

## **TOPIC TWO: Regulation of Public Procurement in Uganda**

Adherence to public procurement procedures is important if public funds are to be used in the best way possible. Crucial in this respect is a sound enforcement mechanism that ensures that procurement entities comply with the regulations and that those who fail to comply are duly punished. Part of the reason why public procurement in East Africa has been in disorder is because of the legal framework that has been rather unclear and ineffective in ensuring efficient and economical public procurement. It is little wonder therefore that the procurement reforms in the three countries have focused more on the legislative framework. The aim has been to enact legislation to guide public procurement effectively. The three countries have proposed or have already put in place elaborate public procurement regulations. These regulations seek to:

- Define the organization carrying out the public procurement in the respective countries;
- Set out the tasks to be performed;
- Assign responsibility to procurement officers and other staff; and
- Prescribe the regime for decision making and control.

Public Procurement regulation in Uganda is based on the need to achieve the key public procurement objectives mainly transparency, accountability, competition, and professionalism

### **1. legal framework of Public Procurement**

Refers to the system of laws, Acts of Parliament, regulations, rules, and guidelines that govern how activities must be conducted. It answers the question: **“Under what law or rules?”**

It defines:

- Legal authority
- Powers and limitations
- Procedures to follow
- Rights and obligations
- Penalties for non-compliance

### **Example (Public Procurement in Uganda)**

Uganda’s procurement legal framework includes:

- Public Procurement and Disposal of Public Assets Act
- Public Finance Management Act
- Local Governments Act
- PPDA Regulations, 2023

## **A. The Public Procurement and Disposal of Public Assets (PPDA) Act 2003, amendments 2014 and 2021**

- In December 2002, the Parliament of Uganda passed a new law. That new law was the Public Procurement and Disposal of Public Assets Act, 2003, in short, PPDA Act, 2003. The law came into force in February 2003 after the President had assented to it. The main purpose of the law was to regulate the system of procuring and disposing of public assets and services in Uganda.
- The Act provides for the Process, Procedures and Laws that govern the procurement process. Specifically, Part V of the Act deals with the rules that govern the Procurement and Disposal Process, while Part VI deals with the Methods of Procurement and Disposal.

It defines procurement principles, structures, methods, planning, contract management, and disposal procedures. It also provides oversight mechanisms, administrative review processes, and sanctions to ensure transparency, accountability, competition, and value for money in the use of public funds.

**B. The Public Finance Management Act, 2015 (PFMA)** is part of Uganda's overall legal framework for public financial management, and it indirectly affects how public procurement is done, primarily by establishing broader fiscal rules and oversight mechanisms within which procurement must fit.

Here's how it relates to public procurement in Uganda:

### **1. Sets the Financial Management Context for Procurement**

- Provides for the framework for budgeting, expenditure control, accounting, and reporting of public funds and public procurement is a major form of government expenditure.
- It requires that all public expenditure (including procurement commitments) must be appropriated through the annual budget approved by **Parliament**. This means procurement contracts and commitments should only be made within the bounds of an authorized budget.

### **2. Controls on Multi-Year and Financial Commitments**

- The Act prohibits government agencies from entering into financial commitments (including procurement contracts) that extend beyond one financial year unless Parliament has approved them in the budget\*. Without that authority, such commitments risk violating the PFMA.

### **3. Links to the Procurement Law**

- explicitly recognizes that public procurement and disposal of assets are governed by the PPDA Act and related regulations — and public officials must comply with those laws when spending public money.
- PFMA *Treasury Instructions* and Regulations also require accounting officers and public officers to ensure that procurement activities are conducted in accordance with the applicable legal framework, which includes the PPDA Act.

#### 4. Financial Oversight & Accountability

- Through requirements for reporting, internal controls, auditing, and parliamentary oversight, the PFMA strengthens **accountability for all public spending, including procurement**. This helps ensure transparency and value for money in procurement processes.

#### Conclusion

The Public Finance Management Act creates the financial and accountability framework within which public procurement must operate, while the specific rules and procedures for procurement are set out in the Public Procurement and Disposal of Public Assets Act and its Regulations

**C. Local Government act 1997 (and the Amendments of 2006)** is a Ugandan law enacted in **1997** to operationalize the decentralization system established under the Constitution of the Republic of Uganda, 1995.

- Provides the legal framework for local governments (districts, municipalities, city councils, town councils) under Uganda’s decentralization policy.
- Sets out structures, powers, functions, and financial arrangements for local governments.
- Ensures local democratic participation, service delivery, revenue raising, and accountability within local government units.

The Local Governments Act also contains regulations relating to Public Procurement especially with regard to tenders, and tender boards. Sections 92 – 95 of the Local Government Act 1997 deal with Local Government Tender Boards (LGTBs). It deals with: -

- The creation of district tender boards (DTBs) in each district to provide services to the District, Sub-counties and Administrative Units
- The creation of Urban Tender Boards for each Urban Council. The Urban Council may however opt to use the District LGTB.
- Each Tender Board to have a Secretary at the rank of Assistant Chief Executive

Stipulations under Part IX of the Local Governments Financial and Accounting Regulations 1998 also deal with: -

- Establishment of LGTBs
- LGTBs to be transparent and apply high degree of integrity
- LGTBs to award all contracts for works, services and goods and to decide on disposal of assets
- Minister to set limits on the awards given annually by the CEO outside the TB authority
- Maintenance of a list of approved suppliers
- Establishment of Technical Evaluation Committees

With the continued reforms in Public Procurement practices, the PPDA Authority in line with the PPDA Act 2003, in January 2006 considered amendment of the Local Governments Act to provide for the replacement of the tender boards of the local governments with Contract Committees and thereby made what is now the Local Governments (Amendment) Act, 2006. This was done to: -

- Regulate the procurement procedures of local governments
- Ensure accountability in the local governments procurement system, and
- Provide for other related matters.

**D. PPDA Regulations 2023.** are a set of statutory rules made under the Public Procurement and Disposal of Public Assets Act, 2003 to guide how public procurement and public asset disposal are conducted by government entities in Uganda. They were gazette on 8th December 2023 and took effect on 5th February 2024.

These Regulations replace older ones from 2014 and harmonise procurement rules across both central and local government bodies, revoking the separate Local Government PPDA Regulations of 2006.

The Government introduced updated regulations to:

- Unify procurement rules for all government bodies (central and local).
- Improve efficiency and shorten procurement lead times.
- Promote use of public procurement as a socio-economic tool that supports local development and inclusion.
- Embed sustainable procurement practices with environmental, social, and health safeguards (ESHS).
- Simplify procedures and reduce cost of doing business without sacrificing quality.
- Allow direct sourcing from manufacturers for certain vital supplies.

### **Key Components of the PPDA Regulations 2023**

The updated regulations include a **package of instruments** each covering specific stages or aspects of procurement and disposal. These include:

### **Procuring and Disposing Entities Regulations, 2023**

- Define the structure, roles, and responsibilities of procuring entities.
- Clarify membership, functions, and operations of **Contracts Committees** responsible for procurement decisions.

### **Procurement Planning Regulations, 2023**

- Require each entity to prepare a **procurement plan for every financial year**.
- Provide rules on multi-year planning, updating plans, and approval by Contracts Committees.

### **Rules and Methods for Procurement of Supplies, Works & Non-Consultancy Services**

- Set out which methods can be used to procure goods, works, and general services (e.g., open national bidding, selective bidding, direct procurement).
- Include conditions for emergency procurement or situations where few suppliers exist.

### **Disposal of Public Assets Regulations, 2023**

- Provide clear procedures and conditions for **disposing of government assets** (e.g., vehicles, equipment) through bidding, auction, or other lawful means.

### **Administrative Review Regulations, 2023**

- Govern how complaints and challenges to procurement decisions are lodged and reviewed, including appeals to the Accounting Officer and subsequently the PPDA Appeals Tribunal.

(There are also other component regulations such as Evaluation, Contracts, and Procurement of Consultancy Services, structured similarly though the full text is extensive.)

### **Main Guidelines & Principles in the 2023 Regulations**

Here's a summary of the most important practical guidelines that the Regulations establish:

#### **Procurement Planning Is Mandatory**

- All public entities must annually plan their procurement activities.
- Plans should align with budgets and avoid ad-hoc or unplanned purchases.

#### **Standard Procurement Methods**

- The Regulations define when to use **competitive bidding, direct procurement, restricted bidding, or negotiation.**
- Agencies cannot commence procurement without confirming funding and approval from Contracts Committees.

### **Inclusion & Social-Economic Goals**

- Procurement must support social and economic development objectives.
- Sustainable practices are emphasized through environmental, social and health safeguards (ESHS) in bidding documents and contracts.

### **Simplified and Efficient Processes**

- Minimum bidding and evaluation periods have been reviewed to shorten lead-times.
- Administrative review and challenges are streamlined to reduce delays.

### **Direct Sourcing from Manufacturers**

- Specified equipment (e.g., aviation, medical, agricultural and industrial) can be procured directly from manufacturers or authorized agents to minimize costs and enhance quality.

### **Impact on Procurement Practice**

Standardize procurement practice across the whole public sector.

Enhance transparency, accountability, and value for money.

Promote inclusivity (supporting SMEs, women, youth, PWDs in procurement opportunities.)

Integrate sustainability and socio-economic goals into procurement processes

## **2. Structural / Institutional Framework**

A structural (or institutional) framework refers to the system of organizations, bodies, offices, and authorities that are responsible for implementing, managing, regulating, and overseeing a particular function or sector. “Who does what? “It focuses on:

- The institutions involved
- Their roles and responsibilities
- The relationships between them
- Lines of authority and accountability

### **Example (Public Procurement in Uganda)**

In Uganda’s public procurement system, the institutional framework includes:

- Public Procurement and Disposal of Public Assets Authority (Regulator)
- Procuring and Disposing Entities (PDEs)
- Contracts Committees
- Procurement and Disposal Units (PDUs)
- Public Procurement and Disposal of Public Assets Appeals Tribunal
- Office of the Auditor General

All these institutions together form the structural framework.

**i) The PPDA Authority**

The Public Procurement and Disposal of Public Assets Authority (PPDA), is a regulatory body for public procurement and disposal activities in Uganda. It was established through the Public Procurement and Disposal of Public Assets Act No. 1 of 2003. The PPDA applies to all Central Government ministries and departments, Local governments, Statutory bodies, Post primary Training Institutions and any other body or unit established and mandated by government to carry out public functions or any entity that uses public funds.

**The objectives of the Authority are to-**

- (a) Ensure the application of fair, competitive, transparent, non-discriminatory and value for money procurement and disposal standards and practices;
- (b) Harmonize the procurement and disposal policies, systems and practices of the Central Government, Local Governments and statutory bodies;
- (c) Set standards for the public procurement and disposal systems in Uganda;
- (d) Monitor compliance of procuring and disposing entities; and
- (e) Build procurement and disposal capacity/competence in Uganda.

**The functions of the Authority are to-**

- 1) advise Central Government, Local Governments and statutory bodies on all public procurement and disposal policies, principles and practices;
- 2) monitor and report on the performance of the public procurement and disposal systems in Uganda and advise on desirable changes;

- 3) set training standards, competence levels, certification requirements and professional development paths in consultation with competent authorities;
- 4) prepare, update and issue authorized versions of the standardized bidding documents, procedural forms and any other attendant documents to procuring and disposing entities;
- 5) 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 the Authority;
- 6) issue guidelines under section 97 of this Act;
- 7) 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 the Authority;
- 8) maintain a register of providers of works, services and supplies;
- 9) conduct periodic inspections of the records and proceedings of the procuring and disposing entities to ensure full and correct application of this Act;
- 10) adopt, adapt and update common specifications standards, the use of which shall be mandatory for all procuring and disposing entities;
- 11) determine, develop, introduce, maintain and update related system-wide data-bases and technology;
- 12) develop policies and maintain an operational plan on capacity building, both for institutional and human resource development;
- 13) agree on a list, which shall be reviewed annually, of works, services and supplies in common use by more than one procuring and disposing entity which may be subject to common procurement or disposal;
- 14) establish and maintain institutional linkages with entities with professional and related interest in public procurement and disposal;
- 15) undertake procurement and disposal research and surveys nationally and internationally;
- 16) undertake any activity that may be necessary for the execution of its functions; and
- 17) Administer and enforce compliance with all the provisions of this Act, regulations and guidelines issued under the Act.

### **Challenges faced by the PPDA Authority**

The Authority is faced by a number of challenges while undertaking its role in Uganda these include;

- Corruption
- Embezzlement
- Undervaluation
- Limited Publicity
- Political Interference

**ii) Procuring and Disposing Entities (PDEs)**

These are government bodies authorized to conduct procurement.

**Examples:**

- Ministries
- Departments and Agencies (MDAs)
- Local Governments
- Statutory bodies
- Public Universities
- State-owned enterprises

**Responsibilities**

PDEs are responsible for:

- Procurement planning
- Tendering and evaluation
- Contract award and management
- Disposal of public assets

They operate under the PPDA Act and the PPDA Regulations, 2023.

**iii) Accounting Officer**

Every PDE has an Accounting Officer, appointed under the Public Finance Management Act (2015).

Responsibilities:

- Overall responsibility for procurement decisions
- Ensuring compliance with procurement laws

- Approving procurement plans
- Handling administrative reviews (first level of appeal)

The Accounting Officer is personally accountable for procurement irregularities.

(Public Finance Management Act, 2015).

#### **iv) Contracts Committee**

Established within each PDE.

##### **Role:**

- Approves procurement methods
- Approves evaluation results
- Approves contract awards
- Ensures value for money

It operates independently from the user departments to ensure internal checks and balances.

(PPDA Act, 2003 as amended).

#### **v. Procurement and Disposal Unit (PDU)**

This is the **technical arm** of procurement within each PDE.

##### **Responsibilities:**

- Preparing bidding documents
- Managing procurement processes
- Coordinating evaluation committees
- Maintaining procurement records

Headed by a Senior Procurement Officer.

(PPDA Act, 2003).

#### **Vi. Evaluation Committee**

Appointed on a case-by-case basis.

##### **Role:**

- Evaluates bids objectively
- Prepares evaluation reports

- Recommends best evaluated bidder

Must follow criteria stated in the solicitation document.

(PPDA Regulations, 2023).

### **vii. Administrative Review tribunal**

Under the amended PPDA Act:

#### **First Level:**

- Complaint submitted to the Accounting Officer.

#### **Second Level:**

Appeal to the Public Procurement and Disposal of Public Assets Appeals Tribunal.

#### **Final Level:**

Appeal to the High Court.

This structure ensures fairness and due process in procurement disputes.

### **Viii. Ministry of Finance, Planning and Economic Development (MoFPED)**

The Ministry of Finance, Planning and Economic Development:

- Issues procurement regulations
- Approves policies
- Oversees public financial management
- Supervises PPDA

Legal basis: Public Finance Management Act (2015).

### **Oversight Institutions**

#### **(a) Office of the Auditor General**

- Audits public expenditure and procurement compliance.

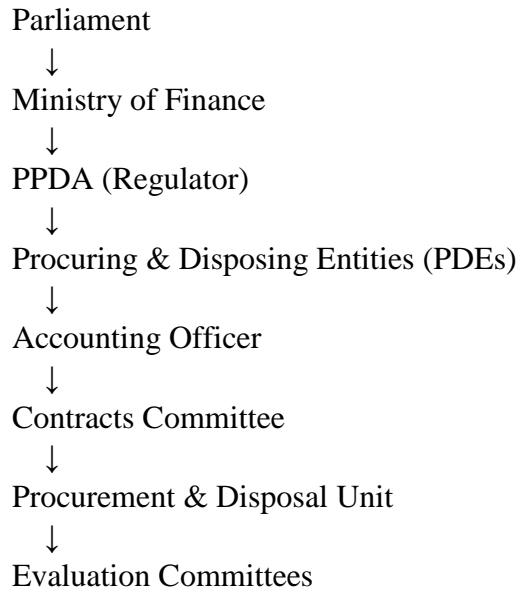
#### **(b) Inspectorate of Government**

- Investigates corruption and procurement fraud.

### **(c) Parliament of Uganda**

- Exercises oversight through Public Accounts Committee (PAC).

### **Structural Flow of Authority**



### **Key Characteristics of Uganda's Institutional Framework**

1. Decentralized operations with centralized regulation
2. Clear separation of roles
3. Multiple oversight bodies
4. Administrative review mechanism