of incorrect packaging of goods, works and services and unintentional fractioning of needs attributable to low and outdated thresholds for the use of the procurement methods.

In addition to the conditions for selection and use of each procurement method stipulated in the Act, monetary thresholds are the main criteria for selection of a procurement method. These thresholds were initially established after a consultative process with different stakeholders and benchmarking with other Jurisdictions and assessing the market environments. The thresholds, although permissible by the Act, are not regularly updated. For instance, the CG Guidelines on the thresholds over the period 2003-2018 (15 years) have been revised only once in 2014 over six years ago. These low and outdated thresholds are leading to a large number of procurement transactions, especially small value contracts being awarded through open bidding. This may lead to inefficiencies and render the public procurement processes unfavorable to the achievement of value for money due to high administrative workload and costs. Furthermore, the thresholds relating to consultancy services are not consistent with the procurement/selection methods as stipulated in the Act. The value thresholds need to be updated every three years depending on the changes in the country's market conditions.

The framework includes provisions on appropriate standards for competitive procedures. These, among others, include use of SBDs with appropriate contract conditions, pre-bid or proposal meetings, advertising periods, bidding time, submission and recording of bids, public bid or proposal opening, post qualification, confidentiality of bids, objective evaluation of bids, bid review mechanism, etc.

Sub-indicator 1(c) – Advertising rules and time limits

Section 79 (1) and 88A (1) of the Act and its Fourth Schedule provide that open bidding (domestic, international and consultancies) shall be open to all bidders following advertisement of a bid notice in at least one national newspaper of wide circulation, a newspaper of wide international circulation and, where necessary, in a relevant trade or professional publication. The bid notices must be posted on the PPDA website. The bid notices are easily and freely accessible to all interested national and international bidders. The CG Regulation 2014 on Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services 2014 requires bid notices to include sufficient information to ensure that interested bidders understand the bidding requirements. The templates of bid invitation notice and notice of expression of interest are available on the PPDA website and displayed on the PDE's notice board not later than the date of publication of the bid notice and until the deadline for submission of bids. These notices contain sufficient information to enable interested bidders to make a decision about their participation in the bidding process.

Section 64 of the Act provides that “the bidding period shall be sufficient to allow bidders to prepare and submit their bids and shall not be reduced with the aim of limiting competition”. The minimum bidding period (time required for bidders to prepare and submit bids or proposals) in respect of each procurement method is shown in the tables below.

Table 3 - Central Government - Minimum Bidding Periods

SN	Procurement Method	Minimum Bidding Period (Working Days)
1	Open Domestic Bidding	20
2	Open International Bidding	30
3	Restricted Domestic Bidding	12
4	Restricted International Bidding	20
5	Quotations/Proposal	5
6	Direct Procurement	0
7	Micro Procurement	0
8	Consultancy Firms	15
9	Individual Consultants	10

Table 4 - Local Governments - Minimum Bidding Periods

SN	Procurement Method	Minimum Bidding Period
1	Open National Bidding	15
2	Open International Bidding	33
3	Selective National Bidding	10
4	Selective International Bidding	20
5	Direct Procurement	0
6	Micro Procurement	0
7	Community Purchase	2

The minimum bidding period for the LG selective bidding method is ten (10) working days while for the CG it is five (5) days for request for quotations. These methods are essentially the same and bidding periods for them need to be the same.

Sub-indicator 1(d) – Rules on participation

The framework requires that, except for situations where emergency or other factors demand otherwise, all public procurement be carried out through an open bidding process, based on the principles of non-discrimination, transparency, accountability, fairness, competition, confidentiality, economy, efficiency, and ethical conduct. Section 70 of the Act sets basic qualifications requirements that all bidders must meet. It also provides for domestic preferences, a reservation scheme, and registration of providers. Section 59A of the Act provides that preference schemes shall be applied in respect of goods, works and non-consultancy services, where the open domestic or open international bidding methods are used, with a specified margin of preference (not exceeding 15% for goods and 7% for works and services). In respect of consultancy services, for the quality and cost-based

selection method and the least cost selection method, where proposals are invited from both national and foreign consultants, the specified margin of preference shall not exceed 7%.

Under the reservation scheme, public contracts may be reserved to benefit national and resident providers. The main objective of the reservation scheme is to support locally manufactured products, knowledge transfer, and human capital development. The Guidelines dated February 2018 provide that the reservation shall apply to procurement of supplies works and services as follows:

- a) Supplies and consultancy services estimated to cost below UGX 1 billion;
- b) Road works estimated below UGX 45 billion and other works below UGX 10 billion;
- c) Non-consultancy services below UGX 200 million; and
- d) Reservation of at least 30% of the value of works and supply of materials, equipment and services through subcontracting to national and resident providers in procurements of road works above UGX 45 billion and other works above UGX 10 billion where the bidder is a foreign provider.

The Guidelines include detailed instructions on the application of the reservation scheme. Use of any reservation is required to be disclosed in the procurement plans and the details of their application must be included in the bidding documents. While domestic preference in open international bidding and the reservation scheme requiring subcontracting of domestic providers in contracts with foreign providers and reserving others for domestic providers are intended to promote domestic providers and goods, works and services, these do discourage participation of foreign bidders. There are no other barriers to participation of international firms in government tenders.

The framework provides for pre-qualification for open domestic or open international bidding method to obtain a shortlist of applicants who meet the prequalification criteria. Prequalification is also used for works, goods, and non-consultancy services which are highly complex, specialized or require detailed design or methodology; the costs of preparing a detailed bid would discourage competition; evaluation is particularly detailed and the evaluation of a large number of bids would require excessive time and resources; or the bidding is for a group of similar contracts, for the purposes of facilitating the preparation of a shortlist. A prequalification notice is published in at least one newspaper of wide circulation. The minimum pre-qualification period under open domestic bidding is 15 working days; and 20 under open international bidding. In case of pre-qualification for a group of contracts, the notice and prequalification document, contains an estimated period covered by the pre-qualification and an estimated number of contracts to be awarded and their respective value. The PDE must display the list of pre-qualified bidders on the notice board of the entity for at least ten working days. The list of pre-qualified providers is updated periodically, where pre-qualification is for a group of contracts. The pre-qualification information submitted by a provider is verified before a contract is awarded. For the contracts not subject to prequalification, the framework provides for post-qualification.

While the prequalification process discussed above is generally in line with the corresponding international practice, the use of a prequalification process to prepare a shortlist of providers is not clear. In the internationally recognized practice, prequalification is used for large and complex contracts to ensure that only those applicants who meet the qualification criteria participate in bidding. This is beneficial both to the procuring entity and providers in terms of administrative cost, cost of participation and lengthy complaints. All applicants who meet the eligibility and qualification requirements generally evaluated using a pass/fail criterion, are invited to submit a bid.

Section 70 of the Act provides for exclusion from participation in government contracts for, among others, the following reasons:

- a) Conflict of Interest
- b) Breach of the Code of Ethics of providers;
- c) Debarment from the procurement processes of an international agency of which Uganda is a member;
- d) Conviction of fraud or corruption;
- e) Professional misconduct; and
- f) Breach of contract.

The State-Owned Enterprises (SOEs) are eligible to participate in bidding for government contracts only if they can establish that they are legally and financially autonomous, and operate under commercial law. Since the SOEs may enjoy favorable tax regime, government subsidies, etc., the GOU needs to consider measures to create fair and level playing field. Such measures may include exclusion of SOEs, especially those enjoying government benefits, from participation in competition for public contracts. Furthermore, the SOEs that are supervised directly by a PDE which is conducting the bidding process should not be allowed to participate to avoid a conflict of interest situation.

Due diligence in ascertaining whether a bidder meets eligibility and capacity requirements is done manually and takes a long time. Submission of fake eligibility and qualification documents is another problem in the evaluation process. This problem may be resolved with the roll out of e-GP which, if integrated properly with the other governance systems, e.g. Taxes, licenses, permits, etc. This integration would allow PDEs to automatically obtain and verify eligibility information. Imposition of penalties, including debarment, may also deter bidders from submitting fake or fraudulent documents at any stage of the procurement cycle.

Sub-indicator 1(e) – Procurement documentation and specifications

The framework includes a list of key contents of a bidding document and templates of procurement notices, evaluation report, etc. Based on these prescribed contents, PPDA has prepared SBDs for goods, minor works and non-consultancy services. The contents of these documents are relevant and sufficient for suppliers to respond to a PDE's requirements, including seeking and obtaining clarifications on the contents of bidding documents. The use of these SBDs is mandatory. In 2019, PPDA issued the revised SBDs for works for use in the open and restricted bidding methods. This SBD also incorporates the Environmental, Social, Health and Safety (ESHS) requirements.

Section 60 of the Act provides for the form of statements of requirements; specifications; terms of reference; scope of works; drawings; and bills of quantities. A statement of requirements should give a correct and complete description of the object of the procurement based on generic, performance or functional specifications. Where there is no other sufficiently precise or intelligible way of characterizing a requirement, the description of a particular brand may be used, followed by the words "or equivalent".

Section 61 of the Act provides for use of best practice and industry standards defined and codified by internationally recognized trade associations and professional bodies in the appropriate fields. Section 7 of the Act requires PPDA, among others, to *“adopt, adapt and update common specifications standards, the use of which shall be mandatory for all procuring and disposing entities.”*

In the absence of model specifications, each PDE prepares its own specifications for even commonly used items. These specifications vary from one procurement to another or one PDE to another, and make the public procurement processes inefficient. Introduction of common technical specifications standards, and model technical specifications would facilitate the PDEs' task of preparing neutral technical specifications and enhance transparency, fairness and efficiency of public procurement processes, and ensure the achievement of value for money. These common technical standards and model technical specifications may be prepared by PPDA in collaboration with the PDEs

Sub-indicator 1(f) – Evaluation and award criteria

According to Section 71 (1)-(4) of the Act the choice of an evaluation methodology has to be determined by the type, value and complexity of the procurement; all bidding documents should comprehensively detail the applicable evaluation methodology and criteria; evaluation criteria are not to be drafted in a way that restricts competition; and no evaluation criteria other than that stated in the bidding documents is used. Regulation 7(2) provides that an evaluation committee shall not, during an evaluation, make an amendment or addition to the evaluation criteria stated in the bidding documents. The framework provides for the use of price and non-price attributes in evaluation of bids. While evaluation method depends on the nature of procurement, a bid for procurement of goods or works is determined to be the best evaluated bid if it is eligible and administratively compliant to the technical requirements as specified in the bidding documents; offers the lowest evaluated price determined after consideration of the items such as delivery/completion time, training, incidental services, etc. and the bidder has the capacity and the resources to effectively perform the contract. Where equipment is to be in use for a long period of time or where maintenance and operating costs are a significant proportion of the overall cost, the evaluation committee uses the life-cycle costing.

As stipulated in the framework, for selection of consulting firms or individual consultants, a merit point system which has to be specified in the Request for Proposal (RFP) is used for evaluation of proposals. A proposal which does not achieve the minimum score required in the RFP is rejected. Determination of the best evaluated proposal is based on weighted technical and financial scores. For instance, in case of the quality and cost based selection (QCBS) method, weight for the financial score cannot be less than 10 points and not more than 30 points of the total of 100 points for the technical and financial proposals. This ensures a balanced quality and cost evaluation of proposals.

The framework provides for confidentiality and forbids a PDE from disclosing to a bidder or to any other person who is not involved in the preparation of the bidding documents, the evaluation process or the award decision, any information relating to the bidding documents, before these are officially issued. No information can be disclosed about examination, clarification, evaluation and comparison of bids before the best evaluated bidder notice is displayed on the PDE's notice board. Furthermore, only the chairperson of an evaluation committee is allowed to contact bidders for any clarification in writing, and bidder's response in respect of clarification must be sent to the evaluation committee in writing.

Sub-indicator 1(g) – Submission, receipt and opening of tenders

The framework includes clear provisions on bid submission, receipt and opening of bids. It provides for date, time and location of bid opening session and mandates that bid opening take place in public immediately after bid submission/closing deadline. A bid/proposal for goods, works and non-consultancy services can be deposited in a sealed bid/proposal box or received by a Procurement and Disposal Unit (PDU) staff member.

The bids received under the open bidding methods for goods and works are open in public, except for the bids/proposals received under the restricted bidding methods which are not opened in public. In case of selection of consulting firms, the envelopes containing the technical proposals are opened; and after evaluation of the technical proposals, the envelopes containing the financial proposals of the firms whose technical proposals obtained the qualifying marks are opened in public. The PDE is responsible for safekeeping of bids after their opening.

PDEs are required to use the standard forms issued by PPDA to record all details of the procurement process, except where it obtains the consent of PPDA to use different forms. The framework includes details of public bid opening and the manner in which records of the opening are prepared and displayed on the PDE's notice board. PDEs must maintain records on procurement and disposal proceedings for a minimum period of seven years from the date of a decision to terminate the procurement or the date of the completion, whichever comes later.

Sub-indicator 1(h) – Right to challenge and appeal

Section 89 (1) of the Act, as amended in 2021, provides for a bidder to seek administrative review from the AO for any omission or breach by a PDE of the Act, or any regulations or guidelines made under the Act, or of the provisions of bidding documents. A bidder who is aggrieved by a PDE's decision may lodge a complaint with PDE's AO. The complaint must be submitted in writing with the prescribed fee within 10 working days from the date the bidder first becomes aware or ought to have become aware of the circumstances that give rise to the complaint. The PDE must on request provide the complaining bidder with a report indicating the reasons for the rejection of the bidder and the stage at which the bidder was rejected. Such a report can be used only for the administrative review process.

On receiving the complaint, the AO immediately suspends the procurement; requests the bidders to extend the period of bid validity and bid security for the duration of the suspension; makes a decision within 10 working days of the receipt of the complaint; and communicates the decision in writing to the bidder, indicating the reasons for the decisions and corrective measures to be taken. According to Section 90(3) of the Act as amended, if the AO does not make a decision within 10 working days of the receipt of the complaint or the bidder is not satisfied with his or her decision, the bidder may make a complaint to the Public Procurement and Disposal of Assets Disposal Tribunal (PPDAT) within 10 working days from the date of communication of the AO's decision. If the bidder decides to make an appeal to PPDAT, s/he must give a notice to the AO within five days after the expiry of the period of 10 days that is allowed to the AO for dealing with the complaint.

In case a bidder believes that the AO has a conflict of interest in respect of the complaint, omission or breach of the appeal procedure or that the matter cannot be handled impartially by the PDE, the bidder can make an appeal to PPDAT for determination of the complaint, omission or breach. A bidding process suspended because of the complaint remains suspended until PPDAT makes a decision.

The PPDAT comprises a chairperson and four members. Persons qualified to be High Court judges, and those with knowledge and experience in procurement, finance, commerce, business, administration, or law are appointed as members of PPDAT. It has its own registrar. The chairperson of PPDAT is appointed by the Minister of Finance

and Economic Development, in consultation with the chairperson of the Judicial Service Commission. The Minister also appoints members of PPDAT from the private sector. PPDAT:

- is not involved in any capacity in procurement transactions or in the process leading to contract award decisions;
- does not charge fees that prohibit access by concerned parties;
- follows processes for submission and resolution of complaints that are clearly defined and publicly available;
- issues decisions within the timeframe specified in the rules/regulations; and
- Issues decisions that are binding on every party (without precluding subsequent access to an external higher authority).

PPDAT has the powers to take evidence on oath; proceed in the absence of a party who has had reasonable notice of the proceedings; adjourn the hearing of the proceedings; make an order as to costs against any party, which shall be enforceable like an order of the High Court; and request to examine a witness who is outside Uganda. However, PPDAT has no authority to suspend the procurement process:

A party to proceedings before PPDAT who is aggrieved by PPDAT's decision, may, within thirty days after being notified of the decision of PPDAT or within such further time as the High Court may allow, lodge an appeal with the Registrar of the High Court, on question of law only. The notice of appeal shall state the question of the law that forms the appeal. During an appeal to the High Court, the suspended procurement is allowed to resume. A decision of the High Court is final and not subject to appeal to any other court.

Except for the following matters, any omission or breach by the PDE of the provisions of the framework are subject to review by PPDAT:

- a PDE decision to reject any or all bids prior to award of a contract;
- a PDE decision to discontinue a procurement process, after receiving submissions from bidders following an expression of interest or a pre-qualification; and
- a PDE decision to limit the participation of bidders under a preference or reservation scheme.

Section 16 (1) of Regulations 2014 provides for information to be published and made available to the public that includes details of the administrative reviews but does not specify the timeframe to provide the information. The decisions by PPDAT are provided within the specified timeframe to the complaining parties and accessible on the www.ppda.go.ug and www.ppdaappealtribunal.go.ug websites. PPDA publishes reports and statistics on bid complaint reviews on its website. The framework needs strengthening to provide for publication of bid complaints and decisions on them within prescribed time limits.

Although the 2021 amendment to the Act has removed PPDA from the bid complaint review mechanism, it has given it the authority to investigate and act on complaints received from members of the public. The amendment clearly states that such complaints shall not be subject to administrative review or review by PPDAT. Nevertheless, PPDA's removal from the review system resolves the conflict of interest situation. It is expected that a two-tier conflict of interest free bid review system would not only save time in resolving complaints but would also enhance bidders' trust in the system. However, for achieving such a result, it would be necessary for PPDA to inform all stakeholders, especially providers, about the improvement.

Sub-indicator 1(i) – Contract Management

The CG Regulation on (Contract) 2014, Sections 51, 52 and 53 and the LG (Public Procurement and Disposal of Public Assets) Regulations, 2006 section 119 both provide appointment of a contract manager/supervisor with clearly assigned responsibilities for contract management. The CG and LG Regulations define conditions for contract amendments and variation. Section 62 (1) of the Act provides that PDEs shall use the SBDs provided by PPDA as models for drafting all bidding documents, including contract conditions, for each individual procurement or disposal requirement. The SBDs for works include adjudicator for resolving contract disputes. The SBDs for goods, non-consultancy services, and consultancy service include clauses which in case of contractual disputes provide for amicable settlement and arbitration according to the Arbitration and Reconciliation Act 2000.

According to the Regulations on Contract, the AO or a person appointed by the AO from the UD, shall manage the contract. The PDE provides a copy of the contract to contract manager who prepares a contract management plan and forwards a copy to the PDE for monitoring. For high value or complex contracts, the AO appoints a contract management team. A contract may be managed by a body or person outside the PDE, supervised by the UD. The contract manager's responsibilities are as follows: manage the obligations and duties of the procuring and disposing entity specified in the contract; and make certain that the provider performs the contract in accordance with the terms and conditions specified in the contract. The contract manager is responsible for ensuring that a provider meets all contract performance or delivery obligations; submits all the required documentation; the PDE meets contractual payments and other obligations; cost, quality and time control are adequate; contractual obligations are complete before closing the contract file; and all contract management records are kept and archived as required. The contract manager also issues any required variations or change orders; manage handover and acceptance procedures; evaluate the provider's performance; submit a monthly report on the progress or completion of the contract to the AO and the PDU. The Regulations also include detailed provisions on contract amendments, change and variation orders, and contract termination.

The framework does not provide for appropriate contractual dispute resolution mechanism for large contracts, such as a Dispute Review Expert or Board. Such a mechanism is essential to expeditiously resolve contractual disputes in large and complex contracts, and to avoid litigation.

Sub-indicator 1(j) – Electronic procurement (e-Procurement)

The laws such as Electronic Transactions Act, 2011, Electronic Signatures Act, 2011 and Access to Information Act, 2005 have created an enabling environment for the use of e-GP. The latest amendment to the PPDA Act, which became effective on July 2, 2021, provides for electronic filing and communication, including electronic submission and receipt of documents. The e-GP Guidelines of April 2020 also provide direction on the subject.

The GOU has been implementing a comprehensive e-GP strategy. Consequently, PPDA is rolling out a pilot phase of e-GP with several entities. The use of e-GP is one of the most significant reforms in public procurement to revolutionise government operations and consequently enhance public procurement efficiency and transparency. In order to achieve value for money in public procurement through enhanced efficiency and transparency, it is imperative for the GOU to take all measures necessary, including expanding internet to reach all areas in the country, to speed up the e-GP rollout.

When fully implemented, the e-GP system will provide a platform for; (i) increased transparency in procurement procedures and practices; (ii) enhanced efficiency in the procurement process, by minimising the procurement

cycle time, maximising value for money, and fostering accountability; (iii) improving confidentiality, integrity and authenticity of transactions between the PDEs and the providers; (iv) building up a common database and electronic trail of procurements to facilitate proper monitoring, reporting and planning of public procurements; and (v) PDEs and providers' compliance with the framework through a uniform platform that is well guided by the framework.

The overall deployment readiness status of the e-GP is at 88%. While a pilot phase of e-GP is going on, the intended roll out has been slowed down. The URL for the Uganda e-GP system is www.egp.go.ug which would be accessible only after the super administrator and the PDE administrators perform their roles as per the go live plan. In addition to the delay caused by the pandemic, the slowdown in the implementation of e-GP is caused by the slow integration of the e-GP with the other governance systems such as IFMS, PBX, E-Tax, Uganda Registration Services Bureau (URSB), the National Social Security Fund (NSSF), SMS notification gateway and e-payment gateway, etc). All the mentioned systems have been integrated apart from IFMIS whose integration is ongoing. The GOU expects to fully roll out the system in the next three years.

Sub-indicator 1(k) – Norms for safekeeping of records, documents and electronic data

Section 56 (2) of the Act requires the PDEs to use the standard forms issued by PPDA to record all details of the procurement except where it obtains the consent of PPDA to use forms other than those provided by PPDA. A list of procurement records and documents to be maintained has been established by the Regulations. Most of the records are manually generated and kept. Access to manual records is cumbersome and sometimes these are not easily available.

Section 41(1) of the Act, as amended in 2021, requires a PDE to maintain records on its procurement and disposal proceedings, in paper or electronic form, for a period of a minimum of seven years from the date of a decision to terminate the procurement or the date of the contract completion, whichever comes later. This is compatible with the audit cycle. Nevertheless, there are no adequate established security protocols to protect records (physical and/or electronic).

All records – paper or electronic – must be protected from damage, loss, destruction, misuse, unauthorized disclosure, modification, and other risks. Whether or not records are unclassified, confidential, or strictly confidential, all officials must manage records so that they are safe from loss, destruction, or misuse. A comprehensive information security program needs to be implemented. The goal is to protect information as securely as possible while ensuring personnel across PPDA and PDEs can access information and records in order to carry out their duties effectively. More specifically, the following steps can effectively secure records:

- a) Have a central location for all procurement documents;
- b) Organize electronic records the same way as paper records
- c) Label all records, files and cabinets appropriately;
- d) File everything immediately;
- e) Keep Active files accessible;
- f) Consider scanning to save space and time;
- g) Lock everything down;
- h) Install fire and security alarms;
- i) Limit access to critical records;
- j) Conduct regular audits of records; and

k) Destroy records securely as needed in accordance with legal requirements.

Sub-indicator 1(I) – Public procurement principles in specialized legislation

The provisions of the CG and LG frameworks are universally applicable to all PDEs, and autonomous bodies or authorities formed by the Act, if they use public funds appropriated to them from the government budget. SOEs are also subject to the framework. For specialised procurement in the sectors such as education, energy and health⁷, the Act provides for accreditation of alternative systems for PDEs which are not able to comply with a particular procurement procedure under the Act. Such a PDE may apply to PPDA for accreditation of an alternative system, and PPDA may agree in situations:

- where exceptional requirements make it impossible, impractical or uneconomical to comply with this Act;
- where market conditions or behavior do not allow effective application of the Act; and
- For specialized or particular requirements that are regulated or governed by harmonized international standards or practices.

Also, PPDA may, on its own initiative, accredit an alternative system for a PDE which is not able to comply with a procurement procedure required under the Act. PPDA may accredit an alternative system where a PDE:

- operates in a specialized field or discipline which requires alternative or additional regulations;
- has a status that requires alternative or additional regulations;
- is required to use an alternative system to comply with the provisions of international or any other agreements;
- or
- has other valid reasons which necessitate the use of an alternative system.

PPDA has so far approved accreditation of the procurement procedures for the following SOEs:

- 1) Pride Microfinance Company Limited
- 2) National Social Security Fund
- 3) Newvision Printing and Publishing Company
- 4) Post Bank Company Limited
- 5) National Enterprise Corporation.
- 6) Uganda Airlines Company

There is an alternative system for the procurement of medicines and other medical supplies. The Minister of Finance in consultation with the Minister responsible for health and PPDA, make regulations for the procurement of medicines and other medical supplies. The accredited procurement procedures lead to efficient management of the procurement requirements and reduction of the lead time which results in improved budget absorption and better service delivery. In FY 2019/2020, PPDA handled 13 applications for accreditation of alternative procurement procedures.

Section 88L (2) of the Act refers to Public Private Partnership (PPP). In addition, Uganda's Public Finance Management (PFM) Reform Strategy 2018-2023 aims, among others, at strengthening regulatory and institutional framework for management of PPPs including sector role in PPP selection; diagnostic study to harmonise PPP legal framework with other PFM legislation and regulatory framework (PFMA, PPDA, Investment Policy etc.); and to build capacity for management of PPPs. As a result, the PPP Act was enacted in 2015, which is a comprehensive

⁷ There is also a detailed CG Regulation issued in 2014 on procurement of medicines and medical supplies.

treatment of the subject. Section 3 of the PPP Act 2015 includes principles that govern PPP operations. Sections 31-36 provide for the methods of selection and contracting under PPP arrangements.

The PPP Act 2015 provides for the establishment of a PPP Committee and Unit. The MoFPED has set up the PPP Unit to advise the government on PPPs; ensure best practices are widely employed; and standardise processes and documentation are standardised. The PPP Unit supports government departments and agencies in assessing projects, choosing the best possible partner, negotiating agreements and monitoring them. The GOU, therefore, expects all components of the public sector to make use of the resources available at the PPP Unit when implementing PPP. The PPP Unit has developed a communication strategy and plan to consult with, educate and inform the public and all stakeholders on issues of PPP. The PPP Unit has also developed and is implementing a capacity building program to provide public officials with the skills required to develop, implement and monitor PPP projects.

Sl.	Substantive Gaps/Red Flags	Risk ⁸	Recommendations
		H	
1	Inconsistencies between the Act and LG Regulations.	H	Revise the LG Regulations to make them consistent with the Act as amended.
2	Prequalification is used for shortlisting firms rather than for determining which meet the eligibility and qualification requirements of bidders for large complex contracts.	H	Use prequalification for large complex contracts to ensure that interested bidders are eligible and qualified to participate and invite all prequalified bidders to submit bids.
3	Slow bidding processes including repetitive eligibility and qualification documents requirements, their manual processing, and submission of fake documents.	H	Expedite e-GP roll out for speeding up procurement processes which would allow for electronic processing of eligibility requirements.
4	Absence of model technical specifications and common specifications standards	M	Introduce for use by PDEs model technical specifications for the items that are frequently and commonly used,
5	The framework does not provide for publication of bid complaints and their resolution on easily accessible sites and within specified time frames.	M	Mandate publication of bid complaints and their resolution.
6	The Acts, regulations and guidelines regarding not accessible to all stakeholders because of poor access to internet.	M	While expanding internet coverage, PPDA needs to make arrangements to produce hard copies of the Acts, regulations and guidelines for all stakeholders, including SMEs. in areas with poor access to internet.

Substantive Gaps and Recommendations:

Sl.	Non-Substantive Gaps	Risk ⁹	Recommendations
1	Electronic versions of procurement Act, Regulations Guidelines, etc, not accessible to all.	H	Until internet reaches most providers, make hard copies of procurement acts, regulations, guidelines, circulars, SBDs and other

⁸ H=High; M=Medium; L=Low

⁹ H=High; M=Medium; L=Low

Sl.	Non-Substantive Gaps	Risk ⁹	Recommendations
			key procurement documents are available to all interested providers.
2	Electronic filing and retrieval system is yet to be implemented.	H	Electronic filing and retrieval system is essential for proper maintenance and safekeeping of procurement records.
3	Inadequate established security protocols to protect records (physical and/or electronic)	H	Introduce detailed security protocols to protect physical and/or electronic procurement records.

Indicator 2. Implementing Regulations and tools

Findings

Sub-indicator 2(a) – Implementing regulations to define processes and procedures

The Public Procurement and Disposal of Public Assets Regulations 2014 and the Local Governments (Public Procurement and Disposal of Public Assets) Regulations, 2006 provide the necessary details on the provisions of the Act. These Regulations are comprehensive and clear. While the LG Regulations are consolidated, the CG Regulations exist in eleven separate documents. All the Regulations are easily accessible on PPDA website in a single place. The scattered nature of the CG Regulations (2014) do not make them user friendly. This creates a problem as their users must move from document to document to read and cross reference them. These should be consolidated and published in a single booklet in hard and soft copies for ease of use and reference. Alternatively, the regulations can be maintained on the website separately in parallel with a single combined version. It would also be necessary to include these documents in the e-GP dashboard to improve users' accessibility to them.

The CG Regulations were issued in 2003 and updated in 2014 while the LG Regulations were issued in 2006 and have not yet been updated. The regulations need to be updated regularly not only to reflect any amendments to the Acts but also to incorporate any lessons learned and new experiences acquired from the ongoing procurement practices. Furthermore, there is urgent need of harmonizing the CG and LG Regulations.

Sub-indicator 2(b) – Model procurement documents for goods, works and services

The CG SBDs for goods, works, and non-consultancy and consultancy services are available and easily accessible on www.ppda.go.ug for mandatory use by PDEs. The LG SBDs are also available on the PPDA website. The SBDs for works are not suitable for procurement of major works. Also, there are no sector-specific SBDs, such as for the education, health, and Information Technology. All the SBDs have a standard and mandatory set of clauses or templates that reflect the legal framework. The framework requires the use of these clauses in documents prepared for competitive bidding. Consequently, Instructions to Bidders/Consultants as well as General and Special Conditions of Contracts in all SBDs reflect the framework and are consistent with the internationally accepted practice.

PPDA is responsible for preparing, updating and issuing authorized versions of the SBDs, procedural forms and any other relevant documents to PDEs. The SBDs currently in use at the CG level were issued in 2014 and 2019.

In 2020, PPDA issued the revised Standard Bidding Document (SBD) for use by the CG PDEs for procurement of works under open and restricted bidding methods of procurement. The revised SBDs also incorporates the Environmental, Social, Health and safety (ESHS) requirements.

Sub-indicator 2(c) – Standard Contract Conditions

Standard contract conditions for goods, works and services are part of the SBDs and their use is mandatory for the following types of contracts provided for in the framework: lump sum, time-based, admeasurement (Bill of Quantities), framework, percentage-based, cost-reimbursable, target price, retainer, and success fee. For the mobilization of private sector resources for financing public infrastructure projects, the framework provides for Build Own Operate (BOO), Build Own Transfer (BOT), Build Own Operate Transfer (BOOT) and PPP. The SBDs include standard contract conditions that are generally consistent with internationally accepted practice. However, the content of the standard conditions in the SBD for civil works is more suitable for minor works. The conditions do not cover all the situations that may arise during the execution of major and complex civil works. There is, therefore, need to introduce separate SBDs, preferably based on FIDIC conditions, for major works. The framework requires all SBDs to detail the terms and conditions, which shall apply to any resulting contract; and contain the General Conditions of Contract, or a statement referring to the applicable General Conditions of Contract.

Sub-indicator 2(d) – User’s Guide or Manual for Procuring Entities

The framework does not include a provision on Procurement Manual; nor does it designate an entity, such as PPDA, for preparing and maintaining it. However, as a substitute for the manual, several procurement guidelines exist which deal with different procurement matters. These guidelines are useful for PDEs and procurement officials at all levels. While guidelines may substitute for a procurement manual in general, such a manual specific to the needs of different sectors (education, health, infrastructure, etc.) would ensure efficient implementation of the Act. Therefore, PPDA needs to consider helping sectors to prepare, in close collaboration with different sectors, sector-specific procurement manuals. Alternatively, the sectors may draft such manuals for PDA’s review and approval.

Substantive Gaps and Recommendations:

Sl.	Substantive Gaps/Red Flags	Risk¹⁰	Recommendations
1	SBDs are not fully consistent with the Act and Regulations	H	Review and revise the SBDs to ensure that they are consistent with the Act and the Regulations.
2	The SBDs for works are not suitable for procurement of major works.	H	Prepare an SBD suitable for procurement of major works and make it available to PDEs for use.
3	Sector-specific SBDs are yet to be prepared.	H	In collaboration with the PDEs for education, energy, health, etc, prepare sector specific SBDs to make their procurement more effective.
4	No sector-specific procurement manual exists.	M	PPDA to help key sector agencies to prepare sector-specific procurement manuals to meet their sector-specific procurement needs.

Non-Substantive Gaps and Recommendations:

¹⁰ H=High; M=Medium; L=Low

Sl.	Non-Substantive Gaps	Risk	Recommendations
1	Scattered nature of CG Regulations on PPDA website affect their user friendliness and effectiveness.	M	Consolidate the Regulations into one volume and upload it on the website along with their separate versions giving users the option to use one version or the other.

Indicator 3. Sustainable Development and International Obligations

Findings

Sub-indicator 3(a) – Sustainable Public Procurement (SPP)

Sustainable Public Procurement (SPP) promotes the integration of the three pillars of sustainable development: economic development, social development and environmental protection. Goals of SPP typically focus on reducing demand for resources and minimizing any negative impact of goods, works or services across their life cycle. They also aim to ensure fair terms of contracts, including ethical, human rights and employment standards, and to promote diversity and equality throughout the supply chain, for example by providing opportunities for small and medium-sized enterprises or by supporting training and skill development. SPP can also include methods that support innovation.

The NPSPP 2019 strongly advocates for procurement as a socio-economic tool in fostering economic development. The policy aims at establishing a public-sector procurement system that is inclusive of social, economic and environmental aspects of sustainability. To realize the above objective, the GOU plans to:

- a) Promote a culture that recognizes and places priority on environmental and social issues and encourage green associations of SME's and institutions.
- b) Support and institute deliberate effort to offer less environmentally damaging products and services, and promote innovative green processes, designs, models, practices, products and services.
- c) Adopt the ‘‘*WholeLifeCost*’’ (WLC) approach, including budgetary mechanisms that allow for ‘‘*Total Cost of Ownership*’’ (TCO).
- d) Develop environmental standards, criteria, specifications and initiate ECO-labeling schemes, programs and recognize, offer support and incentives to environmentally friendly products and services.
- e) Empower by developing capacity building programs for relevant stakeholders (local procurement providers, local communities, women, youths, PWDs, SME's and marginalized groups) to enable their participation in the procurement.
- f) Establish a regulatory and monitoring mechanism for sustainable procurement and ensure that sustainability is embraced throughout the entire procurement system’’
- g) Ensure that procurement policies and standards are consistent with the national, regional and international principles of environment protection, conservation and those related to supporting social inclusion, decent work and promoting employment opportunities.
- h) Ensure that public contracts are awarded to providers who maintain acceptable standards of business probity and ethics, and promote ethical trading initiatives - build-in safeguards with respect to the standards of working conditions, prohibition of child labour and modern-day slavery;
- i) Ensure that there is effective access of information and credit facilities to local providers, local communities, marginalized groups, SME's and other relevant stakeholders.

- j) Promote progressive policies which are receptive to, and mindful of social, environmental aspects and local economy i.e. promoting local content.
- k) Institute deliberate effort to involve and support SMEs and local provides in public sector procurement and disadvantage groups by virtue of age, gender, disability, ethnicity and geographical location or other social attributes including but not limited to women, youth, and persons with disabilities.

The 2021 amendment to the Act requires PDEs for each procurement to take into account environmental protection, social inclusion and stimulating innovation, as may be prescribed. The economic criteria provide for preference and reservation schemes in the legal framework. The amendment also provides for promotion of the participation of registered associations of women, youth and persons with disabilities. Nevertheless, the above-mentioned government plan for sustainable procurement to be reflected in any future update of the Act and Regulations.

Substantive Gaps and Recommendations:

Sl.	Substantive Gaps/Red Flags	Risk ¹¹	Recommendations
1	The NPSSP 2019 provides for Sustainable Public Procurement (SPP)	M	Use sustainable public procurement at different stages of the procurement cycle to help achieve the objectives included in the NPSPP 2019.
2	Absence of SPP implementation plan.	M	Prepare an SPP plan to implement the NSPP 2019.

Sub-indicator 3(b) – Obligations deriving from international agreements

Section 4(1) of the Act states that “Where this Act conflicts with an obligation of the Republic of Uganda arising out of an agreement with one or more states, or with an international organization, the provisions of the agreement shall prevail over this Act”.

Uganda is a member of the East African Community (EAC), Common Market for Eastern and Southern Africa (COMESA) and the African Union Abuja agreement. Duties and tariffs for countries in these groups are significantly lower than duties for non-members. As part of the EAC, Uganda, Kenya, Rwanda, Burundi, Tanzania, and South Sudan have created an East African Customs Union designed to promote free trade among the six nations. To qualify as a domestic investor, an individual has to be a citizen of an East African Community (EAC) Partner State. These include Burundi, Kenya, Rwanda, South Sudan, Tanzania and Uganda. Therefore, every citizen of any of the East African Community Partner States, all companies incorporated under the laws of any of the East African Community Partner States. This implies that all citizens, companies and partnerships of any of the East African Community Partner State are no longer considered foreign investors under the Laws of Uganda and for investment purposes will be treated as though they were Ugandans. How this applies to public procurement in terms of domestic preferences, etc., in Uganda needs clarification.

Uganda is also a member of the World Trade Organisation (WTO), but it has not yet signed the WTO Government Procurement Agreement (GPA). Uganda currently has no public procurement related obligations deriving from international agreements. However, its accession to the United Nations Convention on Anti-Corruption Commission (UNCAC) and its Ratification in 2004 implied the country’s commitment to undertake reforms to

¹¹ H=High; M=Medium; L=Low

promote good governance and fight corruption in compliance with international standards. Uganda's procurement legislation is substantially aligned with the UNCAC procurement requirements and also with the GPA and UNCITRAL.

Pillar II - Institutional Framework and Management Capacity

The public procurement is well organized and the functions of its institutions are defined. Procurement management capacity is increasing. PPDA is the oversight and regulatory body. It is governed by the Board of Directors appointed by the Minister of Finance. The procurement function is fully decentralized to 374 PDEs. The PDEs include 198 CG entities (Ministries, Agencies and Departments (MDAs), Hospitals, Public Universities) and 176 LG institutions (Districts, and Municipal Councils) that get financing from the consolidated fund. Each PDE is required to establish a Procurement and Disposal Unit (PDU). The AO heads the PDE which comprises the Contracts Committee (CC), Evaluation Committee (EC) and User Department (UD). The EC membership varies according to each procurement. The framework clearly spells out the roles and responsibilities of the PDEs, PDU, AO, CC and EC. The PDU manages all procurement or disposal activities in collaboration with the PDE's User Departments (UD), CC, EC, and PPDA.

Procurement planning timeline needs streamlining so that procurement plans are finalised by a prescribed deadline after budget approval. Needs analysis, methodology for estimating costs of goods, works and services, such as market research, and their proper packaging into procurement contracts, etc., are not reflected in procurement plans. Multi-year procurement planning has been provided for by the 2021 amendment to the Act making it easy for PDEs to execute contracts that go beyond an FY. Budgets are appropriated for procurement but the availability of actual funds is not timely resulting in procurement delays. Initiation of a procurement without the confirmation of the availability of funds in full does not lead to economic and efficient procurement and not helpful in achieving value for money. There is no feedback mechanism reporting on budget execution, in particular regarding the completion of major contracts. A centralized procurement function for consolidated procurement of frequently and commonly used items is yet to be established.

Overall Strengths

- PPDA has clear mandate to implement the public procurement reform agenda.
- PPDA is well organised and has adequate capacity.
- Large PDEs are well organised and their functions are legally defined.
- Procurement functions are decentralised and PDEs are fully authorised to manage and conduct their procurement.
- Average days for payment to the contractors is mostly within acceptable limit. (Survey respondents received contractual payments within 30 days of invoices)

Overall Weaknesses

- Procurement plans needs to be finalised immediately after budget approval to allow PDEs sufficient time to complete procurement within the FY.
- Procurement plans are not based on needs analysis, methodology for estimating costs of goods, works and services, such as market research, which are necessary for proper cost estimating and proper packaging of identified needs into procurement contracts, etc.
- Budgets are appropriated for procurement, but the availability of actual funds is not timely resulting in procurement delays.
- Initiation of a procurement without the confirmation of the availability of funds in full does not lead to economic and efficient procurement and not helpful in achieving value for money.

- PPDA’s audit function creates a conflict of interest situation vis-à-vis its public procurement regulatory function.
- No feedback mechanism reporting on budget execution, in particular regarding the completion of major contracts.
- A centralized procurement function for consolidated procurement, i. e. procurement of frequently used common items of goods, works and services, does not exist.
- Procurement data collection is manual. PPDA collects procurement data but it is neither complete nor accurate as the data is not yet fully captured automatically at the source.
- Procurement data analyses not systematically used for policy formulation and performance measurement.
- Less than 50% of key procurement information is published.
- A procurement training strategy is yet to be prepared. Current arrangement for procurement training are inadequate.

Indicator 4. Integration of Public Procurement with Financial Management Systems

Findings

Sub-indicator 4(a) – Procurement planning and the budget cycle

As required by the framework, and in accordance with the budget formulation procedures, a PDE’s PDU in each financial year, by a date determined by the Secretary to the Treasury (ST), prepares its annual procurement plan for the following financial year. UDs prepare procurement plans, and update it quarterly, based on the PDE’s approved budget and submit it to the PDU. The PDU aggregates all UDs’ procurement plans into a PDE procurement plan. The AO is responsible for submitting a procurement plan and its updates to the ST and PPDA for approval at the beginning of each fiscal year, which begins on July 1. The approved procurement budget eventually becomes part of a PDE’s expenditure budget.

A review of procurement plans reveal that PDEs generally finalize their procurement plans by the end of August. That means delayed implementation of procurement plans leading to inefficiencies in procurement processes and partial or non-completion of awarded contracts before the closing of the budget year. This situation can be resolved by mandating PDEs, through a provision in the Act, to initiate procurement planning as part of their contribution to annual budget formulation; and finalize and publish the initial plans, after notification of appropriation of funds, by July 15 each FY. Delayed release of budgetary funds makes it difficult for PDEs to conclude procurements and contracting arrangements within a fiscal year. In order to complete all procurement within a FY, budgetary funds a need to be released in a timely manner.

The 2021 amendment to the Act requires a PDE that is to undertake a procurement over a period of more than one financial year to prepare a multi-year procurement plan for that procurement, using guidelines issued for that purpose. Implementation of this provision will ensure economy, efficiency, transparency and fairness in multi-year contracts and help achieve value for money.

There is no information on the responsibility and timeline for the preparation of technical specifications without which a procurement plan implementation cannot be initiated. In order to ensure an effective implementation of procurement plans, the PDEs' UD need to submit to the AO, along with their procurement plans, a plan for the preparation of technical specifications.

According to the information available to the team, PDEs are continuously failing to plan and cost procurements especially for large and complex projects and as a result they end up over or underestimating the costs of the required items. This is also attributable to PDEs' weak project scoping capacity. Furthermore, the procurement plans reviewed contain information in a complex format. These do not include any information on the justification of the need of certain goods, works and services; about market analysis; methodology used to estimate costs; and correct packaging of the required items of goods, works into discreet contract packages to conduct procurement competitively and efficiently.

In order to ensure efficient and economic procurement that yields VFM, it is imperative that PDEs capacity is built in properly scoping their proposed projects, in correctly estimating the cost of items of goods, works and services required for procurement planning, and in conducting market research. Since the PDEs' procurement plans become the basis of annual budget formulation, correct procurement planning based on historic unit prices, unit price data bases, and market research is essential.

The NPSPP 2019 recognizes the importance of conducting needs analysis for identification and justification of these needs. It is at this stage that PDEs need to consult with key stakeholders on the concerns, challenges, risks and opportunities related to the identified needs. The NPSPP includes the following actions to precisely define and communicate the requirements of an organization in order to satisfy an identified need:

- a) Ensure that organizations establish generic functional and performance specifications that meet the need;
- b) Promote the development of performance-based specification in defining of needs;
- c) Ensure involvement of the end user (s) in the defining of needs;
- d) Encourage the use of competent authorities or expertise where applicable in generating appropriate need definition;
- e) Ensure harmonization of the statements of requirements with industry practice and the market;
- f) Ensure that identification of a need is backed by a justification of that specific need and its contribution to organization objectives; and
- g) Take into consideration the whole life cycle cost of the need in question.

There is no legal provision requiring feedback on budget execution, in particular regarding the completion of major contracts. However, PPDA annually collects and analyzes public procurement budget execution data. According to the result of these analyses, in FY 2018/19, there was a marked decline in performance with only 17.4% of the total procurement value being implemented within the year compared to 61% in 2017/2018. This decline in performance is attributed to administrative inefficiencies in the procurement processes within the PDEs that culminated into weak implementation of the procurement plans.

The legal framework needs strengthening to include the provision of a feedback mechanism reporting on budget execution, in particular regarding the completion of major contracts. Also, PDE's implementation of procurement plans should be strengthened through streamlining of the procurement processes, including the methodology for elaboration of procurement plans, and by building the procurement capacity of public officials involved in public procurement.

Sub-indicator 4(b) – Financial procedures and the procurement cycle

Section 59 (2) of the Act requires that procurement be initiated or continued only on the confirmation that funding in the full amount over the required period is available or will be made available at the time contract commitment is made. Statutory Instrument 3: 2014: No. 8 Reg. 4 provides that a PDE shall not initiate any procurement for which funds are not available or adequate, except where:

- a) the delivery of works, non-consultancy services or supplies and the consequent payments to a provider are to be effected from subsequent financial years;
- b) in the case of framework contracts, funds will be committed at the time of issue of each specific call off order; or
- c) the Secretary to the Treasury confirms in writing that the required funding shall be made available.

Procurement may be initiated before the receipt of funds but a contract cannot be awarded before the availability of funds. The availability of funds shall be evidenced by budgeted or supplementary funds for the current financial year or an allocation for subsequent years. The AO's confirmation of the availability of funds is required. Initiation of procurement without the availability of full or partial funds for deliveries beyond a budget year may not help achieve VFM as bidders may not be interested in participation in an unfunded or partially funded contract or they may bid higher prices to include their assumed risks. Therefore, for multi-year contracts multi-year planning should be used and funds earmarked as needed beyond the budget year.

The Regulations contain detailed payment procedures, including payment terms, method, structure, advance payment, interim or stage payment, retained payment, payment security, payment documents, payment to a provider and delays in payment. The payment due under a contract shall only be made upon submission and acceptance of the documents listed in the contract in the name of the provider stated in the contract. The payment shall not be made to any person other than a provider, unless the provider requests and confirms in writing the details of the recipient of the payment. The period for payment shall be 30 days from certification of invoices, except where this is varied in the special conditions of contract. Payment shall be made in the currency stated in the contract. It also provides for compensation in case of delays beyond this period.

The review of the sample procurement transactions from 20 PDEs both at the CG (12) and LG (8) levels revealed that many sampled files did not include any invoices and receipts or information on contractual payments; this information is kept in the finance department.

Substantive Gaps and Recommendations:

Sl.	Substantive Gaps/Red Flags	Risk ¹²	Recommendations
1	Procurement planning is not properly integrated with annual budget formulation. Needs analysis, methodology for estimating costs of required items goods, works and services, such as market research, their proper	H	Integrate procurement planning with the annual budget formulation exercise. Prepare initial procurement plans based on needs analysis, market research, accurate cost estimating, etc. Mandate PDEs to finalise and publish their procurement plans by July 15 each FY. Streamline

¹² H=High; M=Medium; L=Low

Sl.	Substantive Gaps/Red Flags	Risk ¹²	Recommendations
	packaging into procurement contracts, etc., are not reflected in procurement plans. The format of the procurement plan needs simplification for ease of use.		procurement plans by simplifying the format and by improving the relevance and quality of information therein.
2	The 2021 amendment to the Act provides for multi-year procurement planning but it is yet to be implemented to enable PDEs to execute contracts that go beyond a Fiscal Year.	H	Implement multi-year procurement planning for extended contracts by earmarking the required funds for the years beyond the FY. This will not only optimise competition and ensure achievement of VFM but also complete execution of multi-year contracts.
3	Procurement plans are not finalised immediately after the beginning of the FY resulting in implementation delays.	H	After budget approval, update the initial procurement plans according to the budget allocation by no later than July 15 in order to ensure sufficient time for implementing the closing of the FY.
4	Budgets are appropriated for procurement, but the availability of actual funds is not timely resulting in procurement delays.	H	To ensure timely and substantial implementation of annual procurement plans, ensure flow of appropriated budgetary funds for smooth contract award and execution.
5	Initiation of a procurement without the confirmation of the availability of funds in full does not lead to economic and efficient procurement and help achieve VFM.	H	Issue bid notices only after the Treasury has confirmed availability of budget funds in full for a contract. Bidders have to incur substantial expenses to prepare a bid, especially for large contracts. If they are not assured that budget funds are available for a contract, they may not participate seriously and may pass their assumed risks in the bid price.
6	Lack of a feedback mechanism on budget execution, in particular regarding the completion of major contracts.	M	Require PDEs to provide feedback on the use of budgetary funds for major contracts.

Non-Substantive Gaps and Recommendations:

Sl.	Non-Substantive Gaps	Risk	Recommendations
1	No planning exists for preparation of technical specifications without which implementation of a procurement plan cannot be initiated.	M	To ensure timely implementation of procurement plans, PDEs should include the status of preparation of technical specifications, especially for large and complex contracts, in their procurement plans.

Indicator 5. Institution in charge of Normative/Regulatory Function

Findings

Sub-indicator 5(a) – Status and legal basis of the normative/regulatory function

Part II Section 5 to 23A of the Act sets out the functions and responsibilities of PPDA. PPDA is an autonomous oversight and regulatory body. Besides policy functions (such as advising government and PDEs on best practices and capacity building) and regulatory ones (which include, among others, issuing guidelines and regulations, investigating cases of non-compliance with the legal framework, reviewing bid complaints, and carrying out performance audits of government contracts and public bodies' performance), PPDA collects data on management

functions and the allocation of government contracts. PPDA is governed by its Board of Directors which consists of between six and eight members, including PPDA Executive Director as an ex officio member, and the Secretary to the Treasury or his or her nominee. The Board appoints the Executive Director of PPDA who is responsible its management and operations. PPDA has the following departments: Corporate Affairs, Performance Monitoring, Operations, Internal Audit, Legal and Investigation, a Capacity Building and Advisory Services. The Executive Director, who is PPDA's Accounting Officer, is responsible for its day to day affairs. As of June 2020, PPDA had a staff complement of 114 (82%) out of the 138 approved positions. PPDA has three Regional Offices located in the following districts: in Gulu (established in 2015), Mbarara (2016), and Gulu (2015).

Sub-indicator 5(b) – Responsibilities of the normative/regulatory function

PPDA's objective is to advise the central and local governments and other PDEs on procurement and disposal policies, systems and practices and where necessary, on their harmonization. It has the following responsibilities:

- a) advise Central Government, local governments and other procuring and disposing entities on all public procurement and disposal policies, principles and practices;
- b) monitor and report on the performance of the public procurement and disposal systems in Uganda and advise on desirable changes;
- c) issue guidelines under section 97 of this Act;
- d) advise competent authorities on standards for procurement education and training, competence levels and certification requirements;
- e) prepare, update and issue authorized versions of the standardized bidding documents, procedural forms and any other attendant documents to procuring and disposing entities; it ensure that any deviation from the use of the standardized bidding documents, procedural forms and any other attendant documents is effected only after the prior, written approval of PPDA;
- f) organize and maintain a system for the publication of data on public procurement and disposal opportunities, awards and any other information of public interest as may be determined by PPDA;
- g) maintain a register of providers of works, services and supplies;
- h) conduct periodic inspections of the records and proceedings of the procuring and disposing entities to ensure full and correct application of this Act;
- i) conduct procurement or disposal audits during bidding process, contract award and execution; and performance audit after the completion of the contract in respect of any procurement or disposal, as may be required¹³;
- j) adopt, adapt and update common specifications standards, the use of which shall be mandatory for all procuring and disposing entities;
- k) determine, develop, introduce, maintain and update related system-wide databases and technology;
- l) develop a procurement and disposal capacity building strategy for institutional and human resource development;
- m) where applicable, determine the prices of works, services and supplies which are used in common by two or more procuring and disposing entities and which may be subject to common procurement; and review the prices from time to time;
- n) establish and maintain institutional linkages with entities with professional and related interest in public procurement and disposal;

¹³ PPDA may contract a third party to carry out procurement audits, investigations and inspections

- o) undertake procurement and disposal research and surveys nationally and internationally;
- p) undertake any Activity that may be necessary for the execution of its functions; and
- q) Administer and enforce compliance with all the provisions of this Act, regulations and guidelines issued under this Act.

Although PPDA's responsibilities appear to be heavy, it is adequately staffed and equipped and empowered to carry out its functions. In the exercise of its regulatory functions, PPDA has the powers to: (a) require any information, documents, records and reports in the respect of a procurement or disposal process; (b) call for the production of books of accounts, plans or documents; (c) institute procurement and disposal contract and performance audits; and (d) investigate and act on complaints received on a procurement or disposal process from members of the public, that are not subject to administrative review or review by the Tribunal,

According to the NPSPP 2019, PPDA's operations are largely centralized creating a challenge for institutions to conveniently work with the regulator in the performance of its functions. This also creates administrative challenges for PPDA in performing its role. Recently three new branches were established in Mbarara, Gulu and Mbale districts. The current mandate of PPDA extends into operational processes which interferes with its independence as a regulator. In addition, there is limited coordination among oversight agencies on crosscutting matters relating to procurement, leading to duplication of roles and in some cases, resulting in conflicting outcomes. In order to effectively regulate and enforce compliance to the public procurement and disposal legal framework, the NPSPP includes the following actions:

- Strengthen and empower the regulator to effectively regulate, monitor, and evaluate all public-sector procurement and disposal activities to ensure compliance;
- Set standards for the implementation of the procurement regulatory framework;
- Devolve the regulatory function to effectively execute its mandate; and
- Promote awareness of the public procurement and disposal legal and regulatory framework.

The Act requires PPDA to audit public procurement. This is not an international practice as the oversight role of public procurement regulatory bodies in most countries consists of monitoring rather than auditing. Furthermore, the relevant MAPS assessment criterion does not list auditing as one of the functions of a regulatory body. Audit of public procurement is mostly carried out by the external auditor (Supreme Audit Institution) and internal auditors anchored in the Ministry of Finance and/or in every key government entity. These arrangements allow the regulatory bodies to focus on their regulatory, monitoring and support roles. While PPDA needs to continue playing its essential monitoring role, the internal and external audit bodies need to be strengthened to conduct procurement audits more systematically and effectively. For this purpose, they can benefit from a comprehensive manual on and training in conducting procurement. In addition, all oversight bodies need to improve coordination of their audit/oversight activities.

Sub-indicator 5(c) – Organization, funding, staffing, and level of independence and authority

Although the public procurement normative regulatory function, its Board and the Executive Director are associated with the MoFPED, they are autonomous and have an authoritative standing in the government. PPDA is financed with (a) the money appropriated by Parliament for the purposes of PPDA; and (b) loans or grants received by PPDA for its activities. PPDA maintains bank accounts in the banks approved by its Board. Its Executive Director prepares and submits to the Board for approval its Annual Management Plan which includes its budget requirement for the next FY. The funding arrangement of PPDA ensures independence of its functions and proper staffing.

Sub-indicator 5(d) –Avoiding conflict of interest

In addition to the Act and the Regulations, the Leadership Code 2002 includes detailed provisions on conflict of interest.

On the perception that the normative/regulatory institution is free from conflicts of interest, 50% of the respondents to a survey of the private sector and CSOs confirmed that they did not experience a conflict of interest situation vis-a-vis PPDA. However, the other 50% of the respondents did experience such a situation relating to the following factors:

- a) Unclear separation of duties between institutions.
- b) Unclear competencies of officials.
- c) An official position is used improperly for private advantage and improper personal gain.
- d) An official's family or other personal relations.

Indicator 6. Procuring Entities and their Mandates

Findings

Sub-indicator 6 (a) – Definition, responsibilities and formal powers of procuring entities

The PDEs include the CG entities (Ministries, Agencies and Departments (MDAs), Hospitals, Public Universities) and LG institutions (Districts, and Municipal Councils) that receive financing from the consolidated fund. There are 281 PDEs, including 23 ministries, 57 departments and agencies, 20 hospitals, 12 universities, 127 district local governments, 41 municipal councils and one city authority. The high spend sectors include road infrastructure, energy, water and environment, education, and health. SOEs are also PDEs. The PDE comprises an AO, CC, a PDU, and an EC, which must act independently and not interfere unduly in the operations of others. The framework clearly spells out the actions that would constitute a breach of its provisions; it also specifies the resulting sanctions for such breaches. The responsibilities and competencies of the PDE are clearly defined. The PDE is responsible for the management of all procurement and disposal activities within its jurisdiction.

On behalf of a PDE, the PDU manages all procurement or disposal activities except adjudication and the award of contracts; supports the functioning of the CC; implements its decisions; liaises with PPDA; plans the PDE's procurement and disposal activities; recommends procurement and disposal procedures; prepares statements of requirements, bidding documents, advertisements; issues bidding documents; maintains a providers list; prepares contract documents; issues approved contract documents; coordinates the PDE's procurement and disposal activities; and prepares procurement reports. A PDE comprises of different UDs. These departments are the users of goods, works and services for a PDE's projects. They initiate procurement and disposal requirements; recommend Statements of Requirements to the PDU; undertake conformity assessments; issue change orders in accordance with the terms and conditions of the contract; and certify invoices for payments to providers.

In 2017/18, there were 324 PDEs with a designated, specialized procurement function; in 2018/19, 329; and in 2019/20, 349. Currently, there are 375 PDEs. This shows a steady increase in the number of authorized PDEs over the three FYs.

Sub-indicator 6 (b) – Centralized Procurement Body

There is no centralised procurement body in Uganda. However, the framework does provide for combined procurement of frequently used items. Currently, in the absence of a centralised procurement body or function, each PDE separately procures commonly and frequently items of goods, works and services. This deprives the GOU of economy of scales in addition to duplicating efforts. Efficiency and cost savings can be achieved through procuring commonly required items or recurring procurement for examples stationery, computers and accessories, office equipment, essential medicines, medical consumables etc. through framework agreements at the level of the PDE. Some entities already use framework agreement. It is expected that with the introduction of an e-GP the framework agreements would be used frequently and more efficiently.

The 2021 amendment to the Act includes a provision for aggregation of PDEs' needs in goods, works and services on the basis of their procurement plans. It further provides the following:

- a) For the purposes of aggregation of procurement requirements, the Secretary to the Treasury shall for each financial year, using the procurement plans submitted by the PDEs, determine the procuring and disposing entities with procurement requirements that qualify to be aggregated.
- b) The Secretary to the Treasury shall communicate to the concerned PDEs giving instructions on how the requirements that are aggregated are to be reflected in the procurement plan of the PDE.
- c) The procurement of aggregated requirements shall be in accordance with guidelines issued for that purpose.

With pressure to deliver more for less, collaboration has in recent years become increasingly one of the preferred approaches for government acquisitions of commonly used items. PPDA has demonstrated huge anomalies in the prices paid by different entities for similar goods such as stationery, vehicle spare parts, and air tickets, among others. This implies that a number of contracts for the same goods or services across government are acquired at different rates, and at times from the same provider, leading to wastage of valuable resources. As the country invests in ICT, collaboration is a proven strategy that acts as a catalyst for other tools like e-procurement, sustainability and demand management. To maximize opportunities for aggregation of common user items and services with a view to attaining better VFM in the delivery public services, the GOU need to implement the following measures:

- a) Provide guidance for the different models of collaborative procurement that can be pursued by entities;
- b) Establish governance framework to handle specific categories of items/services to be acquired through a collaborative arrangement;
- c) Develop specific procurement strategies for collaborative contracts, taking into consideration the market conditions and characteristics of the item/service in question; and
- d) Roll out e-GP with framework agreements module and electronic catalogues.

As discussed above, in Uganda, the legal framework already provides for aggregating PDEs procurement requirements. The amendment is, however, not specific as to who would conduct this procurement, a centralized body or a nominated PDE(s). The provision relating to the procurement of aggregated requirements is yet to be implemented through a detailed guideline on the subject to be prepared by PPDA.

According to the OECD Chapter cited below¹⁴ there are numerous benefits resulting from centralized purchasing activities, including better prices through economies of scale, lower transaction costs and improved capacity and expertise. OECD countries reap the benefits of aggregation of demands and outputs of procurement activities through establishment of central purchasing bodies (CPBs), which are defined as contracting authorities (CAs) providing centralized purchasing activities and, possibly, ancillary purchasing activities.

A key role of most CPBs in OECD countries (28 countries) is the conclusion of framework agreements or other consolidated procurement instruments. Framework agreements (FAs) seek to achieve efficiency gains and greater value for money in the public procurement process using the aggregated purchasing power and expertise of CPBs that creates economies of scale in both supply and demand. Yet, not all goods and services can be procured using this instrument. OECD countries carefully select the goods and services that are subject to such procurement arrangements. The choice of goods and services subject to framework agreements in general depends on competitiveness of the supply market, the impact on the CAs and the recurrence of purchase.

Some countries, instead of creating a separate centralized body, place the function with a procuring entity or establish a committee to undertake the centralized procurement function. For example, the Single Organizer (Committee for Public Procurement) in the Ministry of Finance of Kazakhstan is responsible for carrying out unified (centralized) public procurement on behalf of procuring entities and in close collaboration with them. The centralized procurement has been extended to regional level through regional single procurement organizers. The central procurement of commonly used items is carried out through framework agreements.

Substantive Gaps and Recommendations:

Sl.	Substantive Gaps/Red Flags	Risk ¹⁵	Recommendations
1	A centralised procurement body or a function for consolidated procurement does not exist.	H	In order to take advantage of economy of scales establish a centralised procurement body or function to procure aggregated PDEs’ needs of goods, works and services and procure as stipulated in the 2021 Amendment to the Act.

Indicator 7. Public Procurement embedded in an Effective Information System

Findings

Sub-indicator 7(a) – Publication of public procurement information supported by information technology

The Act, regulations, guidelines, circulars, forms, SBDs, annual procurement reports, audit reports, etc. for both the central and local governments as well as PPDA’s decisions are freely accessible to the public on www.ppda.go.ug. In addition, the Government Procurement Portal (GPP) introduced in 2015 carries information. The GPP enables PPDA to gather data periodically and to analyse it to assess the effectiveness, efficiency and transparency of the public procurement and disposal system. It is also the first stage towards adoption of e-GP.

¹⁴ OECD (2017), “Central purchasing bodies”, in Government at a Glance 2017, OECD Publishing, Paris. DOI: https://doi.org/10.1787/gov_glance-2017-62-en

¹⁵ H=High; M=Medium; L=Low

The tables below show that over the last three FYs, less than 50% of procurement plans, key procurement information, invitation to bids, appeals decisions are published. In other words, the amount of publication of procurement information is inadequate and there is an urgent need for PPDA to take the necessary measures to address this situation.

Table 5 – Publication of Procurement Information

FYs	Total number of contracts	Procurement Plans Published (% of total)	Key Procurement Information Published (% of total)	Invitation to bid (in % of total number of contracts)	Total number of appeals received	% of total appeals decisions posted ¹⁶
2019/2020	34,894 ¹⁷	153 (40.1%)	17,524 ¹⁸ (50.2%)	46%	45	33%
2018/2019	41,380	114(31.5%)	11,318(27.4%)	33.7%	62	39%
2017/2018	49,707	146(40.9%)	12,755(25.7%)	29.9%	48	50%

Source: Centralized online portal.

Sub-indicator 7(b) – Use of e-Procurement

The GOU has a strategy (2019) for implementing e-GP. This strategy aims at achieving the following three objectives:

- a) Improved Governance through enhanced transparency and accountability;
- b) Effectiveness through management information and efficient processes; and
- c) Economic development through competitiveness and improved investment climate.

The e-GP is a web-based system. It will provide tender opportunities to all potential national and international bidders. It would integrate with Integrated Financial Management System (IFMS), e-ID, e-Tax and VAT, e-Catalogue, Business registration and trade, and would be interoperable with existing and future systems. The integration with the IFMS is critical given that a significant part of the procurement cycle currently depends on the IFMS for, amongst others, requisition process, registration of suppliers and the payment of suppliers. The main components of the e-GP system are: a procurement portal (GPP), a centralized user register of all the users of e-procurement system, an e-bidding system, direct purchasing, e-framework agreements, e-auction and e-quoting system, e-payments system, IFMS interface, e-procurement management and monitoring information system (e-PMMIS), workflow management system, e-contract management system, reporting and analysis, help desk, e-catalogues. The roll out of the e-GP is being done in two phases: (i) Pilot in selected MDAs, and (ii) wider rollout throughout the country.

The e-GP strategy includes a detailed e-GP capacity building plan. Procurement staff is generally not adequately skilled. There is need of carrying out e-GP capacity building needs assessment and design and implement e-GP capacity building programs for all PDEs. The e-GP strategy includes plans for designing training and capacity

¹⁶ Posted on PPDA website

¹⁷ Source of data: Monthly reports

¹⁸ Source: GPP

building for all categories of personnel including executives, policy officials, procurement professionals and other players in the procurement function. The plan includes training for the private sector in the use of e-GP.

Once the e-GP is fully rolled out all companies, including micro, small and medium firms, will have equal access to a public procurement market based on digital technology. It is a web-based system that encompasses the total procurement lifecycle, all procurement modalities, and record all procurement activities it will also provide bid opportunities to all potential national and international bidders. The e-GP system will provide PDEs, bidders and other relevant stakeholders, including the Solicitor General, Auditor General, Banks and their branches, e-Payment service providers, and other stakeholders with secure access to an integrated range of procurement systems and services. The general public will get access to all the public information, i.e. annual procurement plans, invitation to bids, best evaluated bids, contract award details, contract completion reports, debarment/blacklisting/suspension lists, and procurement performance statistical and analytical reports.

The system is being developed and piloted in 11 PDEs and will be rolled out to all PDEs in the next three years. PDEs' lack of technology and skills is one of the reasons for the slow operationalization of e-GP. This indicates the need for the central government to increase efforts towards capacity building of both the staff of PDEs and those of the private sector.

With a view to ensuring an effective and timely roll out of e-GP, it is necessary that the following actions as stipulated in the 2019 NPSPP be taken:

- a) Conduct an assessment of the technology needs of PDEs of both CG and LGs and therefore readiness for e-GP Rollout;
- b) Promote the use of ICT in public sector procurement as a business led model rather than an IT led model;
- c) Engage and critically assess readiness of all key stakeholders including buyers, providers, and customers so as
- d) Ensure that the adaptation of e-procurement is sustainable both in terms of functionality and financial resources;
- e) Ensure accessibility to required ICT infrastructure and integration with existing systems to harness the benefits of these technologies; and
- f) Build capacity of the stakeholders to utilise the e-procurement technology.

Sub-indicator 7(c) – Strategies to manage procurement data

The Government Procurement Portal (GPP) was rolled out to PDEs in a phased manner, starting with a pilot of 97 PDEs in FY 2015/16. In the Financial Year 2016/17, the Portal was rolled out to a total of 169 PDEs; all the PDEs that had remained on the PPMS in the previous year were migrated onto the GPP. Currently the Portal has been rolled out to a total of 225 PDEs (60.2% coverage) out of 375 entities. The Portal is part of the broader strategic objective of adopting an e-Government procurement system. It is introducing PDEs to some e-GP features and preparing the, for the e-GP roll-out.

Section 7 (g) of the Act provides that PPDA should organize and maintain a system for the publication of data on public procurement and disposal opportunities, awards and any other information of public interest as may be determined by PPDA. PPDA uses the GPP for collection of procurement data from the PDEs and for making procurement legal documents, annual procurement reports, and audit reports, etc. However, some of these

documents, such as the annual reports, are not up to date. The number of the PDEs which are systematically inputting procurement data into the GPP for the entire procurement process is growing. Therefore, currently the procurement data available from the Portal may not be complete in all respects but PPDA already captures it at the source. It is expected that with the roll out of the e-GP PPDA would be able to capture more and more procurement data at the source,

Section 7 (j) of the Act provides that PPDA should institute procurement or disposal audits during the bid preparatory process; contract audits in the course of the execution of an awarded bid; and performance audit after the completion of the contract in respect of any procurement or disposal, as may be required. Given that only 60 percent of the PDEs are inputting procurement data into the GPP, the data are incomplete and therefore only partially reliable. As a regulator, PPDA is constrained by the inaccurate data and reports submitted by PDEs due to the manual system. This has been worsened by failure to have easy access to the Integrated Financial Management System (IFMS) real time to verify accuracy of the data submitted by the PDEs. The manual procurement process is furthermore prone to manipulation/bid tampering and inefficiencies in the process.

PPDA collects and analyzes the available procurement data and publishes the results of the analyses in a comprehensive annual report on public procurement. The annual reports are published on PPDA website but the latest report available on the Portal is for 2017/18.

For FY 2019/2020, PPDA assessed the performance of the 136 PDEs (60.4%) out of the 225 PDEs which entered data on the Portal. The total number of contracts entered into the Government Procurement Portal (GPP) in the FY 19/20 was 15,386 compared to 11,318 contracts in the FY 18/19. There was an increase in the total value of procurements in the system from UGX 1,810,685,899,962 in FY 18/19 to UGX 3,415,017,916,829 in FY 19/20. This increase was as a result of some PDEs that previously not posted large values such as UNRA and KCCA posting significantly higher values in the current year of reporting due to procurement processes for large infrastructure projects crossing from FY2018/19 to FY2019/20. This was as a result of a failure to conclude some of their large procurements due to delays especially at evaluation of bids and delayed initiation of procurements.

Substantive Gaps and Recommendations:

Sl.	Substantive Gaps/Red Flags	Risk ¹⁹	Recommendations
1	Procurement data collection is weak. PPDA collects procurement data but it is neither complete nor accurate as the data is not yet fully captured automatically at the source.	H	Ensure that the e-GP system being piloted include a mechanism to fully capture procurement data at the source. Collection of such data is essential for analysis, use for mid-course corrections and for reporting.
2	Lack of easy access to the Integrated Financial Management System (IFMS)) to verify data submitted by PDEs	H	Facilitate access to IFMS to enable verification of data submitted by PDEs.
3	Less than fifty percent of key procurement information is published.		Take urgent measures to increase the publication of procurement information.

¹⁹ H=High; M=Medium; L=Low

Indicator 8. Capacity to develop and improve

Findings

Sub-indicator 8(a) – Training, advice and assistance

Section 7 (c) and (m) of the Act provides that the function of PPDA is to advise competent authorities on standards for procurement education and training, competencies and certification requirements; and to develop a procurement and disposal capacity building strategy for institutional and human resource development. The Capacity Building and Advisory Services Directorate of PPDA sets training standards, implements capacity building interventions in collaboration with PDEs, providers, training and research institutions and also sets competence level certification systems. It is also in charge of advisory services and monitoring compliance with the set standards. There is no procurement training strategy.

Procurement training programs are mostly delivered by PPDA but these are inadequate and do not fulfill training needs of stakeholders, i.e. procurement managers and practitioners, oversight bodies, providers, civil society, etc. There is no evaluation and periodic adjustment of training programs; nor any training needs analysis. In order to design, develop and implement procurement training programs that meet the needs of different public procurement stakeholders, PPDA needs to carry out a training needs analysis. PPDA should also obtain feedback from the relevant stakeholders on the training programs that PPDA has been implementing so that it can adjust them as needed.

PPDA handled 177 requests for legal guidance/advice during the FY 2019/20. Its Advisory Section also dealt with informal requests from walk-ins, phone and via email. Of 106 (60%) were from Central Government, 32 (18%) were from Local Government and 39 (22%) were from private firms. In 2020, PPDA provided demand and supply driven training to 2,138 participants both from the public and private sectors in various aspects of /the procurement and disposal system. The table below shows the targeted number of participants and the actual number of participants who attended the various trainings.

Table 6 - Procurement capacity building in 2020

No	Activity	Planned	Actual Participants trained
1	Demand driven training	1025	1063
2	Supply driven training	1130	1075
	Total	2155	2138

A system of substantive and permanent procurement training programs is not in place. An institutionalized and sustainable mechanism of procurement training program needs to be prepared and implemented. Elaboration of such a program would need a procurement skills gap inventory and training needs analysis. Design, development and delivery of a regular procurement training program can be successfully done in collaboration of the existing sources of training, including the Civil Service College of Uganda, universities, private sector training institutions, etc. More specifically, the following measures will be necessary to adequately build procurement capacity of the key stakeholders with a view to ensuring efficient functioning of the public procurement system:

- Carry out a skills gap and a training needs analysis.

- Based upon the results of the skills gap and training needs analyses, prepare a public procurement capacity building strategy and action plan.
- The key objective of the strategy would be to make procurement training available to all stakeholders involved in public procurement with a view to improving public procurement system performance.
- To implement the strategy, prepare and implement a comprehensive capacity building action plan that includes:
 - A train-the-trainer program;
 - Introduce procurement e-learning programs suited to stakeholders' needs and widely accessible;
 - A one/two-week supply driven procurement compliance training program, including training in e-GP operations, that all public officials involved or to be involved in public procurement must complete;
 - Short regular first supply then demand-driven programs for providers and civil society;
 - Mandatory one/two-week procurement audit training program for the staff of the oversight bodies' staff;
 - General and specialized beginner, intermediate and advanced training programs to be made available to public officials and other interested stakeholders on both a supply and demand driven basis.
 - Make durable arrangements with existing capacity building entities, such as the Civil Service College of Uganda, universities, from the public and private sectors to deliver procurement trainings;
 - Develop procurement training curricula for different training courses, certification and accreditation schemes, in collaboration with relevant agencies such as the Ministry of Education, Institute of Procurement Professionals of Uganda (IPPU), etc.
 - Prepare and implement a sustainability program, including budgetary sources for capacity building and funds to be raised through fees, etc., for the supply driven compliance and supply/demand driven regular training programs.

Designing and implementing a procurement professionalization and capacity building program is a long-term undertaking. Meanwhile, the Government has to ensure that any official dealing with procurement management and operations is familiar with the fundamentals of public procurement. To achieve this goal, the Government may consider designing and implementing a two-week compliance procurement training program that any official involved or to be involved in public procurement, at the CG and LG levels, must complete successfully.

Sub-indicator 8(b) – Recognition of Procurement as a Profession

The Public Service Act 2008 defines “common cadre” as a category of analogous public service positions whose post holders possess generic qualifications and competences and render management support to a line department in a Ministry or Local Government. The Act includes a list of public service positions or employees that constitutes a common cadre as prescribed in the Third Schedule to this Act. According to this Schedule, procurement officers are designated as a common cadre who belong to the MoFPED.

The IPPU, a non-profit organisation has the objectives of bringing together both the public and private sector procurement and supply chain professionals in Uganda to ensure that they conduct themselves professionally and maintain best procurement practices in carrying out their work. The Institute of Supply Chain Management of Uganda (ISCMU) Bill has been drafted and is awaiting Cabinet approval and enactment by Parliament. The ISCMU Bill once enacted into law will regulate the procurement and supply chain profession in Uganda and replace the IPPU. As of August 2020, there were over 237 registered professionals according to the IPPU.

The pace of professionalization of public procurement is slow in terms of providing a career path to public officials involved in public procurement and building their procurement skills. Also, there is need of a public procurement competencies framework.

According to the Public Service Regulations, all vacancies are filled either through promotion from among the staff of the entity concerned, or through advertisement on a competitive basis. In both the cases, selection takes place on the banks of qualifications and professional experience. The Public Service Act 2008 requires the evaluation of performance of public officers to be based on objective, open and interactive performance appraisal system as may be prescribed. Public officers shall be disciplined and removed from the public service only in accordance with laid down regulations and procedures.

Sub-indicator 8(c) – Monitoring performance to improve the system

Strategic plans exist but there are no results frameworks. PPDA is responsible to collect data and to measure and monitor the performance of the system. PPDA prepares an annual performance report which deals with various aspects of public procurement. However, in order to make PDEs more involved in a regular performance measurement, it would be more useful if they were made responsible to measure their public procurement performance on a quarterly basis. This will help them identify the areas of their public procurement which may need improvement. Furthermore, making the head of the PDE (e.g., a minister if the PDE is the ministry) clearly responsible for procurement outcomes, would improve public procurement performance. PPDA collects and analyses procurement information for supporting policy making on procurement but the data collected is incomplete and inaccurate.

PPDA monitors performance of the public procurement system. However, a public procurement performance measurement system has not been established. There is need of performance management frameworks that focus on both quantitative and qualitative aspects. A comprehensive indicator-based performance measurement system would be useful. See Annex 2 for an example. The indicators included in Annex 2 can be adjusted as PPDA may already be monitoring some of them.

Substantive Gaps and Recommendations:

Sl.	Substantive Gaps/Red Flags	Risk²⁰	Recommendations
1	Existing procurement training arrangements are inadequate creating a situation where public officials with little or no knowledge are involved in procurement.	H	Design and implement a two-week compliance procurement training program that any official involved or to be involved in public procurement, at the CG and LG levels, must complete successfully.
2	A system for a substantive permanent procurement training programs of public officials involved in procurement and for other stakeholders does not exist.	H	Prepare and implement a institutionalised and sustainable procurement capacity building system that fulfils the training needs of all procurement stakeholders.
3	Procurement training strategy has not been prepared; skills gap analysis has not been carried out.	H	Carry out a procurement skills gap analysis with a view to prepare a procurement capacity plan that help fill the

²⁰ H=High; M=Medium; L=Low

Sl.	Substantive Gaps/Red Flags	Risk ²⁰	Recommendations
			procurement skills gap. Prepare a procurement training strategy.
4	Professionalisation of public procurement is slow.	M	Prepare and implement public procurement competencies framework.
5	A competencies framework for public procurement does not exist.	M	Prepare a public procurement competencies framework that includes different levels of skills required for different levels of public procurement professionals
6	A public procurement performance measurement system has not been introduced.	H	Introduce a procurement performance measurement system based on qualitative and quantitative indicators.

Non-Substantive Gaps and Recommendations:

Sl.	Non-Substantive Gaps	Risk	Recommendations
1	The procurement data collection system is manual.	H	Make the procurement data collection system automatic that would capture the data at the source.
2	Results framework for monitoring public procurement system development are not used.	M	Introduce the results framework for monitoring public procurement system development.

Pillar III - Public Procurement Operations and Market Practices

The public procurement system in Uganda appears to be more focused on compliance than performance. Appropriated budget funds direct procurement planning rather than needs and market analyses. Procurement plans are not finalized in a timely manner leading to less than satisfactory procurement implementation. The framework does not provide for sustainability criteria in the procurement cycle. Sector-specific SBDs are yet to be prepared. The framework clearly provides for conditions to select procurement methods. The use of the thresholds, which are not regularly updated, is resulting in many small value contracts. This affects the efficiency of the system and does not help achieve VFM. Prequalification is used for shortlisting providers rather than for determining their qualifications and eligibility for large and complex contracts. Civil society's role in public procurement needs enhancement. Contract management needs improvement. Although the framework provides for reservation and preferences schemes, the GOU needs to take further measures to develop the supply side, including the removal of obstructions in private sector's participation in government contracts. Furthermore, public procurement may benefit from an improved dialogue between the GOU and the private sector.

Overall Strengths

- Availability of a menu of procurement methods including multi-stage procedures (pre-qualification, two stage bidding) for large and complex procurement.
- Citizen engagement in contract implementation monitoring is being strengthened.

Overall Weaknesses

- Lack of disclosure of public procurement information.
- Absence of strategic procurement planning and analysis resulting in higher procurement cost and lower procurement performance. (e.g., too many small procurement packages for recurring items).
- Procurement decision approval time is a source of delay for project implementation.
- Need for strengthening dialogue and interaction with the private sector.
- Civil society's involvement in monitoring procurement is inadequate.
- Framework does not include procedure for a provider to initiate action against delays in payment beyond the 30 days within which contractual payments must be made.
- No regular procurement capacity building arrangements for the private sector.
- Procurement risks associated with key sectors have not been assessed.

The selection and review of a sample of actual procurement transactions (files) was also carried out. The assessment covered 185 procurement transactions sampled from 20 PDEs or of 5% of the total of 374 PDEs. The 20 PDEs (12 from CG and 8 from LGs) were selected based on the criteria that included: spend volume (high, medium and low) and sector (energy, roads, water, agriculture, health, education). The sample transaction files were randomly and sometimes purposely chosen and comprised of a mix of supplies, works, consultancy services and non-consultancy services. The assessment covered the key decision-making areas during the course of the procurement process, including procurement planning, selection and contracting and contract management. The key findings of the review of the sample transactions are as follows:

- a) Out of the 20 PDEs, only two provided the procurement plans prepared using the recommended PPDA format. For the PDEs which provided the procurement plans, a sample of 10-15 transactions were chosen.

For the PDEs which did not provide their procurement plans, 7 – 12 transactions were selected in consultation with the PDUs.

- b) In the absence of procurement plans, it was difficult to establish if needs analysis were conducted which requires market research. Budgets for the PDEs remain the single source of procurement plans and budgets are largely derived from annual work plans of UDs.
- c) In the absence of needs analysis, the requirements and desired outcomes of contracts cannot be clearly defined.
- d) 85% of the transaction files were incomplete. The records available on file are those providing evidence of procurement initiation up to contract signature. Contract management and implementation records were not on file for over 35% of transactions. Some records which should be in the procurement files appear to be available in PDEs' finance departments which limited accessibility.
- e) All PDEs are able to prepare clear specifications for goods and works and terms of reference for services. . Most of these specifications were standard in nature and not restrictive.
- f) Only one procurement transaction included a bid complaint. It was resolved through the established legal channels. However, the challenge created process delays resulting to escalation of contract price by 64%.
- g) The contract management documents were not available on almost all files.

The above findings of the transactions review affirm the overall assessment findings with regard to selection and contracting, procurement planning, time taken in awarding contracts, bid complaint review mechanism, contract management and maintenance of procurement records.

Indicator 9. Effective Public Procurement Practices

Findings

Sub-indicator 9(a) – Planning

As provided in Regulation 3(2) of 2014, the PDE's User Departments (UDs) are responsible for preparing their respective procurement plans on the basis of their approved work plan and budget. The UD's submit their procurement plans to the PDU. The PDU consolidates these procurement plans and submit them to the CC for approval. After the CC's approval, the plan is submitted to the PDE's management board. The AO submits the approved plan in parallel to the MoFPED and PPDA. Finally, the procurement plan is published on the PDE's notice board, its website and PPDA's website. The procurement plans are required to be updated and published on a quarterly basis.

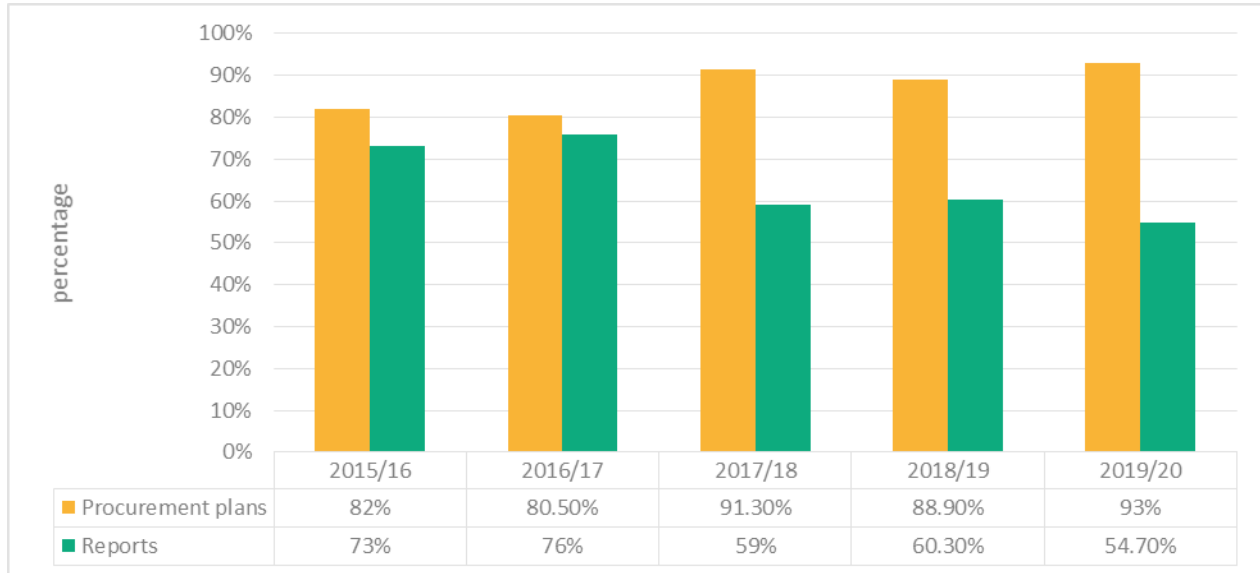
The procurement plans do not include a clear brief description of goods, works and services to be procured; nor do they include a discussion of how the needs were determined, whether a market research was carried out, the methodology used to estimate the costs of the identified needs, and the intended outcomes of the procurement contracts. The quality of procurement plans both in terms of form and substance needs improvement. The practice of multi-year procurement planning, which is used for contracts covering a number of years beyond the budget period. Since the 2021 amendment to the Act requires multi-year procurement planning, it is expected that the practice will now be established. Unavailability of budget funds for contracts completion of which exceeds an FY

halts their execution. Procurement plans are based on annually appropriated budgetary funds, but these funds are not made available to PDEs in a timely manner leading to delays in implementation of procurement plans.

Strategic procurement planning (needs and market analysis) is not yet a regular practice. Determination of procurement package size, selection of an appropriate procurement method, qualification criteria and specifications in most cases are not prepared based on market information, capacity of the available suppliers or contractors, PDE’s capacity, value and risk of the procurement, consideration for achieving VFM, sustainability criteria etc. This results in higher procurement costs and poor contract performance. A well-established practice for procurement planning is guided by an analysis of needs for goods, works and services beginning in the first half of previous fiscal year and preparation of annual budget proposals as part of the planning and budgeting process for the next fiscal year. For long-term contracts, multi-year planning is essential.

As shown below, the level of PDEs’ compliance in submission of procurement plans increased from 88.9% in the FY 2018/19 to 93% in the FY 2019/20. However, compliance levels in submission of implementation reports slightly dropped from 60.3% to 54.7%. The decline in performance with regard to submission of monthly reports was largely due to the inhibition of movement as a result of the lockdown meant to curb the spread of the COVID-19 pandemic. The improvement in submission of procurement plans was due to increased engagements through audits and capacity building initiatives that has raised awareness of the importance of submission of procurement plans.

Figure 2 - Trend of Submission of Procurement Plans and Reports



PPDA completed 88 performance audits (73.95%) in FY 2019/20 covering a representative sample of procurement transactions carried out during the Financial Year 2018/19. The audit findings revealed that the PDEs procured only 47.10% of the planned procurements within the planned timelines implying that PDEs failed to deliver 52.90% of their procurements within the planned timelines. There is a slight improvement when compared to 43.58% for FY 2018/19. This lag in implementation of procurement plans may be attributable to the procurement capacity issues, and the COVID-19 pandemic.

The 2021 amendment to the Act provides for inclusion of sustainability criteria. Therefore, the practice of including sustainability criteria in procurement cycle needs to be introduced. The stages of the procurement cycle at which sustainable procurement criteria can be incorporated are as follows:

Table 7 - Examples of sustainable procurement practices

Scheme	Method	Actions associated with methods
Reservation	Set aside	Allow only enterprises that have prescribed characteristics to compete for contract. e.g., % reserved for women enterprises, SMEs, startups
	Qualification criteria	Exclude firms that cannot meet specific requirement or norm of the policy objective – use of vetted supplier lists
	Contract obligation	Make a policy objective a contractual condition e.g., 20% of the works shall be subcontracted to women enterprises or SMEs or startups
Preferences	Preference at shortlisting/enlistment stage	Limit number of suppliers to be invited based on qualification and weight given to policy objective. e.g., at least one start-up or women enterprise in the list
	Award criteria	Give weighting to policy objective. e.g., 80% price and 20% to policy objective. Monetize policy objective and add to price. e.g., use of life cycle costs.
Indirect	Product/service specification	State requirement in product or service, e.g., use eco-labels
	Design specification or contract conditions to suit particular group/address particular issue	Design specifications to suit particular group or address particular issue. e.g., use of gas burnt bricks in construction instead of coal or wood burnt bricks.
Supply Side	General assistance	Provide support for targeted group to compete for business without giving favorable conditions or preferences. e.g., training bidders in bid preparation

Sustainable procurement requirements may arise from the country's policies on economic, social, and environmental sustainability but such policies have to be appropriately incorporated in the public procurement legal and regulatory framework for implementation.

Sub-indicator 9(b) – Selection and contracting.

The framework provides for multi-stage procedures to ensure participation of qualified and eligible firms in the competition for government contracts. These procedures include open and restricted domestic and international bidding with prequalification or post qualification. The following procedures are used: one stage-single envelope method where a bid is submitted in one sealed envelope and opened on the specified date and time in a single bid opening; one stage-two envelope method where a bid is submitted in an outer sealed envelope, containing two separately sealed and labeled technical and financial bids which are opened on different dates in separate bid openings; two-stage method, in which during the first stage, only the technical bid is submitted, opened and evaluated; and during the second stage, a revised technical bid and a financial bid are submitted, opened and evaluated together. Clear and integrated SBDs exist for goods, works and services. The SBDs include instructions to bidders, general and special conditions of contract, and the necessary forms. Statutory Instrument 3: 2014: No.8 Reg. Part V provides the rules for preparing bidding documents. PDEs are required to use the SBDs to prepare their bidding documents according to type, size and complexity of their individual procurement contracts.

Part IV of the Act provides the methods of procurement. The PDEs use any of the procurement methods subject to the conditions for their use specified in the Fourth Schedule of the Act. In addition, the Guidelines provide value thresholds for the use of different procurement methods. The need of the value thresholds is not clear in parallel with the conditions in the Act. The update of these thresholds is long overdue. The current thresholds for procurement methods are as follows:

Table 8 – Value Thresholds for Procurement Methods

Procurement Method	Threshold in UGX	Threshold in USD Equivalent
Open Domestic Bidding or Open International Bidding (Works)	>500,000,000	136,500
Open Domestic Bidding or Open International Bidding (Supplies and non-consultancy services)	>200,000,000	54,600
Restricted Domestic Bidding or Open International Bidding (Works)	200,000,000 - 500,000,000	54,600 – 136,500
Restricted Domestic Bidding or Open International Bidding (Supplies and non-consultancy services)	100,000,000 – 200,000,000	27,300 – 54,600
Quotation Method (Works)	10,000,000 – 200,000,000	2,730 – 54,600
Quotation/Proposal Method (Supplies and non-consultancy services)	5,000,000 – 100,000,000	1,365 – 27,300
Micro Procurement (Works)	<10,000,000	2,730
Micro Procurement (Supplies and non-consultancy services)	<5,000,000	1,365
Consultancy services from firms – shortlist through expression of interest	>200,000,000	>54,600
Consultancy services from firms – shortlist without expression of interest	<200,000,000	<54,600
Consultancy services from individuals – shortlist through expression of interest	>50,000,000	>13,650
Consultancy services from individuals – shortlist without expression of interest	<50,000,000	<13,650

The procurement method monetary thresholds need updating at least every three years but whenever required by changes in market conditions.

MDBs, including the World Bank, set procurement method monetary thresholds to maximize competition and efficiency of procurement. In setting these thresholds, interest of bidders, both national and international, in participating in tenders, conditions, size and depth of the market, capacity of the local industry, and level of procurement risks are considered.

In setting procurement method monetary thresholds, some countries impose aggregates. Aggregates are the total amount a procuring entity can spend within a budget year through the use of a non-competitive procurement method, such as micro or small procurement. The purpose of such aggregates is to maximize use of competitive procurement methods.

The bidding documents include clear provisions on the bidding process, including submissions, receipt of bids by a deadline, and for their safe keeping. Bids are opened in public immediately after the bid submission deadline. A record of bids received is prepared and maintained. Bidders are allowed to attend bid opening, and the forms for witnessing bid opening are properly prepared. However, the practice of allowing civil society to participate in bid submission, receipt and opening does not exist. According to the Act, confidentiality is one of the main principles of procurement and all public officials must abide by it. Therefore, the public officials involved in different stages of the procurement cycle are bound by the confidentiality rules to keep all procurement information confidential.

PDEs apply the criteria stated in the bidding documents to award the contracts, and prepare evaluation reports for goods, works and services consistent with the evaluation criteria. Contracts are awarded to the bidder whose bid is determined to be the best evaluated bid based on the criteria defined. Statutory Instrument 3: 2014: No.14 Reg. Part II provides the procedures of awarding a contract. Contract clauses do not have provision for incentives for exceeding defined performance levels and disincentives for poor performance. The Act provides for poor performance liquidated damages, replacements, suspension by the Authority, etc. Contract clauses should be revised to provide incentives, such as a bonus, for exceeding defined performance.

As shown in table below, the procurement process timeline, i.e., the time between the publication of the bid notice and the contract award for most procurement methods, exceeds the maximum indicative time. This may point to inefficiencies in the procurement system which may be attributable to a range of factors, including lack of procurement capacity in the PDEs, internal approval processes, etc.

Table 9 - Average Time Taken for Procurements against Maximum Indicative Time Frame

No.	Method	Maximum Indicative Time Frame (days)	Average Actual Time Frame (days)	Variance between Actual Time Line and Maximum Indicative Frame (days)
1.	Direct Procurement	40	39	-1
2.	Open Domestic/National Bidding	100	155.3	55.3
3.	Open International Bidding (OIB)	110	88.8	-21.2
4.	Request for Quotations/Proposals (RFQ/P)	65	74.1	9.1
5.	Restricted Domestic Bidding (RDB)	92	142.6	50.6
6.	Selective National Bidding	90	159.3	69.3

Source: PPDA

Sub-indicator 9(c) – Contract management in practice

This sub-indicator assesses the extent to which goods, works or services, including consulting services procured, are delivered according to the contract agreement in terms of time, quality, cost and other conditions stated in the contract, for the efficient, timely and quality delivery of public services. The sub-indicator assesses cost and time overruns, including for payments to be made to suppliers. The sub-indicator also reviews whether opportunities for the improvement of procurement practices are analyzed based on both metrics and stakeholder feedback.

Statutory Instrument 3: 2014: No.14 Reg. Part V provides the procedures of contract management, including appointment of contract manager; responsibilities of contract manager; change/variation orders; contract amendments; and termination of contracts. Statutory Instrument 3: 2014: No.14 Reg. 13 (1) provides that a contract shall become effective as specified in the contract, but may depend upon the fulfillment of one or more conditions, including the PDE's receipt of a performance security and an advance payment guarantee; and receipt by a provider of an advance payment; and an acceptable letter of credit.

PPDA completed 88 performance audits (73.95%) in FY 2019/20 covering a representative sample of procurement transactions carried out during the Financial Year 2018/19. The audit findings revealed that 39.4% of the contracts signed were not completed within the contractual period while 33.9% of the signed contracts were not paid in time. It is expected that use of IT systems for procurement and contract management would enhance efficiency and compliance. Piloting of e-GP provides an opportunity to test a platform for enhancing transparency, competition and reporting to ensure government gets VFM from procurements.

The Regulations provides the procedures for contract pricing; application of price adjustment; payment terms; payment method; payment structure; advance payments; interim or stage payments; retained payments; payment security; payment documents; payment to a provider; and delays in payment.

The audits carried out by PPDA have identified contractual payment delays. The legal framework specifies the payment period as part of the payment structure, yet it does not provide a reasonable payment period above which providers/suppliers can take legal action. Include a provision in the framework reasonably compensating a provider in case of delays in payments. This would also result in enhancing competition as providers experiencing delays in payments are discouraged from participation in biddings.

Statutory Instrument 3: 2014: No.14 Reg. 55 (1-7) provides the procedures of contract amendment which only focusses on the percentage changes in prices yet any factor that affects the terms is supposed to lead to an amendment to avoid conflicts. A procedure for review and issuance of contract amendment exists but not for their publication. Legal framework should allow amendment for a variety of factors other than price that could lead to conflicts, for example, when a sustainability issue arises.

The framework has no provision for the availability of procurement statistics and a system to measure and improve procurement practices. Nevertheless, more and more PDEs have started inputting procurement data into the GPP. PPDA uses this data for analysis. However, the data so far inputted are not complete and constrain PPDA's efforts to make use of the data to measure the system performance and to improve it as necessary. The e-GP system she. Rolled out would help collect procurement data automatically at the source.

The framework does not give opportunities for direct involvement of relevant external stakeholders in public procurement hence affecting effective and efficient delivery of services. The framework should have a provision for giving opportunities for direct involvement of relevant external stakeholders in public procurement to foster effective and efficient delivery of services.

Legal and regulatory framework does not exist to encourage compilation of contract records in single files hence hindering easy accessibility. Legal and regulatory framework should have a provision for compilation of contract records in single files.

Substantive Gaps and Recommendations:

Sl.	Substantive Gaps/Red Flags	Risk ²¹	Recommendations
1	A large percentage (almost 40%) of contracts are not completed on time because of poor procurement planning, absence of the practice of multi-year planning, delays in release of budgetary funds.	H	Improve procurement planning; introduce the practice of multi-year; and ensure that budget funds allocated for procurement are released in a timely manner.
2	Civil society is not given any opportunity to participate in any stage of procurement cycle.	H	Enhance the role of civil society in all stages of the procurement cycle
3	Provision for citizen engagement in contract implementation monitoring is not yet included in the procurement laws	M	As above
4	There is no mechanism for a provider to initiate action against delays in payment beyond the 30 days within which contractual payments must be made.	H	Include a mechanism in the contract conditions either to compensate the provider for delays beyond 30 days of receipt of invoice.

Indicator 10. Functional Public Procurement Market**Findings**

Sub-indicator 10(a) is closely linked to Indicator 11 (Disclosure of information and civil society engagement).

The dialogue between the Government and the private sector is inadequate. There are few established mechanisms for the Government to seek and receive feedback from the private sector through associations on changes to the public procurement system. Nevertheless, there is a platform for engagement between the private sector and Government on integrity in procurement for infrastructure projects established by CoST Uganda, however, it needs strengthening. PPDA organises training programs for the private sector. There is need for a clear streamlined mechanism for engagement of the private sector across all sectors. An open dialogue between the GOU and private sector will benefit both the parties through flow of information and feedback. It will also improve providers' awareness about the need of integrity and ethical conduct in government contracting.

The Government has no durable and adequate programs for building the capacity of the private sector companies. Such a program will benefit both the parties as a better skilled private sector would submit better quality bids and the Government would spend less time in dealing with poor quality bids and procurement processes.

About 60% of the respondents to a survey of the private sector and CSOs confirmed that the Government does not consult with the private sector before making changes in the legislation and regulations in the area of procurement. About 45% of the survey respondents find that the changes to the procurement framework are difficult to follow.

²¹ H=High; M=Medium; L=Low

Only 35% said they were aware of some capacity building programs for private sector and SMEs. All respondents found that such procurement capacity building programs were not effective.

Sub-indicator 10(b) – Private sector’s organization and access to the public procurement market

The private sector is organized through various business associations. Established in 1995, the Private Sector Foundation Uganda, is a major player; it is made up of over 190 business associations, bodies and public sector agencies. The organization serves as a focal point for private sector advocacy and capacity development. It works with the GOU and development partners to strengthen capacity for policy advocacy and market competitiveness, including in the area of trade development. Private markets and suppliers have not yet matured to meet the increasing demands of public sector procurement, financing and innovation. A weak procurement regulatory framework specific to key sectors also limits the setting and control of standards; it also reduces the options for collaboration across Government on compliance, such as on payment of taxes. However, some Government agencies are already collaborating on this matter, e.g. Electronic Fiscal Receipting and Invoicing System. (EFRIS) at the Uganda Revenue Authority (URA).

According to the Uganda National Strategy for Private Sector Development 2017/18-2021/22, Uganda’s Private Sector is dominated by Micro, Small and Medium Enterprises (MSMEs) comprising approximately 1,100,000 enterprises and employing approximately 2.5 million people. The Manufacturing and Construction sub-sectors are the main drivers of industry in Uganda and contributed 9.6% and 7.5% to GDP respectively in 2014/15. In the last decades, growth in Uganda’s industrial sector occurred mainly on account of the construction sector, rather than through growth in essential raw materials, investment in machinery and equipment, which are essential for agro processing and overall industrial expansion and future economic growth. Uganda’s manufacturing sub-sector is characterized by firm size and type of product. In terms of firm size, it is dominated by a large number of small-scale producers (90%) manufacturing goods with a high import content and thus low value addition. Production costs remain very high and most establishments are characterized by excess capacity with utilization at an average of 50%. In terms of product type, the sub-sector consists of agro-processing, light manufacturing and heavy manufacturing product makers. Most of manufacturing activities are in agro-processing (39%) producing low value-added basic consumer goods. There are few capital goods industries in the country. Thus, the level of innovation remains low.

The services sector in Uganda comprises the tourism sector, financial services, telecommunications, banking, real estate and other investments. The telecommunications and banking sectors have been described as generally sound and well regulated. The real estate sector continues to be dominated by high levels of informality.

According to the data received from PPDA, in FY 2017/18, there were 6,798 registered suppliers in 2018/19, 8,746, and in 2019/20, 7040.

The following table shows the number of contracts awarded and their monetary values awarded to domestic and foreign bidders. According to this table, in FY 2019/2020, 14,482 or 98% of the contracts were awarded to domestic bidders, and the number of the contracts during the same period awarded to foreign bidders was only 276 or 19% which accounted for 45% of the value of the total contracts. This shows that a large number of small value contracts are awarded to domestic firms while large value contracts are awarded to foreign firms.

Table 10 – Number and Percentage of Contracts awarded to Domestic and Foreign Firms

FY	Total number of contracts awarded	Number of contracts awarded to domestic firms	% of contracts awarded to domestic firms	% Value of contracts awarded to domestic firms	Number of contracts awarded to foreign firms	Value of contracts awarded to foreign firms in UGX	% of contracts awarded to foreign firms	Value in % awarded to foreign firms
2019/2020	14,758 ²²	14,482	98.1%	55.4%	276	1,418,855,583,235	1.9%	44.6%
2018/2019	12,380	12,286	99.2%	89.1%	94	88,173,335,476	0.8%	10.9%
2017/2018	12,790	12,760	99.8%	97.5%	30	22,390,064,005	0.2%	2.5%

Source: E-Procurement system/Supplier Database/Survey

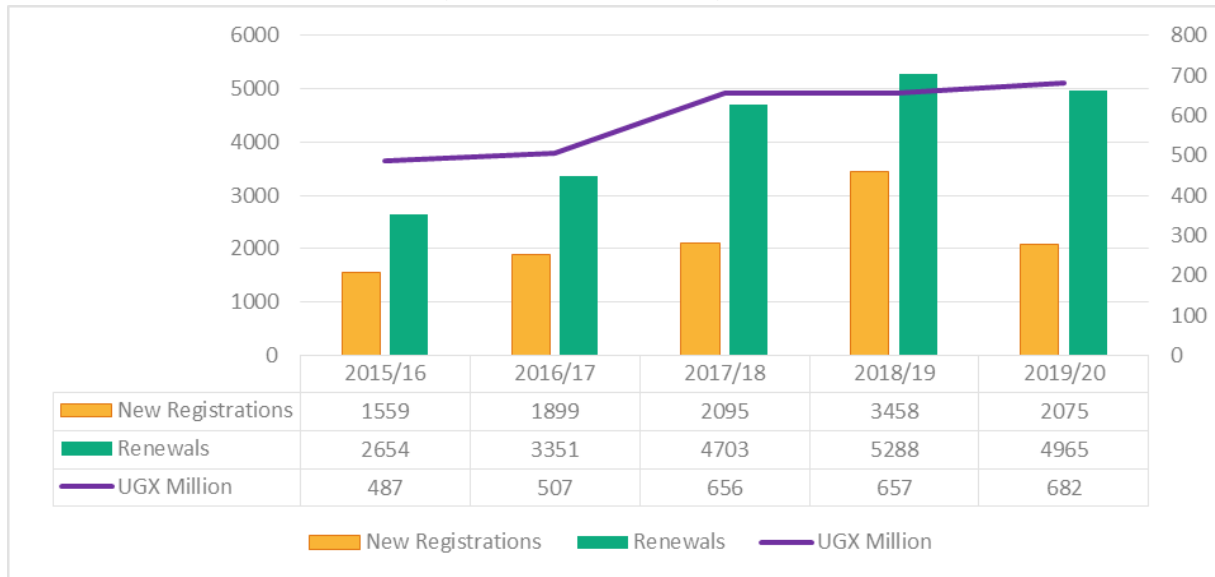
Obstacles to the development of the private sector include, among others, corrupt practices; lack of access to finance, including inability to borrow; lack of transparency is directly linked to regulation; excessive discretion of public officials, resulting in selection of non-competitive methods to allocate procurement contracts; lack of the necessary obstruction regulatory framework to enforce compliance with standards and quality. There are no procedures to assess the organizational capacity of the small and medium sized enterprises and the access they have to information. Although government has made efforts to boost participation of national providers through preferential and reservation schemes, the domestic supplier base remains weak and limited. They lack sufficient capacity, access to information, appropriate technology, credit facilities and conducive institutional support to actively engage in public sector procurement. Large scale providers have benefited mostly while SMEs have lagged behind. It is expected that with the roll-out of e-GP, the interaction between the Government and the private sector will be more efficient and frequent.

CoST Uganda 2021 study on private sector participation in infrastructure projects found the following issues as well:

- a) clustering;
- b) unrealistic bid qualification requirements;
- c) dependency on development aid;
- d) limited implementation of guidelines on reservation scheme;
- e) unfavorable procurement laws;
- f) financing;
- g) unfavorable competition with resident and foreign providers; and
- h) corruption.

PPDA maintains a register of providers for goods, works and services. This helps promote a sound business environment and reduce process time and cost during the prequalification process. In the FY 2019/20, 2,075 new providers were registered and 4965 existing providers renewed their registration. Figure ...shows the registrations carried out and revenue collected over the last 5 years.

²² No. of contracts obtained from GPP

Figure 3 - Five-Year Registrations Trends

The results of the survey on bidders/ perception of the procurement market are summarised as follows:

Table 11 - Bidders' Perception of Procurement Market

Access to financing	20%
Procurement methods that are proportionate to the risk and value in question	60%
Rules that are simple and flexible	50%
Contracting provisions that help distributing risk fairly (specifically those risks associated with contract performance)	20%
Fair payment provisions	30%
Effective mechanism for appeals and dispute resolution	40%
Division of contracts into lots	60%
Other (please specify)	%

It can be concluded that the conditions on the public procurement market that are met are access to financing and contracting provisions that help to fairly distribute risks (specifically those risks associated with contract performance) both at (20%).

Sub-indicator 10(c) – Key sectors and sector strategies

Based on the government's priority spending areas, key sectors associated with the procurement of goods, works, and services were identified. But no sector market analysis is available. In terms of market segments, SMEs do get fair share of business partly because of the reservation scheme.

There is no indication that risks associated with certain sectors and opportunities to influence sector markets are assessed by the Government, and sector market participants are engaged in support of procurement policy objectives.

Substantive Gaps and Recommendations:

Sl.	Substantive Gaps/Red Flags	Risk ²³	Recommendations
1	Weak private sector	H	<p>For improving procurement outcomes, it is important to consider taking the following measures:</p> <ul style="list-style-type: none"> ▪ Establish an infrastructure industry development fund or credit facility in Uganda Development Bank (UDB), fir contractors and consulting engineers. ▪ Develop regulations and guidelines on the establishment and management of joint ventures between foreign and local firms, and local and local firms. ▪ Build capacity of contractors in preparing quality and winning bids. ▪ Establish a Local Content Monitoring Board tasked with monitoring, evaluating and reporting on the local content performance (reservation and preference schemes), monitoring of joint ventures and subcontracting. ▪ Establish a clear definition of a National Provider and Resident Provider. A National Provider should mean a company entirely owned by Ugandans and a Resident Provider should mean a provider owned by foreigners who have residence status and permission to work in Uganda. ▪ Expedite the process of operationalizing the National Register of consultants and contractors. The National register should be networked with NITA-Uganda for proper record keeping.
2	Dialogue between the Government and the private sector is inadequate.	H	Further improve dialogue and interaction on public procurement with key stakeholders, including the private sector, civil society, and even citizens.
3	No durable and regular procurement capacity building of private sector.	M	Introduce sustainable and institutionalised procurement capacity building programs that meet needs of all stakeholders in public procurement. Use existing capacity building institutions and resources.

Non-Substantive Gaps and Recommendations:

Sl.	Non-Substantive Gaps	Risk	Recommendations
1	Procurement risks associated with key sectors have not been assessed.	M	Within the framework of the Public Risk Management Strategy, and the Public Sector Procurement Risk Manual, assess procurement risks in key sectors including their institutional arrangements, oversight mechanisms and supply side; and prepare and implement an action plan to address any identified areas of weakness.

²³ H=High; M=Medium; L=Low

Pillar IV - Accountability, Integrity and Transparency of the Public Procurement System

Uganda has a comprehensive anti-corruption and accountability legal framework that require public officials to conduct themselves with integrity. There are several agencies to control corruption. However, many of the anti-corruption agencies need strengthening and better coordination. There is no system for reporting allegations of fraud and corruption or lead coordinating body. Access to public procurement information is adequate and procurement processes are transparent. However, there is no full disclosure of procurement information. The rate of denials request is high, disclosure is neither categorized nor standardized. For instance, very limited information on contract implementation and completion is disclosed. There are measures in existence to avoid conflict of interest situations. Civil society's involvement in public procurement legislative formulation and in key stages of the procurement cycle is either inadequate or fragmented. Although PPDA recognizes the importance of civil society's involvement in public procurement, there is an urgent need to legally provide for this role. There are few programs to build stakeholders' understanding of public procurement requirements and processes. PPDA is tasked with the audit of public procurement which conflicts with its regulatory and oversight roles. Internal audit of procurement is weak. Procurement audit is mostly compliance rather than performance-based, although PPDA is moving more and more towards performance audit. Follow-up of audit recommendations needs strengthening. A sound bid complaint review mechanism exists. The roll out of e-GP which enhances transparency is slow.

Overall Strengths

- Reasonably transparent process is followed in formulation of procurement legislation in consultation with large PDEs.
- Access to procurement notices, and information is adequate.
- Public Financial Management system is governed by a set of strong legislative instruments with OAG as the supreme audit institution.
- PPDA has a comprehensive procurement audit manual.
- An anticorruption legal framework is in place although its implementation is weak.
- A sound bid complaint review mechanism exists.

Overall Weaknesses

- Providers and civil society not widely included in public consultation for change in legislation;
- Gaps in disclosure and access to information, and lack of standardization of data disclosure systems
- Audit system is mostly carried out by PPDA - a role usually played by external and internal audits;
- Lack of coordination of all bodies/institutions undertaking audits;
- Inadequate follow-up and resolution of audit observations;
- Procurement performance audits needs strengthening, including publications of audit reports;
- Inadequate monitoring of integrity in public procurement and absence of strong mechanisms to address integrity issues;
- Inadequate implementation of findings of integrity issues and penalties;
- No national statistics available on corrupt activities specific to procurement
- No recognised role of civil society in anti-corruption;
- The framework does not have a provision for a formal transparent and consultative process with different stakeholders on public procurement improvements;
- Programs for building stakeholders' capacity to understand, improve and monitor public procurement are inadequate;
- Citizens are not directly involved in procurement processes through consultation, observation and monitoring;

- PPDA’s role of auditing procurement may conflict with its regulatory role affecting audit objectivity and impartiality;
- There are no clear and reliable reporting lines to relevant oversight bodies such as OAG, IG, and CID;
- Lack of a clear and enforceable system to follow up on the implementation and enforcement of the procurement audit recommendations;
- The low number of bid complaints over the last five years indicate providers’ lack of trust in the bid complaint review mechanism;
- The Act includes a definition of corrupt practices but no provision on consequences of such practices;
- No legal provision on cooling off period. The main purpose of a “cooling off” period for former officials is to restrict any attempts on their part to influence persons in their former departments or agencies;
- There are no secure, accessible and confidential channels for reporting cases of fraud, corruption or other prohibited practices or unethical behaviour;
- There is no clear written procedures for systematically identifying corruption risks in procurement cycle and for mitigating these risks;
- Special measures are yet to be introduced for public officials involved in procurement to detect, prevent and report corruption;
- No regular integrity training opportunities are available;

Indicator 11. Transparency and Civil Society Engagement and Integrity

Findings

Sub-indicator 11(a) – An enabling environment for public consultation and monitoring

The framework does not have a provision on enabling a transparent and consultative process to be followed for reforming the public procurement system. The key stakeholders including PDEs, professional organizations/individuals, and CSOs are consulted when the Government is formulating changes to the framework. The framework needs to be strengthened to provide for a formal consultative process. Programs for building stakeholders’ capacity to understand, improve and monitor public procurement are inadequate. Key stakeholders at both the CG and LG levels are provided few opportunities in terms of seminars, workshops, discussions, and talks on public procurement. As a result, the stakeholders’ understanding of public procurement is weak and their role insufficient. Government agencies, especially LGs, do not have capacity to improve stakeholders’ understanding of public procurement. There is need for the central and local governments to take measures to build procurement understanding and capacity of all stakeholders, including the private sector and CSOs to enable them to play a key role in public procurement improvements.

Although, the framework does not provide for a transparent consultative process, PPDA recognizes the importance of consultations with the private sector and CSOs. It understands that to achieve its strategic objectives, it would need synergies of other stakeholders. PPDA, therefore, has been holding consultative workshops seeking to partner with civil society to improve public procurement monitoring and reporting. **Sub-indicator 11(b) – Adequate and timely access to information by the public**

Stakeholders have easy access on the PDA website to all documents relating to legal and regulatory framework free of cost. However, the PDEs do not publish or update information about their procurement activities in a timely

manner. These documents include the acts, regulations, guidelines, circulars, standard bidding documents, templates, bid notices, learning materials, etc. Furthermore, procurement plans, which guide in procurement monitoring are not readily available. The GOU is in the process of piloting e-GP which will further enhance the transparency and efficiency of public procurement. Once the e-GP system has been rolled out, actual bidding documents, notices, etc, would also be available through the GPP.

Nevertheless, there are gaps in disclosure and access to information, and lack of standardization of data disclosure systems. Despite improvements, disclosure of public procurement information remains low in Uganda. This is especially concerning in key sectors such as health, where accountability over how public funds are being spent is of particular importance as seen throughout the COVID19 pandemic.

There is need for further improving disclosure of information, data standardization and categorization using international standards. The Open Contracting Data Standard provides a unique global schema to bring together data across the entire procurement process, and is the only international open standard for the publication of information related to the planning, procurement, and implementation of public contracts. This is accompanied by a hands-on support service, as well as a range of tools and resources that will support the publication of high-quality data.

Beyond data publication itself, it will also be important to consider change management and support to procuring entities as e-GP continues to come online - and ultimately how the procurement system can feed into and support wider public financial management and effectiveness of government in Uganda.

Sub-indicator 11(c) – Direct engagement of civil society

There is no mechanism to allow citizens’ involvement in procurement planning phase (consultation); evaluation and contract award (observation); and contract management and completion (monitoring). However, CSOs are free to attend as observers in public bid/proposal opening (observation) for procurements carried out through the open bidding method but not selective or direct procurement methods. CSOs are not involved in most crucial stages of the procurement cycle such as evaluation and contract management. The legal framework needs strengthening to allow CSOs’ involvement in all crucial stages of the procurement cycle without compromising the confidentiality requirements. Nevertheless, the government does have and should continue its constructive engagement with various stakeholder groups, including civil society organizations.

The government’s consideration of the following Open Contracting Global Principles may create conditions conducive to CSOs’ participation in full procurement cycle:

- a) Recognition of the right of the public to participate in the oversight of the formation, award, execution, performance, and completion of public contracts.
- b) Fostering an enabling environment, which may include legislation, that recognizes, promotes, protects, and creates opportunities for public consultation and monitoring of public contracting, from the planning stage to the completion of contractual obligations.
- c) Collaboration with the private sector, donors, and civil society to build the capacities of all relevant stakeholders to understand, monitor and improve public contracting and to create sustainable funding mechanisms to support participatory public contracting.

- d) Ensuring that oversight authorities, including parliaments, audit institutions, and implementing agencies, have access and utilize disclosed information, acknowledge and act upon citizen feedback, and encourage dialogue and consultations between contracting parties and civil society organizations in order to improve the quality of contracting outcomes.
- e) With regard to individual contracts of significant impact, contracting parties to craft strategies for citizen consultation and engagement in the management of the contract.

Countries use different mechanisms to involve CSOs in public procurement. Some of these are discussed below.

- a) **Ukraine** focused on building CSOs’ capacity to serve as independent monitors of public procurement procedures and processes, with the goal of enhancing the transparency and fairness of public procurement. The Partnership for Transparency Fund (PTF) worked with the Kyiv School of Economics (KSE) to implement the program to strengthen the capacity of Ukrainian CSOs to monitor public procurement of goods and services. The program developed tools to train CSO staff and journalists to identify irregularities and bring evidence-based reports of abuse to the attention of the responsible authorities using information generated by the Prozorro system. ProZorro is a fully online public procurement platform and a collaboration environment that ensures open access to public procurement. Fully implemented in 2016 as a hybrid (both centralized public and decentralized private marketplaces) system it has since been globally recognized as one of the most innovative public procurement systems delivering government services in a stakeholder-focused, transparent, effective, fair and low-cost way.
- b) **Philippines:** Civil society organizations are allowed to monitor all stages of the procurement process including the meetings of award committees. This includes the obligations to invite two observers to follow the procurement process. The observers must have knowledge of procurement and no interest in the tender.
- c) **Ethiopia and Uganda:** The CoST initiative conducts a program of activities related to public procurement aimed at improving transparency to promote integrity and accountability in construction. That has resulted in greater transparency in procurement of construction projects.
- d) **Kyrgyzstan:** A decree provides for the establishment of a public supervisory board for each ministry which actively involves NGO representatives. The supervisory boards ensure participation of citizens in managing state affairs, carrying out public control over activities of bodies of the executive branch, including public procurement, establishing effective collaboration of these bodies with the public, and considering public opinion in formulating and implementing state policy.

Substantive Gaps and Recommendations:

Sl.	Substantive Gaps/Red Flags	Risk ²⁴	Recommendations
1	Gaps in disclosure and access to information, and lack of standardization of data disclosure systems.		Improve disclosure of information, data standardization and categorization using international standards.
2	The framework does not have a provision for a formal transparent and consultative process with different stakeholders on public procurement improvements.	H	Amend the Act to include clear provision on a formal transparent and consultative process with stakeholders, especially with the private sector and civil society, on improvements in public procurement.

²⁴ H=High; M=Medium; L=Low

Sl.	Substantive Gaps/Red Flags	Risk ²⁴	Recommendations
3	Programs for building stakeholders' capacity to understand, improve and monitor public procurement are inadequate.	H	Make sustainable and institutionalised procurement capacity building and awareness raising arrangements for all procurement stakeholders.
4	Citizens are not directly involved in procurement processes through consultation, observation and monitoring.	H	Create mechanisms for citizen's involvement in public procurement through consultation, observation and monitoring of different phases of procurement.
5	Weak follow up of findings relating to integrity in public procurement and resulting sanctions.	H	Strengthen implementation of findings relating to integrity and resulting punitive measures.

Indicator 12. Effective Procurement Control and Audit Systems

Findings

Sub-indicator 12(a) – Legal framework, organization and procedures of the control system

The National Audit Act 2008 constitutes the legal audit framework. The institutional accountability framework, including audit, comprises the MoFPED (Internal Auditor General's office); Office of the Auditor General (OAG); Inspectorate of Government (IG); Directorate of Ethics and Integrity (DEI); Development Partner (Audit/anticorruption focused); and Civil Society (Audit/anticorruption focused). However, the PPDA Act provides for PPDA to carry out procurement audits by itself or through a third party and to institute: (i) procurement or disposal audits during the bid preparatory process; (ii) contract audits in the course of the execution of an awarded bid; and (iii) performance audit after the completion of the contract. Therefore, internal and audit bodies are not sharply focused on audit of public procurement.

The Act mandates PPDA to conduct audit of procurement before, during and after the procurement process, covering the whole procurement cycle, including audit of completed contracts. These audits help PDEs make timely decision on procurement processes and at the same time help they mitigate any identified risks. The Act requires PPDA to submit within three months of the end of each financial year an Annual Performance Evaluation Report in respect of that year's activities. The report includes an evaluation of the operations of PPDA and the PDEs. The Minister submits this report to Parliament. Nevertheless, there is need to strengthen internal and external audit of procurement by the OAG and PDEs internal audit departments. This would enable PPDA to focus more on its regulatory and procurement capacity building activities.

There is no clear mechanism to ensure follow-up on the findings of PPDA's audits of procurement. Legal framework should provide for clear mechanisms to ensure that there is follow-up on the respective findings and Actions recommendations.

There is an internal audit function at every central government entity. The Public Finance Management Act 2015, the financial regulations, and the internal audit manual govern internal audit. The Internal Auditor General in the MOFPED provides technical and professional support and training to the internal auditors in the line ministries. However, these audits are not procurement specific, as a manual of procurement audit does not exist, and the auditors lack skills in conducting audit of public procurement. Furthermore, there is no evidence of clear coordination between PPDA and OAG in carrying out specialized procurement audits or follow up of

recommendation. Legal framework should provide for clear coordination between PPDA and OAG in carrying out our specialized procurement audits or follow up on audit recommendations.

According to its mandate, PPDA conducted performance audit of 3,290 (16.72%) of contracts for the Financial Year ending in June 2019. The audits were conducted 88 PDEs, of which 25 related to the CG PDEs and 63 to the LG PDEs. The audit findings revealed that the PDEs procured only 47.10% of the planned procurements within the planned timelines. Failure to meet the timelines slows down the implementation of contracts. Also 39.4% of the contracts signed were not completed within the contractual period while 33.9% of the signed contracts were not paid in time. Due to funding constraints, PPDA is not able to audit all the Entities under its jurisdiction and currently conducts audits on a sample and risk basis. The current audit coverage is only 49% and this position is continuously being worsened by the ever-increasing number of both CG and LG PDEs.

The OAG, the Supreme Audit Institution (SAI), audits and reports on the Public Accounts of Uganda and of all public offices. The OAG mandate is provided for under Article 163(3) of the Constitution of the Republic of Uganda and Section 13 and 19 of the National Audit Act 2008. There is absence of coordination between PPDA and the OAG in carrying out our specialized procurement audits or follow up of recommendations. Legal framework should provide for clear coordination between PPDA and OAG in carrying out our specialized procurement audits or follow up of recommendations. Under Article 163 (4) of the Constitution, the OAG is required to submit to Parliament annually a Report of the Accounts audited by the OAG for last FY.

The table below shows the number of specialized audits and performance audits. The total audits carried out in two FYs (2017/18 and 2018/19) is points to the need of reinforce and expand audit arrangements to expand.

Table 12 – Audit of Procurement

FYs	Total number of audits	Number of specialised procurement audits	% of specialised audits	Number of procurement performance audits,	% of total number of procurement audits
2019/2020 ²⁵	Data not available	-	-	-	-
2018/2019	217	129 ²⁶	59.4%	88	40.6%
2017/2018	227	138 ²⁷	60.8%	89	39.2%

Source: Ministry of Finance/Auditor General/PPDA

Sub-indicator 12(b) – Co-ordination of controls and audits of public procurement

PPDA has an audit manual that details procedures for carrying out procurement audit. However, there are no clearly and detailed written standards and procedures for conducting procurement audits (both on compliance and performance) to facilitate coordinated and mutually reinforcing auditing. Training of relevant staff in conducting procurement audit is inadequate. Legal framework should provide clearly for detailed written standards and procedures for conducting procurement audits to be put in place, adhered to and monitored. The audit manual

²⁵ PPDA is still conducting procurement audits for procurements conducted in FY 2019/20

²⁶ Compliance Checks (110) and contract audits (19)

²⁷ Compliance Checks (91) and contract audits (47)

should be readily made available to relevant staff who should be provided regular opportunities for training in auditing public procurement.

Sub-indicator 12(c) – Enforcement and follow-up on findings and recommendations

The table below shows the number and percentage of audit recommendations implemented in FYs 2017/18 and 2018/19. The data for 2019/20 is not available. In any case, these numbers are indicative of the need of strengthening the arrangements for disclosure of audit-recommendations and status of their implementation.

Table 13 – Enforcement and Follow Up on Audit Recommendations

	No. of procurement audit recommendations	No. of implemented external procurement audit recommendations	% of external procurement audit recommendations
2019/2020 ²⁸	Data not available	Data not available	-
2018/2019	1,284	847	66%
2017/2018	1,058	730	69%

Source: Ministry of Finance/Auditor General/PPDA

Sub-indicator 12 (d) – Qualification and training to conduct procurement audits

The internal and external auditors do not conduct procurement specific audits. There are no programs for training them in auditing procurement of goods, works and services; nor is there a procurement audit manual. It is important that the role of internal and external auditors in conducting procurement audit be enhanced. Furthermore, ensuring an effective coordination among PPDA and internal and external auditors is needed to avoid duplication and inefficiencies. This coordination would lead to more effective and timely audits and better coverage. A program of training of auditors in conducting procurement compliance and performance audits is needed. A detailed manual for external and internal auditors on auditing procurement of goods, works and services would ensure efficient and timely procurement specific audits. It would save time if the existing PPDA procurement audit manual is adapted and adopted by the external and internal auditors.

The selection of auditors does not consider adequate knowledge of the subject as a condition for carrying out procurement audits. There is no evidence that the auditors recruited with lack of adequate procurement audit skills are supported by procurement specialists or procurement consultants. The internal procedures for selection of auditors needs adjustment to require minimum knowledge of the subject to become a procurement auditor. The same requirement should apply for hiring of procurement audit firms to ensure that their key staff have the minimum procurement audit skills to effectively conduct procurement audit. Procurement auditors' vacancies are announced in the media and selection carried out by a committee of high level officials. However, the criteria for selection of procurement auditors need to be improved.

Substantive Gaps and Recommendations:

²⁸ Data not available

Sl.	Substantive Gaps/Red Flags	Risk ²⁹	Recommendations
1	There are no clear and reliable reporting lines to relevant oversight bodies such as OAG, IG, CID	M	Review and strengthen reporting lines and coordination among the oversight bodies.
2	Lack of a clear and enforceable system to follow up on the implementation and enforcement of the procurement audit recommendations.	H	Strengthen the mechanism that systematically and vigorously follows up on procurement audit recommendations of PPDA, internal and external auditors.
3	Weak capacity of internal and external auditors to conduct audit of public procurement.	H	Prepare and implement a training program for internal and external auditors in auditing public procurement
4	Lack of clearly and detailed written manual including standards and procedures for conducting procurement audits.	M	To ensure effective audit of public procurement by external and internal auditors, prepare a detailed public procurement audit manual covering goods, works and services. Alternatively, adapt and adopt the existing PPDA procurement audit manual.

Indicator 13. Effective and efficient procurement appeals mechanisms

Findings

Sub-indicator 13(a) – Process for challenges and appeals

As explained under sub-indicator 1(h), the 2021 amendment to the Act now has two layers – administrative review by the AO, and independent quasi-judicial review by PPDAT.

The timelines for filing an application for administrative review are as follows:

- Bidder's filing of an appeal at AO level - ten (10) working days from the date the bidder, first becomes aware or ought to have become aware, of the circumstances giving rise to the complaint.
- The AO carries out investigation and makes and communicates a decision within ten (10) working days from the date of the receipt of the application.
- Where a bidder is not satisfied with the AO's decision and intends to appeal to PPDAT, the bidder must notify the AO of this intention within five working days of the expiry of ten (10) working days referred to in (b) above.
- makes an appeal to PPDAT within ten (10) working days from the date of communication of the decision by the AO;
- PPDAT makes decision on the appeal within fifteen (15) working days after receiving the appeal.

The Act provides for an appeal fee which is based on the contract value under appeal. The fee is refunded if the case is decided in favor of the complaining party.

Any bid complaint is reviewed and decided upon the substantive and actual grounds. The following evidence is considered: the provision of the Act breached or omitted by the PDE; names of the person involved, the events and the facts that constitute the complaint; and relevant documentary and any other evidence. The AO of the PDE concerned investigates a bid complaint by the information and evidence contained the complaint; relevant PDE

²⁹ H=High; M=Medium; L=Low

records; and the information provided by the PDE staff and the other bidders. Decisions from the reviews are rarely published for the public but made available only to the complaining party.

PPDAT's decisions are enforceable but not final as a bidder not satisfied with PPDAT's decision may appeal to the High Court within thirty days of the notification of PPDAT's decision. Where an application for review of a decision is lodged with PPDAT or PPDA refers a matter to PPDAT under or an appeal against a decision of PPDAT is lodged with the High Court, PPDAT or the High Court, as the case may be, may order staying or otherwise affecting the operation or implementation of the decision under review or appeal, or a part of the decision, as PPDAT or the High Court, considers appropriate for the purposes of securing the effectiveness of the proceedings and for determining the application or appeal. The procedures are clearly defined in the framework and PPDAT follows them strictly. PPDAT does not have the legal authority to suspend a procurement proceedings; it adheres to the prescribed time frame for considering and resolving bid complaints; its decisions are binding on all parties unless challenged in a court of law; and it is adequately staffed and equipped to fulfill its obligations.

PPDA received and concluded 45 bid complaints dissatisfied with the evaluation process and the decisions of Accounting Officers. Twenty-seven (27) complaints (60%) related to procurements by Central Government PDEs; and 18 complaints (40%) to procurements by Local Government PDES. Twenty-seven (27) applications representing 60% were rejected. Out of the 27 applications that were rejected, eleven (11) applications were dismissed for failure to meet the prerequisites of Administrative Review i.e. (1) non-payment of fees, (1) validity of bids and (9) failure to comply with the statutory timelines for Administrative Review. Seventeen (17) applications representing 37.77% were upheld and corrective Action was directed by PPDA. Table below indicates the nature of the corrective Action to be taken by entities in the seventeen applications where PPDA found merit in the Administrative Reviews.

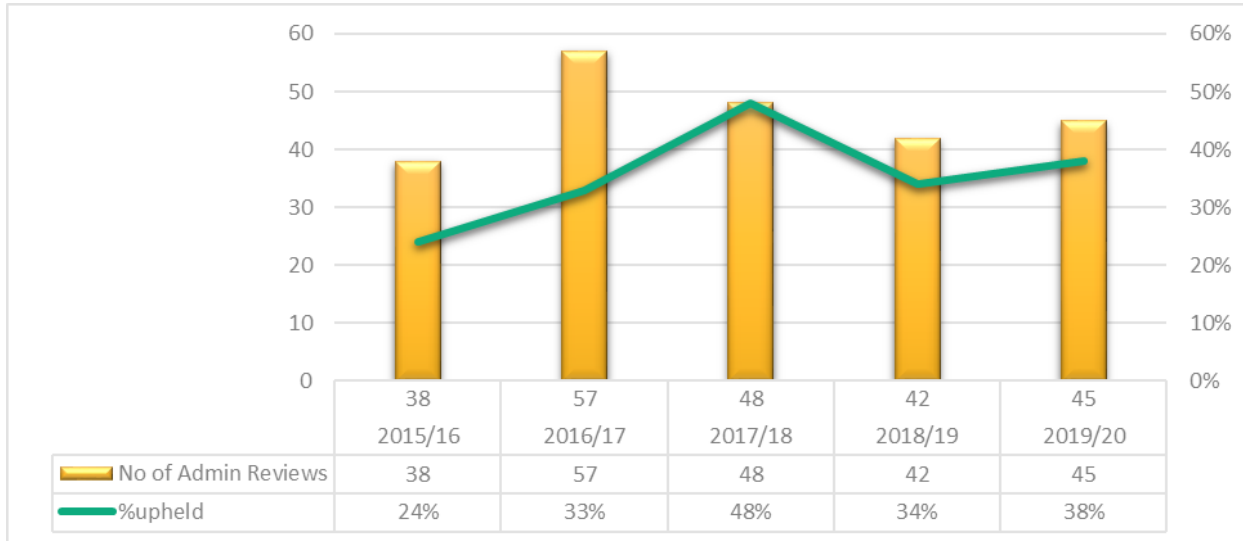
Table 14 - Nature of decisions and corrective Action in Administrative Reviews upheld

No.	Decision/Corrective Action	Number of Reviews and Percentage
1	Re-evaluate	9 (53%)
2	Re-tender	3 (18%)
3	Refer the breach to PPDA Appeals PPDAT	3 (18%)
4	Award tender to the Applicant	2 (11%)
TOTAL		17

PPDA found that the grounds raised in the applications for Administrative Reviews were in respect to non-compliance with the evaluation criteria in the bidding documents issued.

As shown in the chart below, the number of bid complaints reviewed over the last five FYs has remained constant. It shows that there is need to improve the perception of the bid complaint review system. This can be achieved by removing any perception of conflicts of interest and by raising bidders' awareness of the bid complaint system. Also, the time that a three-tier bid complaint system takes to consider a complaint may be long and needs to be reconsidered with a view to reducing the time. It can be achieved by eliminating PPDA's role in bid complaint review which also raises a conflict of interest issue.

Figure 4 – Five-Year Trend of Administrative Reviews



From the Figure 3, it can be concluded that administrative reviews upheld increased from 34% in the FY 2018/19 to 38% in the FY 2019/20 while the applications for administrative review handled increased from 42 to 45 over the same period. During this period, there were twenty-five (25) administrative review applications filed in PPDAT against the decisions of PPDA. Nine (9) applications were dismissed and twelve (12) applications were allowed. Three (3) applications were withdrawn. PPDA also filed five (5) references against Entities for serious breach of PPDA Act, 2003 on account that they signed contracts during the administrative review period in contravention of the Act. There were three (3) appeals filed in the High Court against the administrative review decisions of PPDAT and one (1) appeal filed against the decision of PPDA in respect to suspension. Out of the four (4) matters, one case was finally determined in favour of PPDA.

The total numbers of the bid complaints, reviewed, decided upon as shown in the chart above over a period of five years is low and stagnant. This points to a lack of providers’ trust in the system.

Sub-indicator 13(b) – Independence and capacity of the appeals body.

As a result of the 2021 amendment to the Act, PPDA is no longer involved in bid complaint review. PPDAT is not involved in any capacity in procurement transactions or in the process leading to contract award decisions. A two-tier system would solve the problem of the conflict of interest situation that is created by PPDA’s involvement in bid complaint review.

PPDAT comprises a chairperson and four members. Persons qualified to be High Court judges, and those with knowledge and experience in procurement, finance, commerce, business, administration, or law are appointed as members of PPDAT. It has its own registrar. The chairperson of PPDAT is appointed by the Minister of Finance and Economic Development, in consultation with the chairperson of the Judicial Service Commission. The Minister also appoints members of PPDAT from the private sector. The fact that four members of PPDAT represent the private sector ensures the independence of this appeals body. Furthermore, PPDAT:

- a) is not involved in any capacity in procurement transactions or in the process leading to contract award decisions;

- b) does not charge fees that prohibit access by concerned parties;
- c) follows processes for submission and resolution of complaints that are clearly defined and publicly available;
- d) issues decisions within the timeframe specified in the rules/regulations; and
- e) Issues decisions that are binding on every party (without precluding subsequent access to an external higher authority).

PPDAT has the powers to take evidence on oath; proceed in the absence of a party who has had reasonable notice of the proceedings; adjourn the hearing of the proceedings; make an order as to costs against any party, which shall be enforceable like an order of the High Court; and request to examine a witness who is outside Uganda. However, PPDAT has no authority to suspend the procurement process:

Sub-indicator 13(c) – Decisions of the appeals body

In a survey of the private sector and CSOs, about 33% of respondents (those who participated in the appeal process) believe the system is trustworthy, fair, and consistent. About 50% of respondents believe that the system and most actions within it are in accordance with the rule of law and are predictable. However, about 50% of the respondents believe that the decisions of the PDE were unfair and that the bid complaint system was not sufficiently trustworthy.

Substantive Gaps and Recommendations:

Sl.	Substantive Gaps/Red Flags	Risk ³⁰	Recommendations
1	Decisions from the reviews are rarely published for the public but made available only to the complaints/main parties.	H	Publish review decisions on the PPDA website.
2	The low number of bid complaints over the last five years indicate providers’ lack of trust in the bid complaint review mechanism.	H	Take the necessary measures to increase the providers’ trust in the bid complaint review system, including removing any conflict of interest in the system.

Indicator 14. Existence of Ethics and Anti-Corruption Measures

Findings

Sub-indicator 14(a) – Legal definition of prohibited practices, conflicts of interest, and associated responsibilities, accountabilities and penalties

The Act provides for the definition of fraudulent practices, but it does not define corruption. However, the Act has provisions that include corruption, misbehavior or misconduct, and conviction of an offense which can result in termination of an employee. However, the SBDs include detailed provisions on corruption. Similarly, the Act does not define conflict of interest, but it includes situations where a conflict of interest may arise and provides remedies

³⁰ H=High; M=Medium; L=Low

thereto. Definition of corruption and conflict of interest as well as a detailed provision on corruption and corrupt practices should be included in the Act. The framework includes definitions of the individual responsibilities, accountability and penalties for government employees and private firms or individuals found guilty of fraud, corruption or other prohibited practices in procurement, without prejudice of other provisions in the criminal law. There is no cooling-off period for former public officials. The main purpose of a “cooling off” period for former officials is to restrict any attempts on their part to influence persons in their former departments or agencies. In the context of conflict of interest, the legal framework needs to prohibit the intervention of active public officials and former public officials for a reasonable period after leaving office (cooling-off period) in procurement matters in ways that benefit them, their relatives and business or political associates, financially or otherwise. Overall, the laws and regulations on corruption may exist, but these are not easily accessible, or known by the public. The Act also needs to include a detailed provision on corrupt practices.

The Act defines conflict of interest in subsection (2), in relation to a person to whom that subsection applies, includes the personal interest of a relation or business associate which that person has knowledge or would have had knowledge if he or she exercised due diligence having regard to all the circumstances. A member of a Contracts Committee, Evaluation Committee, a PDU member, a member of the PDE’s governing body, or a member of the Board of Survey who have a conflict of interest with respect to a procurement or disposal are not allowed to: (a) take part in any procurement or disposal proceedings; and (b) after a procurement or disposal contract is entered into, take part in any decision relating to the procurement or disposal contract. These public officials are required to sign a standard conflict of interest form. In the context of a bid complaint review, the Act points to a conflict of interest situation where a bidder alleges that PPDA has a conflict of interest in respect of a matter before the Authority and believes that the matter cannot be handled impartially by the Authority, is allowed to directly apply to PPDA for a determination of the allegation and where necessary, of the matter that was before PPDA.

Sub-indicator 14(b) – Provisions on prohibited practices in procurement documents

As specified in the legal/regulatory framework the SBDs including contract conditions include provisions on corrupt, fraudulent, collusive and coercive practices, and the consequences of committing such acts. The instructions in the SBDs include a requirement for bidders to issue a self-declaration assuring that they have not engaged in any prohibited practices and have not been prosecuted or convicted of fraud, corruption or other prohibited practices. The Code Of Ethical Conduct in Business for Bidders and Providers is also included in some SBDs.

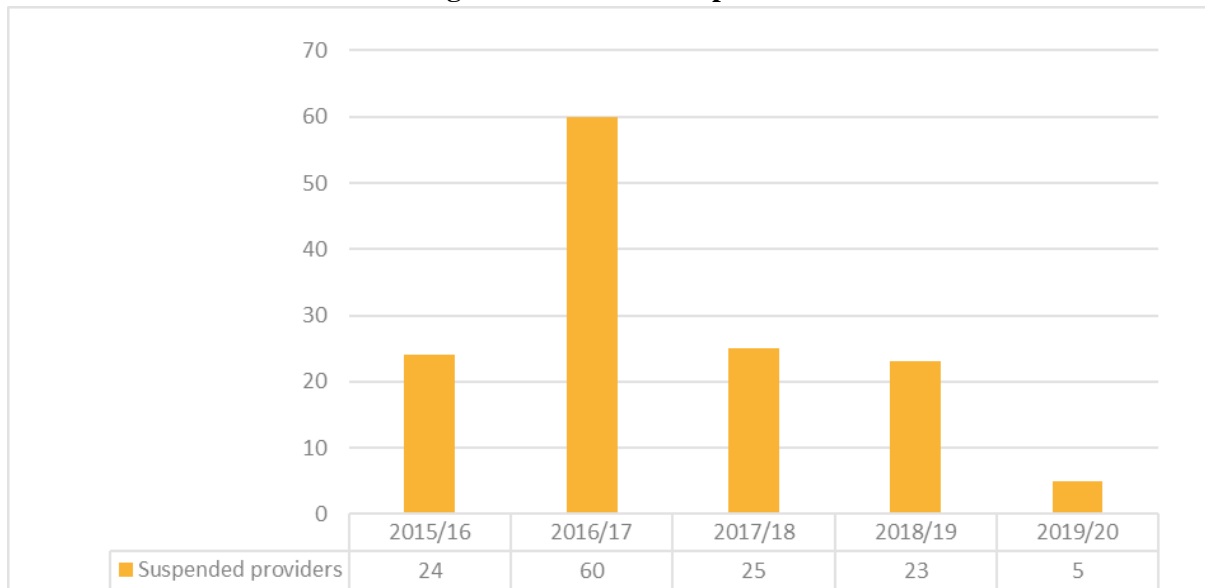
Sub-indicator 14(c) – Effective sanctions and enforcement systems

Anti-corruption measures such as rescission of contracts, monetary fines, debarment, asset declaration, whistleblowing, imprisonment of corruption culprits, and criminalizing money laundering have been adopted to help the fight against corruption. PPDA may on a PDE’s recommendation or after investigations on its own initiative, suspend a provider for the following reasons:

- a) breaches of the Code of Ethics of providers;
- b) debarment from the procurement processes of an international agency of which Uganda is a member;
- c) proven record of unsatisfactory performance;
- d) conviction of a corrupt practice or a fraudulent practice under this Act;
- e) failure to substantially perform the obligations specified in the contract; or
- f) Suspension by a professional body of the provider, for professional misconduct.

PPDA derives its mandate to suspend providers under Section 94 of the PPDA Act, 2003 and Regulation 12 of PPDA Regulations, 2014. One hundred three (103) recommendations for suspension of providers were investigated. Fourteen (14) recommendations were deferred pending the outcome of court cases related to the investigations, twenty-four (24) cases were concluded with five (5) firms suspended and PPDA did not find merit in nineteen (19) recommendations. Sixty-five (65) cases were still under investigation. The details of the suspended providers are contained in Annex I. The Trend of suspension of providers over the time horizon of the past 5 financial years is illustrated in Figure.

Figure 5: Trend of Suspended Providers



From chart above, it can be observed that the number of suspended providers decreased from the 23 providers in FY 2018/19 to 5 providers in FY 2019/20. The reduction in the number is due to the suspension of investigations because of the Covid-19 pandemic.

The Act provides for a fine of not less than two hundred and fifty currency points³¹ but not exceeding one thousand currency points or to a term of imprisonment not exceeding three years or both on conviction of: withholding information: disregarding summons and refusing to submit books of accounts.

An Accounting Officer, a member of the CC, a member of the evaluation committee, an employee of PPDA or of a PDE is liable on conviction of, among others, corruption or fraud to a fine not less than two hundred and fifty currency points but not exceeding one thousand currency points or to imprisonment not exceeding five years, or both. Similarly, if it is proved that a provider is involved in a fraudulent practice, the provider can be disqualified by the CC from the procurement proceeding; and the CC has to recommend to PPDA to suspend the provider. In this situation, any existing contract with the suspended provider is terminated. Existing contracts with or proposal to award a contract to suspended providers are treated as follows:

³¹ A currency point is equal to 20,000 Uganda Shillings

- a) Void the contract at the option of the procuring and disposing entity. Furthermore, a procuring and disposing entity may seek any other legal remedy available, against the provider.
- b) Reject the proposal for award of the contract; or recommend suspension, if after appropriate investigations, the PDE is satisfied that the bidder recommended for contract award has engaged in a corrupt or fraudulent practice in competing for the contract.
- c) Suspend the bidder from participating in any procurement or disposal process when it is determined after a special audit or by a court that a bidder is engaged in a corrupt or fraudulent practice during the procurement process.

Where a PDE consistently contravenes this Act, it shall, on the recommendation of PPDA and upon the approval of the Minister, have its procurement and disposal function transferred to a third-party for conducting PDE's procurement, until PPDA is satisfied that the causes of the contravention have been rectified.

In 2019/2020, PPDA received one hundred three (103) recommendations to suspend providers in the Financial Year. Fourteen (14) recommendations were deferred pending the outcome of court cases related to the investigations, twenty-four (24) cases were concluded with five (5) firms suspended and PPDA did not find merit in nineteen (19) recommendations. Sixty-five (65) cases were still under investigation by 30th June 2020.

In a survey of the private sector and CSOs about 40% of respondents consider that firms are expected to give a gift to secure a contract in the public sector.

Sub-indicator 14(d) – Anti-corruption framework and integrity training

The core of Uganda's legal anti-corruption framework is the Anti-Corruption Act 2013, the Penal Code, the Inspectorate of Government Act 2002, the Public Finance Management Act 2015 and the Leadership Code Act 2002 (LCA). The Penal Code provides instruments to deal with various corruption offenses including embezzlement, causing financial loss, abuse of office and fraud.

The activities of the various agencies that have been set up to fight corruption, including PPDA, the Office of the Auditor General, Inspectorate of Government, Criminal Investigations Directorate and the Directorate of Public Prosecutions, are coordinated by the Directorate of Ethics and Integrity in the President's Office. The Minister for Ethics chairs regular meetings of an Inter-Agency Forum to coordinate all Government anti-corruption Activities. However, many of the anti-corruption agencies need strengthening and there is still room for improvement in the coordination of their Activities. There are no special measures for public procurement.

PPDA with support from the GIZ Uganda in collaboration with the IG and the OAG undertook this one and a half day training on public contract monitoring, open contracting and anti-corruption measures within the region for CSOs in Mbale district. The purpose of this training workshop was to create awareness, sensitise participants on government procurement, contracting and to create networks to monitor government contracts so as to improve contract implementation outcomes. This training was conducted for one and a half days in Mbale region on the 20th and 21st February 2020. Additionally; through comparison with the OAG and the IG, the training was aimed at operationalising PPDA's collaborative framework with the CSOs and PDEs in the monitoring of government projects to improve public procurement outcomes. The training attracted a total of Forty two (42) participants, thirty five (35) of whom were representatives of different CSOs and seven (7) were PPDA Mbale office staff. Of

the forty-two (42) participants, twelve (12) were female (29%) and the rest male (71%). AFIC has conducted several trainings on procurement, contracts monitoring for Public officials and citizens in partnership with PPDA as well in at least 20 LGs.

There is no clear written mechanism for systematically identifying corruption risks and for mitigating these risks in the public procurement cycle. However, in this regard, PPDA has launched a framework for engagement between Government and non-state actors on public procurement. There is need for a review of the legal framework with a view to putting in place clear mechanisms for systematically identifying corruption risks and for mitigating these risks in the public procurement cycle.

Review legal framework and strengthen the anti-corruption framework to generate coordinated interagency statistics on procurement corruption-related legal audits, investigations, proceedings and convictions. Special measures are yet to be introduced for public officials involved in procurement to detect and prevent corruption in public procurement. Training is carried out as per organizational policy and in accordance with resources available. However, no regular integrity training opportunities are available. Review legal framework and provide for regular special integrity procurement related training programs to the procurement workforce.

The percentage of favorable opinions by the respondents of the survey on the effectiveness of anti-corruption measures are as follows:

Measures to reduce corruption	4 very effective
▪ providing information and/or training on what constitutes corruption and how to reduce corruption (i.e., the right and the duty to be informed and trained)	Average=2.8
▪ dedicated reporting channels to report misconduct	Average=3.1
▪ a code of conduct (ethical guidelines or similar guidance documents) for public and private entities	Average=2.9
▪ declaration forms for suppliers to affirm their compliance with anti-corruption rules	Average=2.8
▪ participation of watchdog organizations	Average=2.7
▪ e-procurement	Average=3.7
▪ due diligence or risk analysis	Average=3.0
▪ strong enforcement systems	Average=3.2
▪ limitations on post-public employment (“revolving door phenomenon”, “cool down phase” for public employees)	Average=2.8

Average weightage: 3

It can be concluded that percentage of favorable opinions by the respondents on the effectiveness of anticorruption measures is 75%.

Source: Survey

PPDA signed a contract with Economic Policy Research Centre (EPRC) for the provision of consultancy services to conduct fourth procurement integrity survey. The survey was conducted to establish the following research themes:

- 1) Whether stakeholders are aware of the reforms and initiatives,
- 2) Extent to which procurement reforms and PPDA initiatives are being implemented,
- 3) Whether the monitoring process is participatory,

- 4) The influence of corruption on the public procurement process and
- 5) The extent to which there is competition in public procurement.

The integrity survey revealed that the perception index about the existence of corruption in public procurement increased to 76.1% up from 71.8 percent in the previous survey (3rd Integrity Survey).

The survey further revealed that Integrity risks occur in every stage of the procurement process, from the needs assessment over the bidding phase to the contract execution and payment. While there are many risks at every stage of the procurement cycle, the study wanted to understand the stage of the procurement/disposal process that is most vulnerable to corruption. A majority of MDA's and LGs (54 percent) and supplier (43 percent) responded that the procurement cycle is most vulnerable at review and evaluation of bids stage. This is mainly driven by conflict of interest, and the assessing officer could have developed familiarity with bidders over time. In addition, the assessing officer may have received gifts or promise of future employment. Also, lack of checks and balances during the bid assessment stage exacerbate tampering at the review and evaluation stage.

Similarly, there is divergence in perception of the contract performance evaluation and advertising. MDAs and LGs cite contract performance evaluation (19 percent) and advertising (9 percent) as the second and third most vulnerable points. Concerning abuse of performance management, the supplier underperforms in delivery of contract, in particular in relation to its quality, price and timing. This is characterised by a substantial change in contract conditions to allow more time and/or higher prices for the bidder; and delivery of sub-standard work or service not meeting contract specifications.

The Report made the following recommendations:

- a) Engage suppliers and citizens through training courses and capacity building initiatives. Capacity building should focus on strengthening the knowledge base of local firms and enterprises on the public procurement processes;
- b) Deepen the knowledge, especially among suppliers, of the intent of reforms and initiatives, such as transparency, accountability and regulation of public procurement. Mass distribution of PPDA regulations to suppliers would enhance the level of awareness of PPDA reforms and initiatives;
- c) Embrace, work and build partnerships with the civil society;
- d) Build the capacity of LGs on the disposal of small assets;
- e) Raise awareness of PDEs and PDUs on the ethical code of conduct and structures that prohibit UD's from being part of the evaluation committee;
- f) Improve procurement policies and compliance checks, as they are currently limited and could be vulnerable to corruption; and
- g) Train the PDEs and PDUs' staff appropriately on navigating complex legal frameworks such as public procurement and anti-corruption laws.

PPDA also signed an Memorandum of Understanding with AFIC to strengthen transparency and accountability in public contracting. AFIC has been conducting monitoring of service contracts in various sectors. As part of this MoU, CoST Uganda has also been conducting assurance on selected infrastructure contracts/projects and influencing transparency in public infrastructure projects. 46 projects have been piloted upon by CoST and the reports have influenced performance of the projects and policy improvements.

Sub-indicator 14(e) – Stakeholder support to strengthen integrity in procurement

Civil society in Uganda is vibrant but there is no mechanism for its involvement in social audit and control. PPDA works closely with non-state actors specifically the CSOs to ensure transparency at contract implementation and improve contract performance. The main constraint to participation of CSOs in monitoring public contracts has been limited access to public procurement information with many PPDEs not disclosing contract information to enable monitoring.

There is no enabling environment for CSOs to play a meaningful role of third-party monitors at any stage of the procurement cycle. The few channels for engagement and feedback that are promoted by the government are limited to seminars that PPDA has been organizing for CSOs with a view to collecting feedback from them. Review and institutionalize legal mechanisms to create an enabling environment with clear channels for engagement and feedback.

There is little evidence that civil society plays a systematic role in improving integrity of public procurement. There is need for systematically involving civil society in all stages of public procurement, especially its oversight role during the need's identification, contract award and contract performance.

Providers and business associations support integrity and ethical behavior in public procurement but because of the fear of reprisals, and victimization, they hesitate to report integrity issues and unethical behavior. The GOU needs to take measures to create conditions where providers feel safe in reporting integrity issues and unethical behavior.

Public procurement is prone to corruption, particularly due to the high value transactions, complexity and close interaction between the public and private sector through the bidding processes. Evaluation of Bids persists to be perceived as the stage most susceptible to corruption. Corruption in procurement erodes bidder confidence and results into higher bid prices that ultimately increases the cost of delivering services to citizens. While PPDA cannot alone totally remove corruption that is pervasive in the society, as the Regulator, it is incumbent upon PPDA to ensure that the system promotes transparency, efficiency, economy, fairness, and accountability where corrupt activities will be more difficult to conceal and will be easier to punish administratively or criminally. This requires strong partnerships with other oversight and enforcement agencies as well as the civil society.

In a survey of the private sector and CSOs, about 90% of the respondents said that they were not aware of any CSO actively providing oversight and social audit of public procurement.

There have been efforts to promote ethics and integrity in procurement of infrastructure projects, CoST Uganda in the year 2020-through mid-2021, run an intensive campaign on fair business practices in partnership with key oversight bodies, and PPDA. These forums were opportunities for PPDA to further share key integrity issues observes in procurement, but to also document concerns and experiences of providers in the infrastructure sector, suffice to note through the engagements was the growing lack of knowledge on what was regarded as unethical issues that stakeholders ought to decry.

It is possible providers, officials and firms continue to practice behaviors that are regarded unethical, out of information and knowledge, there was a gap on the existing legal framework, for instance, the ethical code of conduct for the private sector had been shelved for years, until 2020, when CoST invited DEI to introduce it to the

stakeholders.

To keep the discussions going, CoST and PPDA agreed to sustain a quarterly webinar series on integrity issues in public infrastructure procurement processes. This experience could spill over to other sectors and service delivery processes.

In order to enhance integrity and transparency in the public procurement system, it is necessary to introduce a 360-degree mechanism where suppliers can also point out weaknesses in a PDE/procurement system for addressing.

Sub-indicator 14(f) – Secure mechanisms for reporting prohibited practices or unethical behavior

There are no secure, accessible and confidential channels for reporting cases of fraud, corruption or other prohibited practices or unethical behavior. Strengthen the mechanisms, make them more secure across agencies. There is no official mechanism that requires PDEs to report fraud, corruption and other prohibited practice to law enforcement agencies. The framework should include a provision requiring any public official to report prohibited practices and a mechanism, such as a roll number, email and address, for this purpose.

The Whistleblowers Act 2010 provides for the procedures by which individuals in both the private and public sector may in the public interest disclose information that relates to irregular, illegal or corrupt practices; to provide for the protection against victimization of persons who make disclosures; and to provide for related matters. Implementation rules/regulations are not in place and the Act is not implemented effectively. Strengthen the implementation of the Act. There is no reporting system which generates data indicating the number of investigations conducted and actions taken.

According to the IG July–December 2017 report, it registered 1,399 complaints against corruption and maladministration across the country and 4,817 investigations were ongoing. Of the overall complaints received, 947 were investigated and concluded, as well as 15 out of 105 prosecuted corruption cases were concluded with 11 convictions, two acquittals, and two dismissals.

Sub-indicator 14(g) – Codes of conduct/codes of ethics and financial disclosure rules

The Act includes a code of ethical conduct in business. All public officers as well as experts engaged in delivering specific services must sign the code. All providers of works, services or supplies are also required to sign a declaration of compliance with those codes of conduct determined by PPDA from time to time. The following are the key objectives of the code: maintaining an impeccable standard of integrity in all business relationships both inside and outside the organizations in which they are employed; fostering the highest possible standards of competence; optimizing the use of resources for which they are responsible to provide the maximum benefit to Uganda; and complying both with the letter and the spirit of the laws of Uganda and regulatory guidance; accepted business practices in commercial markets; and contractual conditions. The code of conduct is incorporated in the SBDs. It is, however, not clear whether the code covers all key sectors in public procurement. For example, while regulators, auditors and investigators play a key role in public procurement, the code covers only those public officers who are engaged in delivering specific services. Review and revise the code of conduct, as necessary, to cover all key actors involved in the procurement cycle including regulators and auditors, investigators.

The code does not define accountability for decision making. However, the Act refers to Public Finance and Accountability Act No.6 of 2003 and requires PPDAT to comply with its provisions. It requires that all PDEs conduct in a manner that promotes transparency, accountability and fairness. The code is mandatory, but it does not provide for the consequences of non-compliance with its provisions. However, the Act includes provisions that include the situations of offenses by public officials and providers may commit at different stages of public procurement. The Act also provides for the consequences of such offenses that include fines and/or imprisonment, PPDA organizes training programs on integrity in public procurement but these are inadequate. Nevertheless, the punitive measures are weak.

Conflict of interest statements and financial disclosure forms and information are not systematically filed, accessible and utilized by decision makers to prevent corruption risks throughout the public procurement cycle. Legal provisions relating to conflict of interest statements and financial disclosure forms, and their accessibility and utilization by decision makers needs strengthening. All the members of the Contracts Committee, Evaluation Committee, PDU, etc., are required to sign the Code of Ethics provided under the regulation made under this Act, declaring that they do not have a conflict of interest in the procurement requirement. Similarly, all providers of goods, works, and services must sign PPDA Form 13 - Declaration to abide by Code of Ethical Conduct in Business.

The Leadership Code 2002 mandates all public officers to declare assets, liabilities and business interests. This declaration is for all public officers and is not specifically for procurement officials.

Substantive Gaps and Recommendations:

Sl.	Substantive Gaps/Red Flags	Risk ³²	Recommendations
1	The Act does not include a provision on description of corrupt practices and consequences of such practices,	H	Amend the act to include a description of corrupt practices and their consequences. In other words, strengthen and apply punitive measures.
2	The Act does not include a provision on cooling off period.	M	The GOU to consider amending the relevant act introducing a cooling off period for its former employees, including retirees, to avoid any conflict of interest situation.
3	There are no secure, accessible and confidential channels for reporting cases of fraud, corruption or other prohibited practices or unethical behaviour.	H	Introduce channels that stakeholders can access and use securely to report fraud, corruption and other prohibited practices in public procurement.
4	There is no clear written procedures for systematically identifying corruption risks in procurement cycle and for mitigating these risks.	H	Prepare and introduce clear procedures for identifying fraud and corruption risks in the procurement cycle and for taking measures to mitigate them.
5	Special measures are yet to be introduced for public officials involved in procurement to detect, prevent and report corruption in public procurement.	H	Prepare and introduce guidelines for public officials to detect, prevent and report incidents of fraud and corruption in public procurement.

³² H=High; M=Medium; L=Low

Sl.	Substantive Gaps/Red Flags	Risk ³²	Recommendations
6	No regular integrity training opportunities are available	H	Include integrity training in all procurement training programs, in addition to preparing and regularly implementing integrity training not only to public officials involved in procurement but also to providers
7	No mechanism for civil society to play oversight role in public procurement.	H	Introduce/enhance the civil society’s oversight role in all stages of the procurement cycle, from needs analyses to contract execution and completion.

4. Consolidated Recommendations

Pillar I: Legal, Regulatory and Policy Framework

Sl.	Recommendations	Responsibility	Timeline ³³
1	Update the Act, and the CG and LG Regulations to make them consistent with NPSPP 2019, the 2021 amendment to the Act.	MoFPED/MoLG /PPDA	MT
2	Update the procurement thresholds every three years or whoever required by changes in market conditions.	PPDA	ST
3	Use pre-qualification for large complex contracts to ensure that interested bidders are eligible and qualified to participate and invite all prequalified bidders to submit bids.	PDEs	ST
4	Expedite e-GP roll out for speeding up procurement processes.	MoFPED/PPDA /MoLG/PDEs	MT
5	Introduce model technical specifications for the items that are frequently and commonly used,	PPDA	MT
6	Require bidders to deposit their bids in the designated bid box rather than giving them an option to hand these over to any person.	PDEs	ST
7	Mandate publication of bid complaints and their resolution.	PPDA	ST
8	Until internet reaches most providers, make hard copies of procurement acts, regulations, guidelines, circulars SBDs and other key procurement documents are available to all interested providers.	PPDA	ST
9	Consolidate the Regulations into one volume and upload it on the website along with their separate versions giving users the option to use one version or the other.	PPDA	MT
10	Use procurement plans as a vehicle for approval, among others, of the use of procurement methods.	PDEs	ST
11	Introduce electronic filing and retrieval system, essential for proper maintenance and safekeeping of procurement records.	PPDA	LT
12	Introduce detailed security protocols to protect physical and/or electronic procurement records.	PPDA	LT
13	Review and revise to ensure that the SBDs are consistent with the Act and the Regulations.	PPDA	MT
14	Prepare an SBD suitable for procurement of major works and make it available to PDEs for use.	PPDA	
15	In collaboration with the PDEs for education, energy, health, etc, prepare sector specific procurement manuals and SBDs to make their procurement more effective.	PPDA/PDEs	MT
16	Prepare an SPP plan to implement the NSPP 2019.	MoFPED	PPDA

³³ Short-term is considered less than a year; medium-term 1 to 3 years; and long-term beyond 3 years

Pillar II: Institutional Framework and Management Capacity

Sl.	Recommendations	Responsibility	Timeline
1	Integrate procurement planning with the annual budget formulation exercise.	MoFPED	MT
	Prepare initial procurement plans based on needs analysis, market research, accurate cost estimating, etc.	PDEs	ST
	Mandate PDEs to finalise and publish their procurement plans by July 15 each FY.	MoFPED/PPDA	ST
	Streamline procurement plans by simplifying the format and by improving the relevance and quality of information.	PPDA/PDEs	ST
2	Implement multi-year procurement planning for extended contracts by earmarking the required funds for the years beyond the FY. This will not only optimise competition and ensure achievement of VFM but also complete execution of multi-year contracts.	MoFPED	MT
3	Require PDEs to provide feedback on the use of budgetary funds for major contracts.	MoFPED	ST
4	In order to ensure timely and substantial implementation of annual procurement plans, ensure smooth flow of appropriated budgetary funds for smooth contract award and execution.	MoFPED	ST
5	Issue bid notices only after the Treasury has confirmed availability of budget funds in full for a contract. Bidders have to incur substantial expenses to prepare a bid, especially for large contracts. If they are not assured that budget funds are available for a contract, they may not participate seriously and may pass their assumed risks in the bid price.	MoFPED/PDEs	ST
6	In order to take advantage of economy of scales establish a centralised procurement body or function to conduct procurement of PDEs' aggregated needs of goods, works and services and procure them in a collaborative manner.	MoFPED	MT
7	Ensure that the e-GP system being piloted include a mechanism to capture procurement data at the source	MoFPED/PPDA	MT
8	Design and implement a two-week compliance procurement training program that any official involved or to be involved in public procurement, at the CG and LG levels, must complete success	PPDA	ST
9	Increase the publication of key procurement information such as procurement plans, invitation to bids, etc.	PPDA	ST
10	Prepare a procurement training strategy, and design, develop and implement a institutionalised and sustainable procurement capacity building system that fulfils the training needs of all procurement stakeholders.	MoFPED/PPDA	LT
11	Carry out a procurement skills gap analysis with a view to prepare a procurement capacity plan that help fill the procurement skills gap.	PPDA	MT
12	Prepare and implement public procurement competencies framework.	PPDA	MT
13	Introduce a more comprehensive indicator-based procurement performance measurement system.	PPDA	ST
14	Introduce results frameworks for monitoring public procurement system development.	PPDA	MT

Pillar III: Procurement Operations and Market Practices

1	<p>Take the following measures to improve private sector: For improving procurement outcomes, it is important to consider taking the following measures:</p> <ul style="list-style-type: none"> • Establish an infrastructure industry development fund or credit facility in Uganda Development Bank (UDB), fir contractors and consulting engineers. • Develop regulations and guidelines on the establishment and management of joint ventures between foreign and local firms, and local and local firms. • Build capacity of contractors in preparing quality and winning bids. • Establish a Local Content Monitoring Board tasked with monitoring, evaluating and reporting on the local content performance (reservation and preference schemes), monitoring of joint ventures and subcontracting. • Establish a clear definition of a National Provider and Resident Provider. A National Provider should mean a company entirely owned by Ugandans and a Resident Provider should mean a provider owned by foreigners who have residence status and permission to work in Uganda. • Introduce a 360-degree mechanism where suppliers can also point out weaknesses in a PDE/procurement system for addressing. <p>Expedite the process of operationalizing the National Register of consultants and contractors. The National register should be networked with NITA-Uganda for proper record keeping.</p>	MoFPED	LT
2	Enhance the role of civil society in all stages of the procurement cycle.	PPDA	ST
3	Include a mechanism in the contract conditions either to compensate the provider for delays beyond 30 days of receipt of invoice.	PPDA	ST
4	Improve dialogue and interaction on public procurement with key stakeholders, including the private sector, civil society, and even citizens.	PPDA	ST
5	Introduce sustainable and institutionalised procurement capacity building programs that meet needs of all stakeholders in public procurement. Use existing capacity building institutions and resources.	PPDA	LT
6	Assess procurement risks in key sectors including their institutional arrangements, oversight mechanisms and supply side, and prepare and implement an action plan to address any areas of weakness.	PPDA	MT

Pillar IV: Accountability, integrity and transparency of the public procurement system

1	Amend the Act to include clear provision on a formal transparent and consultative process with stakeholders, especially with the private sector and civil society, on improvements in public procurement.	MoFPED	MT
2	Create mechanisms for citizens' involvement in public procurement through consultation, observation and monitoring of different phases of procurement.	PPDA	LT
3	Strengthen access to information, data standardisation and categorisation using international standards such as the OC4IDS and the OCDS to promote transparency	PPDA	LT
4	In order to ensure effective audit of public procurement by external and internal auditors, prepare a detailed public procurement audit manual covering goods,	PPDA	ST

	works and services, and implement a program of training internal and external auditors in conducting procurement audits.		
5	Strengthen the mechanism that systematically and vigorously follow up on procurement audit recommendations.	PPDA	MT
6	Take the necessary measures to increase the providers' trust in the bid complaint review system, including removing any conflict of interest in the system.	PPDA	ST
7	Consider amending the relevant act introducing a cooling off period for its former employees, including retirees.	MoFPED	MT
8	Introduce channels that stakeholders can access and use securely to report fraud, corruption and other prohibited practices in public procurement.	PPDA	ST
9	Prepare and introduce guidelines for public officials to detect, prevent and report incidents of fraud and corruption in public procurement.	PPDA	ST
10	Include integrity training in all procurement training programs, in addition to preparing and regularly implementing integrity training not only to public officials involved in procurement but also to providers	PPDA	ST
11	Introduce/enhance the civil society's oversight role in all stages of the procurement cycle, from needs analyses to contract execution and completion.	MoFPED/PPDA	MT

5. Strategic Planning

The consolidated recommendations in Chapter 4 above are prioritised from the point of view of the impact and degree of readiness of the current system. The GOU may consider converting these actions into a detailed action plan identifying the resources, required to implement them, sources of funding, and timeline for each action. Meanwhile, implementation of the following high impact actions in the short term would result in improving the performance of the system:

- 1) Remove identified obstacles, including access to internet, in speeding up e-GP roll out.
- 2) Improve standard procurement documents.
- 3) Improve the procurement processes and practices which are identified as areas of weakness. Introduce an expanded indicator-based public procurement measurement system.
- 4) Streamline procurement planning process, timeline, and availability of funds to ensure that procurement is concluded and completed within the fiscal year.
- 5) Enhance civil society's role in different stages of the procurement cycle.
- 6) Implement a two-week compliance training program to be mandatorily completed by all public officials involved or to be involved in public procurement.
- 7) Take measures to remove any obstacles in private sector's participation in competition for government contracts.
- 8) Improve the dialogue on public procurement with the private sector, civil society and citizens, including creating procurement training opportunities, customised to their needs.
- 9) Publish all annual reports on the PPDA website,
- 10) Make a fraud and corruption reporting hotline functional and a system to follow up on such reports. Strengthen access to information, data standardization and categorization using international standards such as the OC4IDS (Infrastructure Data. Standard) and the OCDS.
- 11) Review and institutionalize legal mechanisms to create an enabling environment with clear channels for engagement and feedback

6. Information Regarding Validation

To ensure that the assessment findings are valid and credible, the following validation process will be followed:

- 1) The draft assessment report was shared with the MASC members for their feedback which was incorporated in the report.
 - 2) Because of the pandemic, the detailed findings of the assessment and recommendations were shared at a virtual validation workshop. .
 - 3) Stakeholders feedback received at the workshop will be incorporated in the draft report.
 - 4) Finally, the draft report will be submitted to the MAPS Technical Advisory Group (TAG) and updated based on the comments received,
 - 5) Draft report will be revised to incorporate TAG comments
 - 6) Depending on the improvements in the conditions created by the pandemic, MAPS key findings will be presented to a broad group of stakeholders including government bodies, private sector, NGOs and donors.
 - 7) The final report will be shared with GOU to request it's approval for its publication.
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Annex 1 - List of Documents Consulted

1. Methodology For Assessing Procurement Systems (Maps), 2018
2. AfDB, Country Strategy Paper 2017-2021
3. PPDA Act 2003, 2014 and 2020 Amendments, PPDA Regulations, Guidelines And Circulars
4. Local Government (Amendment) Act 2006
5. Sample of Procurement Transactions From PDEs
6. Uganda Public Expenditure and Financial Accountability (PEFA) Assessment Report 2018
7. Uganda Public Financial Management Reform Strategy 2018-2023
8. Strategy for Implementing Electronic Government Procurement (e-Gp) In Uganda 2014-2019
9. Accountability Sector Strategic Investment Plan 2018 - 2020
10. United Nations Department of Economic And Social Affairs: Population Division
<https://Countrymeters.Info/En/Uganda>
11. Uganda National Public Sector Procurement Policy 2019
12. National Strategy for Private Sector Development 2017/18-2021/22
13. Uganda's Emergency Response to The Covid-19 Pandemic: A Case Study, September 2020
14. Third National Development Plan (NDP III) 2020/21 – 2024/25, January 2020
15. Cost Uganda Brochure
16. The National Audit Act, 2008.
17. The Leadership Code Act, 2002
18. Uganda Vision 2040
19. The Whistleblowers Protection Act, 2010.
20. Standard Operating Procedures (SOP) Manual for Supply Chain Management at Health Facility Level,
Ministry Of Health, November 2019
21. The Public Service Act, 2008.
22. A Brief Guide To Doing Business In Uganda, the World Bank, 2019
23. PPDA Strategic Plan, 2020/21 - 2024/25

Annex 2 - Compliance/Performance Indicators

No	Indicator	Indicator Objective	Measurement	Status and Trend	Performance (Year)
1	Advertisement of bids and publication of contract awards	Transparency of system	Number of tenders (%) for which bid invitation and contract award information are published (Norm: 95% or more)		
2	Time for preparation of bids	Equal opportunity to bidders to participate in tenders	Average number of days between tender advertisement and tender submission/opening (Norm: four weeks or more)		
3	Time for bid evaluation	Efficiency of tendering process	Number of days between bid opening and publication of contract award information (Norm: 90 days or less)		
4	Bidder participation	Level of private sector's confidence in the tendering process	Number of bidders submitting bids in each tendering process (Norm: 5 bids or more)		
5	Method of procurement used	Competition level	Use by number of less competitive tendering processes		
6	Direct contracting	Transparency	Percent of contracts (by number and value) awarded on a Single Source basis (Norm: 10% in number; and 5% in value)		
7	Cancellation of ongoing tenders	Trustworthiness of the tendering process	Percentage of tendering processes cancelled (Norm: 5% or less)		
8	Number of complaints	Fairness of the process	Number of complaints submitted (Norm: Not less than 10% and not more than 50%)		
9	Time to answer to complaints	Efficiency and fairness of the complaint resolution mechanism	Number of days between submission and final response to protects (Norm: 21 days or less)		
10	Complaint resolution	Effectiveness of the complaint resolution mechanism	Percentage of contracts with award recommendation modified because of a complaint (Norm: 5% or less)		
11	Late payments	Quality and consistency of payment process	Percentage of payments made more than 45 days late (Norm: 10% or less)		
12	Price increase	Quality of bidding and contract management	Percentage increase of final contract amount due to change and amendments (Norm: 15% or less)		
13	Restricted competition for consultants	Quality of services	Percentage of process for selection of consultants using open competition instead of shortlisting methodology (Norm: 5% or less)		

No	Indicator	Indicator Objective	Measurement	Status and Trend	Performance (Year)
14	Selection method for consultants	Weight of quality to price ratio used in selection	Percentage of process for selection of consultants having price weighted more than 20% of the total score (Norm 5% or less)		