



Assessment of the Public Procurement System April 2022 (updated March 20, 2023)

Volume II – Completed Matrices for Pillars I to IV



Pillar I. Legal, Regulatory, and Policy Framework

1. The public procurement legal framework achieves the agreed principles and complies with applicable obligations.

1(a) Scope of application and coverage of the legal and regulatory framework

The legal and regulatory body of norms complies with the following conditions:

Colour codes: Green = Full Compliance; Yellow = Gaps Identified; Red = Substantial Gaps Identified

Red Flags are identified by *

| Assessment Criteria | Step 1: Qualitative analysis (comparison of actual situation vs. assessment criteria) | Step 2: Quantitative analysis | Step 3: Gap analysis / conclusions (describing any substantial gaps) | Potential red-flag | Initial input for recommendations |
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| (a) Is adequately recorded and organized hierarchically (laws, decrees, regulations, procedures), and precedence is clearly established | <p>Uganda's governance system comprises central and local governments. The current public procurement legal and regulatory framework hereinafter referred to as "the framework") comprises the following:</p> <ol style="list-style-type: none"> 1. The 1995 Constitution 2. The National Public Sector Procurement Policy 2019 3. PPDA Act 2003 as amended 4. The PFM Act 2015 5. PPDA Regulations 2014 6. Local Government Act 1997 7. Local Government PPDA Regulations of 2006 <p>Public procurement at both the central governments (CG) level is governed by the Procurement and Disposal of Public Assets Act, 2003 (Act) as amended in 2011, 2014, and 2021 several Regulations, 2014; Guidelines (2014, 2017, and 2018), and Circulars. The standard of bidding documents (SBDs) for goods, works and services exist and support</p> | Not Applicable | <p>Partially met The criteria are complied with fully for the central government entities. However, it is not fully met for local government entities.</p> <p>The LG Regulations are not fully consistent with the current Act. The delay in updating the LG Regulations may continue to adversely affect the efficiency of procurement at the LG level.</p> <p>Both the CG Regulations and Guidelines consist of several separate documents each dealing with a different subject. Because of their scattered nature, they are not easy to read, to follow or to refer to unlike those of LGs.</p> | | Expedite revision and update of the Local Governments (Public Procurement and Disposal of Public Assets) Regulations, 2006 and Guidelines of 2008 to make them consistent with the Act. |

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| | <p>the framework. The Electronic Government Procurement (e-GP) Guidelines were issued in April 2020. Two circulars issued by the Public Procurement and Disposal of Assets Authority (PPDA) provided guidance to Procurement and Disposal Entities (PDEs) on emergency procurement to fight the COVID-19 pandemic.</p> <p>An amendment to the Act, which became effective on July 1, 2021, initiated in 2019 mainly relates to the functions of the PPDA and its Board of Directors; provision for e-GP, electronic records and communication; aggregation of procurement requirements; marginalised groups under reservation schemes; removal of the PPDA from the administrative review process; appointment of a Registrar of the Appeals Tribunal; 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.</p> <p>While the Act 2003, as amended, applies to procurement at the local government (LG) level, separate Regulations issued in 2006 and Guidelines issued in 2006, 2007 and 2008 are applicable. The Regulations are substantially consistent with the Act. However, some deviations exist, e.g., different procurement methods.</p> | | <p>This adversely affects effective implementation of the Act. The CG Regulations and Guidelines if issued as two separate consolidated documents would make them more user friendly and enhance compliance and efficiency.</p> | | |

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| | The country's public procurement legal and regulatory framework is comprehensive, adequately recorded, harmonised, coordinated, and organised hierarchically and follow a well-established order of precedence. The framework is adequately complemented by the <u>Anti-Corruption Act</u> (2009) as amended (2013), the <u>Penal Code</u> (1950) as amended, the <u>Inspectorate of Government Act</u> (2002), the <u>Public Finance Management Act</u> (PFMA), the <u>Leadership Code Act</u> , <u>Whistle Blower Protection Act</u> (2010), <u>Arbitration and Reconciliation Act</u> (2000), <u>Code of Conduct and Ethics</u> for Uganda Public Services, the <u>Access to Information Act</u> 2005, <u>Public Service Standing Orders</u> , and the <u>National Audit Act</u> 2008. | | | | |
| (b) It covers goods, works and services, including consulting services for all procurement using public funds | The framework applies to all public procurement of goods, works, and non-consulting and consulting services carried out with public finances originating from the Consolidated Fund and related special finances expended through the capital or recurrent budget. Therefore, all entities, including State-Owned Enterprises (SOEs) are subject to the framework. The framework applies to SOEs for procurement carried out with their non-budgetary funds. This may not ensure the speed at which they must fulfil their procurement needs to be competitive. Therefore, procurement procedures more suitable to SOEs' business activities are | Not Applicable | Partially met The applicability of the framework to SOEs' procurement financed with their non-budgetary funds may not ensure the speed at which they must fulfil their procurement needs to be competitive. | | Introduce procurement procedures more suitable to SOEs' business activities and their competitiveness. Such procedures maybe accredited by PPDA to ensure adherence to the core principles of Procurement as stipulated in the Act. |

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| | <p>needed. Such procurement procedures would need the PPDA's review and accreditation.</p> <p>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 the PPDA approves annually. The required goods, works and services on the open and restricted lists are subject to open and restricted procurement methods respectively.</p> | | | | |
| (c) PPPs, including concessions, are regulated | <p>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 mobilisation 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.</p> | Not Applicable | Met | | |

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| (d) Current laws, regulations and policies are published and easily accessible to the public at no cost. | The Act, regulations, guidelines and circulars currently in force are published on the PPDA website https://www.ppda.go.ug , and are easily accessible and downloadable free of cost. The Uganda Printing and Publishing Corporation prints and publishes these documents through bookshops at a reasonable cost. | Not Applicable | Partially met The print version of the PPDA Act, regulations, guidelines are sold to the public but the electronic version is available at no cost on the PPDA website. The capacity of the private sector especially SMEs to understand the Act, and the regulations is still low and they may fail or ignore to participate in public procurement. | | PPDA Act, regulations, guidelines should be printed in hard copies and freely made available to key stakeholders for ease of desk reference as internet services are not available everywhere in the country. There is need for simplified procedures and a government established help desk especially for SMEs |

1(b) Procurement methods

The legal framework meets the following conditions:

| Assessment Criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| (a) Procurement methods are established unambiguously at an appropriate hierarchical level, along with the associated conditions under which each method may be used. | Section 79 (1) (a) and (b) Provide for Choice of a procurement method for goods, works, non-consulting services and consultancy services. Sections 80, 81, 82, 83, 84, 85 and 86A provide for condition for use of different procurement methods. The Act establishes the procurement methods unambiguously at an appropriate hierarchical | None | Met | | |

| Assessment Criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| | level along with the associated conditions for their use. | | | | |
| (b) The procurement methods prescribed include competitive and less competitive procurement procedures and provide an appropriate range of options that ensure value for money, fairness, transparency, proportionality and integrity. | <p>The Act includes the following procurement methods for goods, works and non-consultancy services: open international bidding; open domestic bidding; restricted domestic bidding; restricted international bidding; quotation/proposal method; direct procurement; and micro-procurement. The July 1, 2021 amendment to the Act has introduced the following new procurement methods: electronic reverse auction; for complex, specialized or strategic goods, works or services the competitive dialogue method or the competitive negotiation method. The Regulations include detailed provisions on the use of Force Account. For the LGs, these methods are open bidding; selective bidding; micro-procurement; and community purchase. The PPP Act 2015 includes a provision on treatment of unsolicited bids.</p> <p>Regulation 18 of the PPDA (Contracts) Regulations, 2014 and LG Regulation 94 of 2006, require PDEs 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.</p> <p>In addition to the conditions for the use of each procurement method contained in the Act, procurement value thresholds are the main</p> | Not applicable | <p>Partially met</p> <p>The procurement value thresholds which are the main criteria for selection of a procurement method are low and not regularly revised. For instance, Central Government Guidelines for the threshold stated in UGX over the period 2003-2018 (15 years) have been revised once in 2014. The procurement value thresholds under Guideline 1/2014 are low, for instance, open bidding method for Works for Central Government is UGX 500,000,000 (USD135,135) and above while that for Local government is UGX92,500,000 (USD25,000), which affects the efficiency of the procurement process.</p> <p>In a highly changing technological environment and difficulty by agencies to prepare appropriate specifications and TOR for a best solution, other methods</p> | | <p>Need for provision to revise thresholds every five years without a need to amend the Law</p> <p>To address the highly changing technological environment and challenges by agencies to prepare appropriate specifications and TOR for a best solution, other methods such as</p> |

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| Assessment Criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| | criteria for selection of a procurement method. These thresholds are not regularly revised. For instance, the CG Guidelines for the threshold stated in UGX over the period 2003-2018 (15 years) have been revised only once in 2014. More importantly, these thresholds are leading to a large number of procurement transactions, especially small contracts being awarded through open bidding. This may lead to inefficiencies in public procurement processes which may not be conducive to the achievement of value for money due to high administrative workload. Furthermore, the thresholds relating to consultancy services are not consistent with the selection methods as stipulated in the Regulations. | | such as unsolicited bids / proposals, competitive dialogue and negotiated procedure are not provided for under the legal framework. | | unsolicited bids / proposals, competitive dialogue and negotiated procedure should be provided for under the legal framework. Viewed in terms of the entire procurement cycle and sustainability, including hiring or recruitment of qualified staff with capacity to supervise Contractors, consultants and suppliers is key to minimise the risk of outputs that are dysfunctional due to defects. |
| (c) Fractioning of contracts to limit competition is prohibited. | Section 58 (2) (c) of the Act prohibits splitting of a procurement to avoid the use of a competitive procurement method. The number of contracts awarded to local providers is continuously high and contract value overwhelmingly low. | Not applicable | Met However, while the legal framework prohibits fractioning, low and outdated thresholds may have the same impact. | | There is need to update the thresholds. Explore the possible Implementation of Collaborative procurement and centralised framework contracts for commonly used items. |

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| (d) Appropriate standards for competitive procedures are specified. | Section 51 of the Act requires the use of open bidding as the preferred method of procurement. The framework includes provisions on appropriate standards for competitive procedures. These, among others, include use of standard bidding documents (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. | Not applicable | Met | | Recommend use of complex high value contracts |

1(c) Advertising rules and time limits

The legal framework meets the following conditions:

| Assessment criteria ⁷ | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| (a) The legal framework requires that procurement opportunities are publicly advertised, unless the restriction of procurement opportunities is explicitly justified (refer to indicator 1(b)). | According to Regulation 42 (1) and (2) on Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services) 2014, a bid notice is published in at least one newspaper of wide circulation and displayed on the PPDA website and 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 | None | Met | | None |
| (b) Publication of opportunities provides sufficient time, consistent with the | 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". | None | Met The minimum bidding period for selective bidding is 10 | | Harmonisation of the bidding periods for request for quotations in Central Government |

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| <p>method, nature and complexity of procurement, for potential bidders to obtain documents and respond to the advertisement. The minimum time frames for submission of bids/proposals are defined for each procurement method, and these time frames are extended when international competition is solicited.</p> | <p>The minimum bidding period (time required for bidders to prepare and submit bids or proposals) in respect of each procurement method under CG as provided for under PPDA Regulations 45, 46 and 47 on Rules and Methods for works, supplies and non-consultancy services are:</p> <ol style="list-style-type: none"> twenty working days for the open domestic bidding method; thirty working days for the open international bidding method; twelve working days for the restricted domestic bidding method; twenty working days for the restricted international bidding method; and five working days for the quotations method. <p>The direct procurement method shall not have a minimum bidding period.</p> <p>The minimum bidding period in respect of each procurement method under CG as provided for under Regulations 27 on Consultancy services are:</p> <ol style="list-style-type: none"> Fifteen working days in the case of consultancy firms; Ten working days in the case of individual consultants. <p>Under Local government- Minimum Bidding Periods for Procurement Methods</p> <p>Local Government (PPDA) Regulations 55 provides for minimum bidding periods and under LG-PPDA Guideline 2/2008 as follows:</p> <ol style="list-style-type: none"> Open national bidding, 15 working days; Open international bidding, 33 working days; | | <p>working days in local government while it is 5 days for Request for quotation in Central government. There is need for harmonisation of the two periods, which essentially are for the same method of procurement but named differently.</p> | | <p>and selective bidding in Local governments. Both these methods are essentially the same¹.</p> |
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¹ The PPDA Amendment 2021 commenced the process of harmonisation and the bidding period are being aligned in the Regulations

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| | <ul style="list-style-type: none"> iii. Selective national bidding, 10 working days; iv. Selective international bidding, 20 working days; v. Direct procurement, minimum period not applicable; vi. Micro procurement, minimum period is not applicable; vii. Community Purchase, minimum period is 2 working days | | | | |
| <p>(c) Publication of open tenders is mandated in at least a newspaper of wide national circulation or on a unique Internet official site where all public procurement opportunities are posted. This should be easily accessible at no cost and should not involve other barriers (e.g. technological barriers).</p> | <p>PPDA Act Section 79 (1) provides that open tenders (domestic, international and consultancies) shall be open to all bidders following public advertisement of a bid notice in at least one widely read national newspaper, a publication of wide international circulation and where applicable, in the relevant trade or professional publication.</p> <p>The bid notices must be uploaded on PPDA website as per Regulation 42 (1) & (2) of the PPDA (Rules and Methods for Procurement of Supplies, Works and Non- Consultancy Services) Regulations, 2014.</p> <p>LG-PPDA Regulations 66, provides for publication of a bid notice in at least one newspaper of wide circulation and on the notice board of the procuring and disposing entity for open bidding method.</p> | None | Met | | None |
| <p>(d) The content published includes enough information to allow potential bidders to determine whether they are able to submit a</p> | <p>PPDA Regulation 42 (1) & (2) of the PPDA (Rules and Methods for Procurement of Supplies, Works and Non- Consultancy Services) Regulations, 2014 for Central Government provides that Bid Notices include sufficient information to enable bidders understand the bidding requirements.</p> | None | Met | | None |

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| bid and are interested in submitting one. | The CG Regulation 2014 on Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services) Regulations, 2014 requires bid notices to include sufficient information to enable bidders understand the bidding requirements. The templates of bid invitation notice and notice of expression of interest are available on the GPP. These notices contain sufficient information to enable interested bidders to make a decision about their participation in the bidding process. | | | | |
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1(d) Rules on participation

The legal framework meets the following conditions:

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| (a) It establishes that participation of interested parties is fair and based on qualification and in accordance with rules on eligibility and exclusions. | <p>PPDA Act Section 70 sets out the Basic Qualification of bidders and requires that all bidders participating in public procurement shall meet the qualification criteria as set out in the bidding document to determine qualification of a bidder. The Basic qualifications specified under the PPDA Act include the following:</p> <ol style="list-style-type: none"> that the bidder has the legal capacity to enter into the contract; the bidder is not insolvent, in receivership, bankrupt or being wound up; the bidder's business activities have not been suspended; that the bidder has fulfilled his or her obligations to pay taxes and social security contributions. <p>PPDA Section 59A provides that preference schemes shall be applied in respect of goods, works and non-consultancy services, where the</p> | None | <p>Not met</p> <p>Eligibility requirements are requested by same or different PDEs from same provider every time the provider bids which is cumbersome and costly to a bidder and PDE. While the procedure is fair, the repetitive nature may discourage providers who may not win as a result of submitting similar documents over and over again to same PDE or any government agency.</p> <p>While the registration of bidders maybe useful in</p> | * | <p>E-procurement may address this so that once a provider has provided basic documents, there should be no need for submitting the same documents unless there is a change in content.</p> <p>Use prequalification and post-qualification for large and complex contracts. Invite all prequalified bidders to submit a bid.</p> |

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| | <p>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, with a specified margin of preference (not exceeding 7%).</p> <p>The framework requires that, except for situations where exigency or other factors demand otherwise, all public procurement must 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 that all bidders' must meet. It also provides for the following:</p> <ul style="list-style-type: none"> • Domestic preference; • Reservation scheme; and • Registration of providers <p>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%.</p> | | <p>identifying potential bidders, it may not be a substitute for prequalification of bidders for large and complex contracts. The main purpose of prequalification is to ensure that only qualified and eligible firms participate in bidding for large and complex contracts. Furthermore, the prequalification for registration purposes alone is not consistent with the international practice where all prequalified bidders – rather than only those appearing on the shortlist resulting from a prequalification process – are invited to submit bids. While domestic preference in open international bidding and 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 deter or discourage participation of foreign bidders. There are no other barriers to participation of international firms in these processes.</p> | | |
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| | <p>Under the reservation scheme, a contract or part of it may be reserved to promote the use of local expertise and materials; promote the participation of local communities or local organizations; or apply specific technologies. A reservation of at least 30% of the value of works through subcontracting of sub works and supply of materials, equipment and services to national and resident providers applies to procurement of road works above UGX 4 billion and the other works above UGX 10 billion where the bidder is a foreign provider. The reserved procurements are for the following items:</p> <ul style="list-style-type: none"> • uniforms and related clothing materials; • electrical cables and conductors; and • medicines and medical supplies. <p>Any reservation is required to be disclosed in the procurement plans and the details of their application are to be included in the bidding documents.</p> | | | | |
| <p>(b) It ensures that there are no barriers to participation in the public procurement market.</p> | <p>PPDA Section 43 provides that all public procurement shall be conducted in accordance with the following principles—</p> <ol style="list-style-type: none"> non-discrimination; transparency, accountability and fairness; maximization of competition and ensuring value for money; confidentiality; economy and efficiency; and promotion of ethics. <p>Eligibility requirements are requested by same or different PDEs from same provider every time the provider bids, which is cumbersome and costly to a bidder and PDE. While the procedure is fair, the repetitive nature may discourage providers who</p> | None | Partially met | | <p>The ongoing roll-out of e-GP may address this problem if it is properly integrated with other government entities such as tax administration, certification and licensing bodies, treasury for instance e-GP linked to IFMS.</p> |

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| | may not win as a result of submitting similar documents over and over again to same PDE or any government agency. | | | | |
| (c) It details the eligibility requirements and provides for exclusions for criminal or corrupt activities, and for administrative debarment under the law, subject to due process or prohibition of commercial relations. | <p>PPDA Act Section 70 sets out the basic eligibility qualification requirements of bidders and requires that all bidders participating in public procurement must meet.</p> <p>Additionally, PPDA (Evaluation) Regulations 17, 2014 further provides for other eligibility requirements that include the following:</p> <ol style="list-style-type: none"> the bidder does not have a conflict of interest in relation to the subject of the procurement; the bidder fulfilled the obligations to pay taxes and social security contributions in Uganda; the bidder does not have a conflict of interest in relation to the subject of the procurement; the bidder is not suspended by the Authority; and the bidder is not a member of the procuring and disposing entity as defined in PPDA section 91U of PPDA Act (PPDA Sec 91U, provides for “<i>Limitation on contracts with members of procuring and disposing entities</i>”). <p>Furthermore, the Act provides for exclusion from participation in government contracts for, among others, the following reasons:</p> <ul style="list-style-type: none"> Conflict of Interest; Breach of the Code of Ethics of providers; Debarment from the procurement processes of an international agency of which Uganda is a member; Conviction of fraud or corruption; Professional misconduct; and | None | <p>Partially met</p> <p>PPDA (Evaluation) Regulations 17 (3), provides that a bidder who is registered by the PPDA on the Register of Providers or where the eligibility of the provider was verified at the pre-qualification stage shall NOT be required to submit the following documents, with the bid—</p> <ol style="list-style-type: none"> a copy of the trading license of the bidder or its equivalent; a copy of the certificate of registration of the bidder or its equivalent. <p>The cost of bidding on the bidders and administration in evaluation is very high and efficiency of the procurement process affected because bidders are required to submit similar eligibility documents to every PDE and repeated evaluations on the same documents.</p> | | <p>Establish a mechanism to electronically Register of Provider for all basic eligibility documents so that a bidder submits once within a stated period like a year.</p> |

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| | <ul style="list-style-type: none"> Breach of contract. | | | | |
| (d) It establishes rules for the participation of state-owned enterprises that promote fair competition. | There are no specific provisions in the framework for SOEs' participation. However, the SBDs for goods and works, and the Request for Proposal for selection of consultants include the provision that "Government-owned enterprises shall be eligible only if they can establish that they are legally and financially autonomous." Since the SOEs do not operate under the commercial law and in the absence of an adequate provision in the PPDA and Regulation, SOEs' participation in public procurement may not be based on fair and level playing field as the SOEs may benefit from favorable tax regime, government subsidies, etc. | None | Partially met In the absence of adequate provision in the PPDA and Regulation, SOEs participation in public procurement may not be based on fair playing field as they may benefit from a different favorable tax regime. Government subsidies, etc. | | Include clear provision in the PPDA Act or Regulations to strengthen legal framework for participation of SOEs to promote fair competition in public procurement. SOE participation must be an exception so they don't squeeze out the private sector and thus become counterproductive to the private sector development. There need to be a balance. |
| (e) It details the procedures that can be used to determine a bidder's eligibility and ability to perform a specific contract. | The framework provides that a PDE may, upon the Contracts Committee approval, use pre-qualification for open domestic or open international bidding to obtain a shortlist of applicants who meet the prequalification criteria. Prequalification is 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 | None | Partially met 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; nor is it clear whether a pass/fail or point system is used for evaluation of prequalification applications. In the internationally accepted prequalification practice, all | | Use PDE shared electronic means to verify eligibility requirements. Also establish a system of verification that is cost effective and efficient, for instance that put high punitive penalties on bidders who are proved to have submitted forged or fraudulent |

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| | <p>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 for open international bidding. In case of pre-qualification for a group of contracts, the notice and 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.</p> <p>For the contracts not subject to prequalification, the framework provides for the procedures, including post-qualification, for this ensuring that the bidder meets the required eligibility and qualification criteria before a contract is awarded. These procedures are part of the evaluation criteria detailed in the standard bidding documents and customized according to the nature of a contract.</p> <p>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.</p> | | <p>applicants who meet the eligibility and qualification requirements evaluated using a pass/fail criteria system are invited to submit a bid.</p> <p>Due diligence on eligibility and capacity requirements is manually done and may take a long time. This problem may be resolved with the introduction of e-GP which, if integrated properly with the other governance systems, e.g. taxes, licenses, permits, etc. can automatically obtain and verify eligibility information. Imposition of penalties may also deter bidders from submitting fake or fraudulent documents at any stage of the procurement cycle.</p> | | <p>documents even after being unsuccessful or successful or during or after performing a contract.</p> |
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1(e) Procurement documentation and specifications

The legal framework meets the following conditions:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag | Initial input for recommendations |
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| (a) It establishes the minimum content of the procurement documents and requires that content is relevant and sufficient for suppliers to respond to the requirement. | <p>PPDA Act Section 62 of the Act states that a PDE shall use standard documents provided by the PPDA as models for drafting all solicitation documents for each individual requirement.</p> <p>The legal framework includes a list of key contents of a bidding document; it also includes the templates of procurement notices, evaluation report, etc. Based on these prescribed contents, the 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 the requirements. The use of these SBDs is mandatory.</p> <p>In 2020, the PPDA issued the revised Standard Bidding Document (SBD) for works under open and restricted bidding method of procurement. This SBD also incorporates the Environmental, Social, Health and safety (ESHS) requirements. The SBDs can be obtained from the PPDA website.</p> | None | <p>Partially met</p> <p>The standard bidding documents are well drafted for supplies, non-consultancy services and minor works. The standard bidding document is generalised for use under minor and major works procurement and therefore does not adequately address requirements for major works.</p> | | The standard bidding document for use for major works procurement should be different from the generalised one, so as to address adequately the content relevant for major works. Meanwhile, major works procurement should adopt and use standard bidding documents already developed by multilateral agencies like World Bank instead of the generalised PPDA standard bidding documents for works. |
| (b) It requires the use of neutral specifications, citing international norms when possible, and provides for the use of functional specifications where appropriate. | <p>The Act requires the use of neutral specifications, citing international norms when possible.</p> <p>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. According to Section 60 (2) of the Act, a statement of requirements should give a correct and complete description of the object of the procurement or disposal activity based on generic, performance or functional specifications. Where there is no other sufficiently precise or intelligible way of characterizing a requirement,</p> | None | Met | | None |

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag | Initial input for recommendations |
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| | <p>the description of a particular brand may be used, followed by the words “or equivalent”, and only serves as a benchmark during the evaluation process.</p> <p>Regulation 8 sets out the following requirements: Statement of requirements for supplies.</p> <p>(1) A procuring and disposing entity shall include in the statement of requirements for supplies—</p> <p>(a) a list of the supplies and the quantities of the supplies;</p> <p>(b) generic, functional or performance specifications;</p> <p>(c) drawings;</p> <p>(d) a delivery and completion schedule; and</p> <p>(e) a description of any incidental works or non-consultancy services required.</p> <p>(2) A specification shall contain a complete, precise and unambiguous description of the supplies required and shall include—</p> <p>(a) a clear definition of the scope of the supplies;</p> <p>(b) the purpose and objectives of the proposed purchase;</p> <p>(c) a full description of the requirement;</p> <p>(d) a generic specification to an appropriate level of detail;</p> <p>(e) a functional description of the qualities, including any environmental or safety features required of the subject of the procurement;</p> <p>(f) the performance parameters, including outputs, timescales, and any indicators or criteria by which the satisfactory performance of the specification can be judged;</p> <p>(g) process and materials descriptions;</p> | | | | |

Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified

Red Flags are identified by *

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag | Initial input for recommendations |
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| | (h) dimensions, symbols, terminology, language, packaging, marking and labelling requirements; (i) the common specification standard relating to the supplies; and (j) the relevant industry standard. | | | | |
| (c) It requires recognition of standards that are equivalent, when neutral specifications are not available. | Section 61 of the Act provides for use of best practice and industry standards defined and codified by internationally recognised trade associations and professional bodies in the appropriate fields. Section 7 of the Act provides for functions of PPDA that include; <i>“adopt, adapt and update common specifications standards, the use of which shall be mandatory for all procuring and disposing entities.”</i> There are no model technical specifications for use by PDEs. All PDEs have to prepare their own specifications for even commonly used items. | None | Partially met There are no standard specifications. Each PDE prepares its own specification for even commonly used items and these may change from one procurement to another or be different in several PDEs and this makes public procurement very 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. | | Review and establish as a priority common specifications standards, the use of which shall be mandatory for all PDEs and monitored. |
| (d) Potential bidders are allowed to request a clarification of the procurement document, and the procuring entity is required to respond in a timely fashion and communicate the clarification to all | PPDA Act section 65 provides clarification of solicitation documentation at any time prior to the deadline for bid submission by a procuring and disposing entity and PPDA Regulations provide for bid or proposal clarifications during bidding period that includes a requirement for timely communication to all bidders. Reg. 8 includes the following provisions: | None | Met | | None |

Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified

Red Flags are identified by *

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag | Initial input for recommendations |
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| potential bidders (in writing) | <p>Clarification and amendment of bidding documents.</p> <p>(1) The bidding documents shall state that a bidder may seek clarification on the bidding documents and shall state the date by which the clarification shall be sought.</p> <p>(2) In determining the date referred to in sub-regulation (1) a procuring and disposing entity shall provide adequate time for all bidders to receive and study the bidding documents.</p> <p>(3) Where a request for clarification is received, the procuring and disposing entity shall promptly provide a clarification in writing and the clarification shall be copied to all bidders to whom the bidding documents were issued, and shall include a description of the request without identifying the source of the request.</p> <p>(4) At any time before the deadline for submission of bids, the procuring and disposing entity may, at its own initiative or in response to a request for clarification from a bidder, amend the bidding documents by issuing an addendum.</p> <p>(5) A clarification made by the procuring and disposing entity shall not be taken as an addendum to the bidding documents.</p> <p>(6) To give a bidder reasonable time during which to take an amendment into account in preparing a bid, the procuring and disposing entity shall, where less than one third of the bidding period remains, extend the deadline for the submission of bids by a reasonable period.</p> <p>(7) Where more than one third of the bidding period remains, the procuring and disposing entity</p> | | | | |

Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified

Red Flags are identified by *

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag | Initial input for recommendations |
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| | <p>may, at its discretion, extend the deadline for the submission of bids.</p> <p>(8) The addendum, including any extension to the bidding period, shall be issued in writing and the same information shall be provided to all the bidders.</p> <p>(9) A procuring and disposing entity shall obtain proof of receipt of the addendum by a bidder.</p> <p>(10) All addenda to bidding documents shall be approved by the contracts committee before being issued to bidders and shall be numbered sequentially.</p> <p>(11) All clarifications and addenda to the bidding documents shall be binding on all the bidders.</p> | | | | |

1(f) Evaluation and award criteria

The legal framework mandates that:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag | Initial input for recommendations |
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| (a) The evaluation criteria are objective, relevant to the subject matter of the contract, and precisely specified in advance in the procurement documents, so that the award decision is made solely on the basis of the criteria stipulated in the documents. | Section 71 (1)-(4) of the Act provides that “the choice of an evaluation methodology shall be determined by the type, value and complexity of the procurement; all solicitation documents shall fully and comprehensively detail the evaluation methodology and criteria which shall apply; evaluation criteria shall not be drafted in a way that restricts competition; no evaluation criteria other than that stated in the bidding documents shall be taken into account; and evaluation of bids shall be done expeditiously in accordance with regulations made under the Act”. Regulation 7(2) provides that an evaluation committee shall not, during an evaluation, make | None | Met | | None |

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| | an amendment or addition to the evaluation criteria stated in the bidding documents. | | | | |
| (b) The use of price and non-price attributes and/or the consideration of life cycle cost is permitted as appropriate to ensure objective and value-for-money decisions. | <p>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 assesses the life-cycle costs.</p> <p>Reg. 8 includes the following provisions: Costs to be included in the financial comparison. (1) The bidding document shall state the costs which shall be taken into account in the financial comparison and the costs which shall be excluded from the financial comparison. (2) The costs may include— (a) fee rates or unit prices, based on either a fixed or estimated total quantity; (b) reimbursable costs, such as costs for travel, materials or consumables used in the performance of the services or similar</p> | None | Met | | None |

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| | <p>costs;</p> <p>(c) costs for packing, packaging, freight and inland delivery;</p> <p>(d) costs for installation and commissioning of equipment;</p> <p>(e) costs for inspection and tests;</p> <p>(f) operating costs, which shall be for the period specified in the bidding document;</p> <p>(g) costs for the servicing and maintenance of equipment and costs for spare parts for equipment, which shall be for the period specified in the bidding document;</p> <p>(h) for works, the total bid price based on the bill of quantities or the schedule of prices and the cost of day work items;</p> <p>(i) duties, taxes or other levies; and</p> <p>(j) cost to cover contingencies.</p> <p>(3) Where the evaluation of bids requires the consideration of factors other than cost, the bidding document may also state the way in which non-cost factors will be quantified and expressed in monetary terms for purposes of the financial comparison.</p> | | | | |
| <p>(c) Quality is a major consideration in evaluating proposals for consulting services, and clear procedures and methodologies for assessment of technical capacity are defined.</p> | <p>PPDA Regulation 47 (3) & (4) of PPDA (Procurement of Consultancy Services) Regulation, 2014 stipulates that the detailed evaluation of proposals shall use a merit point evaluation system as specified in the request for proposals. A proposal which does not achieve the minimum score required in the request for proposal shall be rejected.</p> <p>PPDA Regulation 59 (6) of the PPDA (Procurement of Consultancy Services) Regulation, 2014 provides for determination of the best evaluated proposal based on weighted technical and financial scores as stated in the Request for Proposal. For instance, PPDA</p> | None | Met | | None |

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| | Regulation 21 (1) and (2) of the PPDA (Procurement of Consultancy Services) Regulation, 2014, where the quality and cost based selection (QCBS) method is to be used, state that the, “weight for the financial score shall not be less than ten points and not more than thirty points of the total of one hundred points for the technical and financial proposals”. | | | | |
| (d) The way evaluation criteria are combined and their relative weight determined should be clearly defined in the procurement documents. | PPDA Regulation 22 (1) & (2) of PPDA (Procurement of Consultancy Services) Regulation, 2014 provides that details of evaluation main criteria and sub-criteria must be included in request for proposals and the evaluation shall be conducted in accordance with the criteria without any amendment to the criteria. PPDA Regulation 22(3) provides that the request for proposals shall state that total of the points for all the criteria shall be one hundred and shall state the maximum number of points for each main criterion. | None | Met | | None |
| (e) During the period of the evaluation, information on the examination, clarification and evaluation of bids/proposals is not disclosed to participants or to others not officially involved in the evaluation process. | PPDA Section 47(2) (a) (ii) provides for confidentiality and state that a procuring and disposing entity shall not disclose to a bidder or to any other person who is not involved in the preparation of the solicitation documents, the evaluation process or the award decision, any information relating to solicitation documents, before the solicitation documents are officially issued; (ii) the examination, clarification, evaluation and comparison of bids before the best evaluated bidder notice is displayed on the procurement and disposal notice board of the procuring and disposing entity. Only Chairpersons of the evaluation committee are allowed to contact bidders for any | None | Met | | None |

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| | clarification and response from a bidder in respect of clarification is sent to the evaluation committee. | | | | |
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1(g) Submission, receipt, and opening of tenders

The legal framework provides for the following provisions:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / Potential conclusions (describing any red-flag substantial gaps) | Initial input for recommendations |
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| (a) Opening of tenders in a defined and regulated proceeding, immediately following the closing date for bid submission. | <p>Yes. PPDA Act Section 69 provides that all bid processes shall include a formal bid receipt and a bid opening. PPDA Regulation 65, of the (Rules and Methods for Procurement of Supplies, Works and Non- Consultancy Services) Regulations, details the procedure for public bid opening. Regulation 62 (2) (a) (b) provide for date, time and location of bid opening session while Regulation 62 (3) mandates that bid opening shall be immediately after bid submission/closing deadline.</p> <p>The framework includes clear provisions on bid submission, receipt and opening. It provides for date, time and location of bid opening session and mandates that bid opening take place immediately after bid submission/closing deadline. Bids under the Restricted Method are not opened in public.</p> <p>In case of selection of consulting firms, the procedure is as follows: public opening of the envelopes containing the technical proposals; and after evaluation of the technical proposals public opening of the envelopes containing the financial proposals of the firms whose technical proposals obtained the qualifying marks.</p> | None | Partially met Bids under the Restricted Bidding Method are not opened in public. | Bids under the Restricted Bidding Method should be opened in public. |
| (b) Records of proceedings for bid | PPDA Act Section 56 (2) provides that a procuring and disposing entity shall use the | None | Met | None |

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| <p>openings are retained and available for review.</p> | <p>standard forms issued by the PPDA to record all details of the procurement process, except where it obtains the consent of the Authority to use forms other than those provided by the PPDA.</p> <p>PPDA Regulation 65 (9, 10, 11, 12 & 13) of the PPDA (Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services) gives details on public bid opening and how records of the opening shall be prepared and displayed on the PDE notice board.</p> <p>PPDA Act Section 41(1) provides that a procuring and disposing entity shall maintain records on its procurement and disposal proceedings 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.</p> | | | | |
| <p>(c) Security and confidentiality of bids is maintained prior to bid opening and until after the award of contracts.</p> | <p>PPDA (Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services) Regulations and PPDA (Procurement of Consultancy Services) Regulation 34 provides that a bid/ proposal shall be received by a member of the Procurement and Disposal Unit; or the proposal shall be deposited in the proposal box.</p> <p>PPDA (Evaluation) Regulations 4 (2) provides for responsibilities of the chairperson of the evaluation committee that shall include; the security of the bids and the other documentation before the evaluation committee.</p> <p>A bid/proposal for goods, works and non-consultancy services can be deposited in a</p> | <p>None</p> | <p>Partially met</p> <p>The legal framework does not adequately provide for handling and maintenance of; security and confidentiality of bids and proposals prior to bid opening and until after the award of contracts as well as during contract implementation.</p> <p>The possibility for a bidder to handover its bid to a PDU staff rather than deposit it in the bid box may negatively affect the transparency of the bidding process.</p> | | <p>The legal framework should be strengthened to adequately address the handling and maintenance of; security and confidentiality of bids and proposals prior to bid opening and until after the award of contracts and contract implementation.</p> <p>All bids must be deposited in the bid</p> |

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| | sealed bid/proposal box or received by a PDU staff member. The PDE is responsible for safekeeping of bids after their opening. | | | | box or where possible, a strong room that can be opened by three people appointed by the accounting officer. |
| (d) The disclosure of specific sensitive information is prohibited, as regulated in the legal framework. | <p>PPDA Act Section 47 (2) provides for a procuring and disposing entity NOT to disclose to a bidder or to any other person who is not involved in the preparation of the solicitation documents, the evaluation process or the award decision, any information relating to; solicitation documents, before the solicitation documents are officially issued and the examination, clarification, evaluation and comparison of bids before the best evaluated bidder notice is displayed on the procurement and disposal notice board of the procuring and disposing entity.</p> <p>However, in practice complaints arise from disclosure of confidential information at evaluation stage – for instance – MOES, UNRA have suffered the effects of this bad practice</p> | None | Compliance | | None |
| (e) The modality of submitting tenders and receipt by the government is well defined, to avoid unnecessary rejection of tenders. | <p>PPDA Act Section 67, 68 and 69 provides for the method for bid submission, modification and withdrawal of bids and bid receipt and opening.</p> <p>PPDA (Rules and Methods for Procurement of Supplies, Works and Non- Consultancy Services) Regulations 59 and 60, provides for well-defined details on receipt of bids by person and bid box and closing of submission of bids.</p> <p>PPDA (Procurement of Consultancy Services) Regulation 35 and 36 provides for well-defined</p> | None | Partially met The need for a bidder to handover her/his bid to a PDU staff member is unclear. Bidders should not be allowed to deliver their bids to a person. They should be directed to the sealed bid/proposal box to deposit their bids. | | All bids must be deposited in the bid box or where possible, a strong room that can be opened by three people appointed by the accounting officer. |

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| | <p>details on receipt of proposals in person or by box and closing of submission of proposals.</p> <p>Reg. 8 includes the following provisions: Methods of receipt of bids. (1) A procuring or disposing entity shall receive bids— (a) through the staff of the procurement and disposal unit, in person, who shall acknowledge a receipt; or (b) by use of a bid box. (2) Where a bid is delivered by courier, a procuring and disposing entity shall not be held liable where the bid is lost or delivered late by the courier to the procuring and disposing entity.</p> <p>59. Receipt of bids in person and closing of submission of bids. (1) A member of the Procurement and Disposal Unit shall be available at the location for submission of proposals, for a reasonable period of time before the deadline for submission, to receive proposals and to issue receipts. (2) The procurement and disposal unit shall issue a signed receipt for each bid received, stating the date and time the bid is received. (3) A procuring and disposing entity shall maintain a record of all the bids received, using Form 11 in the Schedule. (4) The process of submission of bids shall be closed at the deadline for submitting bids. (5) A bid that is brought to the location of submission of bids after the deadline for submission shall not be accepted or received by the procuring and disposing entity.</p> | | | | |
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| | <p>(6) A bid that is submitted after the deadline for submission of bids shall be labelled “LATE”, and shall be returned unopened to the bidder or shall be destroyed, where the bid is not labelled with the name of the bidder.</p> <p>(7) The closure of the process of submission of proposals shall be managed by at least one member of the procurement and disposal unit and shall be witnessed by a member of the contracts committee or the user department.</p> <p>(8) The persons referred to in sub regulation (7) shall sign Form 11 in the Schedule to confirm that bidding closed at the at the deadline for submission of bids.</p> <p>The framework includes provisions on bid submission, clarifications, modifications and withdrawal of bids and bid receipt and opening, including well-defined details on bids/proposals to be deposited in a designated box or handed over to a PDE staff member before bid/proposal submission deadline.</p> | | | | |
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1(h) Right to challenge and appeal

The legal framework provides for the following:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / Potential conclusions (describing any red-flag substantial gaps) | Initial input for recommendations |
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| (a) Participants in procurement proceedings have the right to challenge decisions or actions taken by the procuring entity. | <p>Section 89 (1) of the Act, as amended in 2021, provides for a bidder to seek administrative review from the Accounting Officer, for any omission or breach by a procuring and disposing entity of the PPDA Act, or any regulations or guidelines made under the Act or of the provisions of bidding documents.</p> <p>According to the amendment of 2021 to the Act, a bidder who is aggrieved by a PDE’s decision may lodge a complaint with the Accounting</p> | None | Met | None |

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| | <p>Officer (AO) of the PDE. In addition, a bidder may also seek administrative review for any omission or breach by a PDE, of this Act, regulation or guidelines made under this Act or any provisions of the bidding documents.</p> <p>The complaint shall be in writing and shall be submitted with the prescribed fee. The complaint must be made 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.</p> <p>The PDE against which the complaint has been made shall on request provide the bidder with a report indicating the reasons for the rejection of the bidder and the stage at which the bidder was rejected and the report shall be used only for the administrative review process.</p> <p>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 but the Procurement and Disposal of Public Assets Appeals Tribunal (the Tribunal).</p> | | | | |
| <p>(b) Provisions make it possible to respond to a challenge with administrative review by another body, independent of the procuring entity that has the authority to suspend the award decision and grant remedies, and also</p> | <p>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 shall make an appeal to the Tribunal for determination of the complaint, omission or breach.</p> <p>A bidding process suspended because of the complaint shall remain suspended until the Tribunal makes a decision.</p> | None | Met | | None |

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| <p>establish the right for judicial review.</p> | <p>Section 91 I (1) of the Act provides for the Tribunal to review AO's decisions where a bidder who is aggrieved by the AO's decision may appeal to the Tribunal for a review of the decision.</p> <p>The Tribunal 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 the Tribunal. The chairperson of the Tribunal 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 the Tribunal from the private sector. The 2021 amendment to the Act has provided for a registrar to be appointed to the Tribunal.</p> <p>The Tribunal</p> <ul style="list-style-type: none"> • 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. <p>The Tribunal 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</p> | | | | |
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| | 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, the Tribunal has no authority to suspend the procurement process. The Tribunal must issue a decision on an appeal within a period of not more than 15 working days upon receipt of an application for review. | | | | |
| (c) Rules establish the matters that are subject to review. | Section 89 (1) of the Act as amended in 2021 provide for any omission or breach by a procuring and disposing entity of the Act, or any regulations or guidelines made under the Act or of the provisions of bidding documents. Section 91I(3) of the Act, as amended, provides for the following matters that shall not be subject to review by the Tribunal: <ul style="list-style-type: none"> • a decision by a procuring and disposing entity to reject or cancel any or all bids prior to award of a contract under Section 75; • a decision of a procuring and disposing entity to discontinue a procurement process, after receiving submissions from bidders following an expression of interest or a pre-qualification; and • a decision by a procuring and disposing entity to limit the participation of bidders under a preference scheme or a reservation scheme. | None | Met | | None |
| (d) Rules establish time frames for the submission of challenges and appeals and for issuance of decisions by the institution in charge of the review and the independent appeals body. | Timeframe for issuance of decisions by the Accounting Officer of the PDE is 10 working days and the Appeals Tribunal 15 working days (Section 91I (7) from the receipt of the complaint. | None | Met | | None |

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| <p>(e) Applications for appeal and decisions are published in easily accessible places and within specified time frames, in line with legislation protecting sensitive information.</p> | <p>The Public Procurement and Disposal of Public Assets Regulations, 2014 section 16 (1) provides for information to be published and availed to the public that include details of the administrative reviews by the procuring and disposing entities and by the PPDA but does not specify the timeframe to provide the information.</p> <p>The decisions by the PPDA Tribunal are provided within the specified timeframe to applicants and accessible is later provided on the www.ppda.go.ug and www.ppdaappealtribunal.go.ug websites.</p> <p>The framework does not provide for publication of bid complaints and their resolution on easily accessible sites and within specified time frames. The framework needs strengthening to provide for publication of bid complaints and decisions on them within a prescribed time limits.</p> | <p>None.</p> | <p>Partially met</p> <p>Decisions on administrative review complaints are communicated to the bidder and copied to the relevant authorities. PPDA later publishes reports on administrative reviews on its website.</p> <p>The legal framework does not provide for publication of applications for appeal and decisions, in easily accessible places and within specified time frames.</p> | <p>Yellow</p> | <p>Publish applications for appeal and decisions in easily accessible places and within specified time frames of making the decisions.</p> |
| <p>(f) Decisions by the independent appeals body can be subject to higher-level review (judicial review).</p> | <p>PPDA Act Section 91M provides for appeals to the High Court from decisions of the Tribunal.</p> <p>Act Section 91M (1) provides that a party to proceedings before the Tribunal who is aggrieved by the decisions of the Tribunal, may, within thirty days after being notified of the decision of the Tribunal or within such further time as the High Court may allow, lodge a notice of appeal with the registrar of the High Court.</p> <p>A decision of the Tribunal can be appealed in the High Court on question of law only, and the notice of appeal shall state the question of the law that forms the appeal. During an appeal to</p> | <p>None</p> | <p>Met</p> | <p>Green</p> | <p>None</p> |

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| | 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. | | | | |
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1(I) Contract Management

The legal framework provides for the following:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag | Initial input for recommendations |
|---|--|--------------------------------------|--|--------------------|--|
| (a) Functions for undertaking contract management are defined and responsibilities are clearly assigned, | The Public Procurement and Disposal of Public Assets (Contracts) Regulations 2014 section 51, 52 and 53 and The Local Governments (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. However, the law is weak when it comes to contract management for complex assignments such as IT systems, works and health equipment requiring installation which necessitate contract management teams with multiple skills | None | Partially Met the law is weak when it comes to contract management for complex assignments such as IT systems, works and health equipment requiring installation which necessitate contract management teams with multiple skills | | The law needs to be strengthened to assure contract management for complex procurements that require installation. |
| (b) Conditions for contract amendments are defined ensure economy and do not arbitrarily limit competition. | The Public Procurement and Disposal of Public Assets (Contracts) Regulations 2014 sections 54-55 and 53 and The Local Governments (Public Procurement and Disposal of Public Assets) Regulations, 2006 sections 120 define conditions for contract amendments and variation. | None | Met | | None |
| (c) There are efficient and fair processes to resolve disputes promptly during the | PPDA Act Section 62 (1) provides that procuring and disposing entity shall use the standard documents provided by the Authority as models for drafting all solicitation documents for each individual procurement or | None | Partially met There are practices of breach of contract that are not reported or addressed for fear of reprisals for | | Review, monitor and report automatically (electronically) the key issues of contract performance such as |

Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified

Red Flags are identified by *

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| performance of the contract. | disposal requirement. PPDA Act Section 62 (2) provides that all solicitation documents shall detail the terms and conditions, which shall apply to any resulting contract; and contain the General Conditions of Contract, or a statement of the General Conditions of Contract which shall apply and under section 62(3) that the General Conditions of Contract shall not be modified except through Special Conditions inserted into the solicitation documents or contract. All standard bidding documents have standard contracts that have clauses on settlement of disputes. | | instance delayed payment to a provider and consequently the Agency also loses right to enforce poor contract management. | | issue payment timeliness and contractual completion time without requiring any party to report on its own. An electronic contract management dashboard is possibly recommended given the advancements in technology and to also help track performance in a given agency but also for a given contractor and check for trends. MOES has a contract management tracking tool TAARIFA that can be rolled out nationally. |
| (d) The final outcome of a dispute resolution process is enforceable. | The final outcome is enforceable according to the clauses on settlement of disputes in standard contracts. | None | Partially met | | None |

1(j) Electronic Procurement (e-Procurement)

The legal framework provides for the following:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag | Initial input for recommendations |
|---|---|--------------------------------------|---|--------------------|-----------------------------------|
| (a) The legal framework allows or mandates e-Procurement solutions covering the public | The laws such as Electronic Transactions Act, 2011, Electronic Signatures Act, 2011 and Access to Information Act, 2005 allows the use of e-Procurement solutions. The GOU is implementing an e-GP strategy which was | None. | Compliance | | None |

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| procurement cycle, whether entirely or partially. | <p>initially rolled out by the PPDA and at the moment MOFPED is rolling it out to 36 entities.</p> <p>The 2021 amendment to the Act provides for any information or document that is to be issued by PPDA or a PDE and any information nor document that may be submitted by a bidder, in a procurement or disposal process, may be communicated or submitted, as the case may be, using electronic means, as may be prescribed.</p> | | | | |
| (b) The legal framework ensures the use of tools and standards that provide unrestricted and full access to the system, taking into consideration privacy, security of data and authentication. | <p>The framework does not provide for tools and standards for the use of e-GP that are secure and accessible.</p> | None | <p>Not met</p> <p>The legislative and regulatory framework does not provide for tools and standards for the use of e-procurement system, which is secure and accessible.</p> | | <p>Strengthen legislation that mandates use of e-procurement which is accessible, and which ensures privacy, security and authenticity of procurement data.</p> |
| (c) The legal framework requires that interested parties be informed which parts of the processes will be managed electronically. | <p>The legal framework does not include a provision that requires that interested parties be informed about the use of e-GP entirely or partially. There is need for inclusion of a provision in the legislation that requires that all interested parties be informed about use of e-GP.</p> <p>The adoption of e-GP is one of the most significant reforms in public procurement being undertaken by the government of Uganda to revolutionise government operations and consequently enhance efficiency and transparency of the procurement function.</p> | None | <p>Not met</p> <p>The legal framework does not include a provision that requires that interested parties be informed about the use of e-procurement entirely or partially.</p> | | <p>Include provision in the legislation that requires that all interested parties be informed about use of e-procurement.</p> |

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| | <p>When fully implemented, 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) compliance with the framework through providing a uniform platform that is well guided by the public procurement framework to be used by all PDEs.</p> <p>The overall deployment readiness status of the e-GP is at 88%. The go live date was scheduled for 1st July, 2020. The Covid-19 pandemic lockdown necessitated a change in the go live date from 31st March 2020 to 1st July, 2020. The URL 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.</p> <p>In 2020, the PPDA, with the support from Strengthening Uganda's Anti-Corruption Response (SUGAR), designed, rolled out and implemented an Entity Management Information System (EMIS). The EMIS was designed as a centralized web based online application with a centralized data repository which will capture, edit and report on all entity related data generated by the PPDA in line with the its mandate. The EMIS was</p> | | | | |
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| | <p>conceptualized as a crucial and strategic enabler for the centralization of all the work and data that is generated from the PPDA's regulatory work and it will provide a real time 360-degree view of all the entities that the PPDA regulates. This will improve the PPDA's ability to manage the regulatory work, will greatly improve knowledge management and information sharing in the PPDA, and will also improve on reporting. EMIS would ultimately help the PPDA manage its Activities and the reporting on these Activities in a more strategic manner in support of the next strategic plan.</p> <p>In a bid to further automate PPDA operations and bridge the existing information gap, its Information Technology Section developed a Letter Movement System (LMS) to facilitate management of incoming and outgoing letters. The LMS is a web-based system used for capturing information about letters/documents both received and sent by the PPDA to and from its different stakeholders. The LMS will automate the movement of letters within the PPDA, which will make information sharing and management more efficient.</p> <p>The delay in the implementation of e-GP is mainly caused by delay in integrating the e-GP with all the desired systems: Out of the eight systems, the e-GP system is to integrate with, only six systems have provided application programming interfaces. (IFMS, E-Tax, Uganda Registration Services Bureau (URSB), NSSF, SMS notification gateway</p> | | | | |
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| | and E-payment gateway). There is a key risk with PBS and NIRA systems and these are likely to be integrated after go live. | | | | |
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1(k) Norms for safekeeping of records, documents and electronic data

The legal framework provides for the following:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag | Initial input for recommendations |
|--|--|--------------------------------------|--|--------------------|--|
| (a) A comprehensive list is established of the procurement records and documents related to transactions including contract management. This should be kept at the operational level. It should outline what is available for public inspection including conditions for access. | <p>According to the 2021 amendment to the Act, a PDE may maintain procurement records in a manual form or an electronic form. In case of electronic records, the PDE shall provide or enable access, reading and printing of the records, as may be necessary. The amendment also allows communications to be transmitted electronically.</p> <p>Section 56 (2) of the Act requires the PDEs to use the standard forms issued by the PPDA to record all details of the procurement except where it obtains the consent of PPDA to use forms other than those provided by the PPDA.</p> <p>Most of the records are manually generated and kept. Availability of records that are manual is cumbersome and sometimes not easily available.</p> | | <p>Partially met</p> <p>Most of the records are manually generated and kept. Availability of records that are manual is cumbersome and sometimes not easily available. This makes it difficult to obtain and review records for purposes of collection/analysis of country procurement data or investigating and prosecuting cases of fraud and corruption or non-compliance to procedures</p> | | Need for a legal and electronic framework for safekeeping of records, procurement documents and electronic data and making it available on line by relevant agencies or assigned people. |
| (b) There is a document retention policy that is both compatible with the statute of limitations in the country for investigating and prosecuting cases of fraud and corruption | Section 41(1) of the Act requires a PDE to maintain records on its procurement and disposal proceedings 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. | | Met | | None |

| and compatible with the audit cycles. | | | | | |
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| (c) There are established security protocols to protect records (physical and/or electronic). | <p>There are no adequate established security protocols to protect records (physical and/or electronic). There is need for establishing security protocols to protect records both physical and/or electronic.</p> <p>All records – paper or electronic form – 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 the PPDA and PDEs can access information and records in order to carry out their duties effectively. More specifically, the steps can effectively secure records:</p> <ul style="list-style-type: none"> • Have a central location for all procurement documents; • Organize electronic records the same way as paper records • Label All Records, Files and Cabinets Appropriately; • File everything immediately; • Keep Active files accessible; • Consider scanning to save space and time; • Lock Everything Down; • Install Fire and Security Alarms; • Limit Access to Critical Records; | | <p>Not met</p> <p>There are no adequate established security protocols to protect records both physical and/or electronic.</p> | * | Strengthen and established adequate security protocols to protect records both physical and/or electronic. |

Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified
Red Flags are identified by *

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| | <ul style="list-style-type: none"> • Conduct Regular Audits of records; and • Destroy Records Securely as needed in accordance with legal requirements. | | | | |
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1(l) Public procurement principles in specialized legislation

The legal and regulatory body of norms complies with the following conditions:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag | Initial input for recommendations |
|---|---|--------------------------------------|---|--------------------|-----------------------------------|
| (a) Public procurement principles and/or the legal framework apply in any specialised legislation that governs procurement by entities operating in specific sectors, as appropriate. | <p>The provisions of the framework are universally applicable for all PDEs of central, government, local governments, and autonomous bodies or authorities formed by law, if they use public funds appropriated to them from the government budget. State-owned enterprises are also subject to the framework. The Act provides for accreditation of alternative systems for PDEs which are not able to comply with a particular procurement or disposal procedure required under the Act. Such a PDE may apply to the PPDA for accreditation of an alternative system. The PPDA may permit accreditation of an alternative system:</p> <ul style="list-style-type: none"> • where exceptional requirements make it impossible, impractical or uneconomical to comply with this Act; • where market conditions or behaviour 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. | None | Met | | None |

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| | <p>Also, the PPDA may, on its own initiative, accredit an alternative system for a PDE which is not able to comply with a procurement or disposal procedure required under this Act.</p> <p>The PPDA shall accredit an alternative system where a PDE:</p> <ul style="list-style-type: none"> 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. <p>There is an alternative system for the procurement of medicines and other medical supplies. The Minister shall in consultation with the Minister responsible for health and the PPDA, make regulations for the procurement of medicines and other medical supplies.</p> | | | | |
| (b) Public procurement principles and/or laws apply to the selection and contracting of public private partnerships (PPP), | As provided for under the Public Private Partnership Act sections 3 on principles that govern public private partnerships operations as well as sections 31-36 on methods of selection and contracting of public private partnerships. | None | Met | | None |

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| including concessions as appropriate. | | | | | |
| (c) Responsibilities for developing policies and supporting the implementation of PPPs, including concessions, are clearly assigned. | Public Private Partnership Act 2015 section 5 and 10 provides for establishment of a PPP Committee and PPP Unit and the law specifies terms of reference and responsibilities of the Committee and Unit as well as officers in the PPP Unit. The MoFPED has set up a unit (“the PPP Unit”) to advise Government on PPPs, ensure best practices are widely employed and standardize processes and documentation. The PPP Unit will also support government departments and agencies in assessing projects, choosing the best possible partner, negotiating agreements and monitoring them. Government therefore expects all components of the public sector to make use of 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. The objectives of the Public Finance Management (PFM) Reform Strategy 2018-2023, among others, are to strengthen regulatory and institutional framework for management of PPPs including sector role in PPP selection; diagnostic study to harmonize PPP legal framework with other PFM legislation and regulatory framework | None | Met | | None |

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| | (PFMA, PPDA, Investment Policy etc.); and to build capacity for management of PPPs. | | | | |
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2. Implementing regulations and tools support the legal framework.

2(a) Implementing regulations to define processes and procedures

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag | Initial input for recommendations |
|---|--|--------------------------------------|---|--------------------|---|
| (a) There are regulations that supplement and detail the provisions of the procurement law, and do not contradict the law. | 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. | No | Partially met Some clauses in the SBD are not supported by the provisions of the Act and Regulations especially the environment, health and social. | | All SBDs need to be based on the provisions of the Act and Regulations. |
| (b) The regulations are clear, comprehensive and consolidated as a set of regulations readily available in a single accessible place. | The Local Governments (Public Procurement and Disposal of Public Assets) Regulations, 2006 are clear and readily available in a single accessible place. However, there are ten (10) Public Procurement and Disposal of Public Assets Regulations 2014 relating to procurement in separate bound booklets and not readily available in a single accessible place. The Regulations both at the CG and LG levels are clear and comprehensive. While the LG Regulations are consolidated, the CG Regulations exist in eleven separate documents. All the Regulations are easily accessible on GPP in a single place. | No | Partially met The scattered nature of the Central Government regulations (2014) do not make them user friendly, which creates a problem for readers, as anyone using them needs to read these documents separately and to relate them with the other relevant parts of the regulations. These should be consolidated and published in a single booklet for ease of use and reference. Alternatively, the regulations can be maintained on the GPP separately along with a single version combining them all. | | The Public Procurement and Disposal of Public Assets Regulations 2014 should be published in one booklet for ease of use and reference. |
| (c) Responsibility for maintenance of the regulations is clearly established, and the regulations are updated regularly. | PPDA Act Section 96 (1) provides that, (1) The Minister shall, on the recommendation of the PPDA and approval of Parliament, issue regulations for the better carrying out of the objectives and functions of the PPDA Act. The PPDA Procurement Regulations were | No | Partially met Both the CG and LG Regulations need updating to reflect all the amendments to the Act. | | Update the regulations to reflect the 2021 amendment to the Act. |

Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified
Red Flags are identified by *

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| | issued in 2003 and updated in 2014 while the Local Governments (Public Procurement and Disposal of Public Assets) Regulations were issued in 2006 and have not yet been updated. | | | | |
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2(b) Model procurement documents for goods, works, and services

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / Potential conclusions (describing any red-flag substantial gaps) | Initial input for recommendations |
|--|--|--------------------------------------|---|---|
| (a) There are model procurement documents provided for use for a wide range of goods, works and services, including consulting services procured by public entities. | Section 62 of the Act provides that procuring and disposing entity shall use the standard documents provided by PPDA as models for drafting all solicitation documents for each individual procurement or disposal requirement. Standard bidding documents for goods, works, non-consultancy services and non-consultancy services are available on the PPDA web Portal: www.ppda.go.ug | None | Partially met Standard bidding documents for works are mainly more applicable to small and medium works and not for major works. | Review and prepare standard bidding documents for major works based on FIDIC. |
| (b) At a minimum, there is a standard and mandatory set of clauses or templates that reflect the legal framework. These clauses can be used in documents prepared for competitive tendering/bidding. | Yes. PPDA standard bidding documents for goods, works, non-consultancy services and non-consultancy services, all have a standard and mandatory set of clauses or templates that reflect the legal framework and used in documents prepared for competitive tendering/bidding for instance; PPDA Act Section 62 (2) provides that all solicitation documents shall; detail the terms and conditions, which shall apply to any resulting contract; and contain the General Conditions of Contract, or a statement of the General Conditions of Contract. For instance, Instructions to Bidders and Consultants as well as General and Special Conditions of Contracts covering goods, works and services are part of the bidding documents for | None | Met | None |

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| | competitive bidding with set clauses that reflect the legal framework. The GCC and SCC are consistent with the consistent with the internationally accepted practice. | | | | |
| (c) The documents are kept up to date, with responsibility for preparation and updating clearly assigned. | <p>Section 7 (1) (d) of the Act mandates PPDA to prepare, update and issue authorized versions of the standardized bidding documents (SBD), procedural forms and any other attendant documents to procuring and disposing Entities. The current updated SBDs came into effect on 3 March 2014.</p> <p>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 central government level were issued in 2014 and 2019.</p> <p>PPDA issued the revised Standard Bidding Document (SBD) for works under open and restricted bidding method of procurement to the Central Government Procuring and Disposing Entities. The revised SBDs also incorporates the Environmental, Social, Health and safety (ESHS) requirements. The SBDs can also be obtained from the PPDA website.</p> | None | Met | | None |

2 (c) Standard contract conditions

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag | Initial input for recommendations |
|--|--|--------------------------------------|---|--------------------|---|
| (b) The content of the standard contract conditions is generally consistent with internationally accepted practice. | 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. These conditions do not cover all the situations that may arise in the course of executing major and complex civil works. There is, therefore, need to introduce separate SBDs, based on FIDIC conditions, for major works. | None | Partially met Standard contract conditions for works are mainly more applicable to small and medium works and not for major works. | | Review and prepare standard contract conditions for works for major works based on FIDIC or adopt the use of multilateral agencies contracts like for World Bank existing SBDs for major works. |
| (c) Standard contract conditions are an integral part of the procurement documents and made available to participants in procurement proceedings. | PPDA Act Section 62 (2) provides that all solicitation documents shall detail the terms and conditions which shall apply to any resulting contract; and contain the General Conditions of Contract, or a statement of the General Conditions of Contract. | None | Met | | None |

2 (d) User's guide or manual for procuring entities

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag | Initial input for recommendations |
|--|---|--------------------------------------|---|--------------------|-----------------------------------|
| (a) There is (a) comprehensive procurement manual(s) detailing all procedures for the correct implementation of procurement regulations and laws. | There is no manual. However, procurement guidelines exist as a substitute for the manual. At www.pppda.co.ug | None | Met | | None |

Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified
Red Flags are identified by *

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| (b) Responsibility for maintenance of the manual is clearly established, and the manual is updated regularly. | 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, PPDA has prepared several guidelines, which are available to PDEs for use. | None | Met | | None |
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3. The legal and policy frameworks support the sustainable development of the country and the implementation of international obligations.

3(a) Sustainable Public Procurement (SPP)

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative Analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag | Initial input for recommendations |
|---|---|--------------------------------------|--|--------------------|---|
| (a) The country has a policy/strategy in place to implement SPP in support of broader national policy objectives. | A national procurement policy that provides for Sustainable Public Procurement was approved in 2019 by the Cabinet and has been reflected in the Amendment Act 2021 and Regulations are being finalised. | None | Met | | None |
| (b) The SPP implementation plan is based on an in-depth assessment, systems and tools are in place to operationalise, facilitate and monitor the application of SPP. | There is no SPP implementation plan. The recently introduced SBDs for works include the Environmental, Social, Health and Safety (ESHS) requirements. | None | Not met There is no Sustainable Public Procurement implementation plan. | * | Sustainable Public Procurement implementation plan should be prepared and adhered to ² . |
| (c) The legal and regulatory frameworks allow for sustainability (i.e. economic, environmental and social criteria) to be | The 2021 amendment to the Act, section 61A includes a provision that requires PDEs to take into account for each procurement environmental protection, social inclusion and stimulating innovation, as may be prescribed. | None | Met | | None |

² SPP is now provided for in the PPDA Act Amended 2021 and a National SPP Action Plan prepared

Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified
Red Flags are identified by *

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| incorporated at all stages of the procurement cycle. | In addition, the 2021 amendment, section 59B includes a provision to promote the participation in public procurement of registered associations of women, youth and parents with disabilities respectively. | | | | |
| (d) The legal provisions require a well-balanced application of sustainability criteria to ensure value for money. | Legal and regulatory framework does not include any sustainability criteria to ensure value for money. | None | Partially met No legal and regulatory frameworks for sustainability. | | Legal provisions should address the requirement for well-balanced application of sustainability criteria to ensure value for money in procurement. |

3(b) Obligations deriving from international agreements

Public procurement-related obligations deriving from binding international agreements are:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag | Initial input for recommendations |
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| (a) clearly established | 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”. International agreements and treaties, for instance the SDGs, are adhered to. | None | Met | | None |
| (b) consistently adopted in laws and regulations and reflected in procurement policies. | 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 | None | Met | | None |

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| | <p>designed to promote free trade among the six nations.</p> <p>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.</p> <p>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. For procurement purposes, they are treated as local providers.</p> <p>Uganda is a member of 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 Ratification in 2004 implied the country's commitment to undertake reforms to 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 the GPA and UNCITRAL.</p> | | | | |
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Pillar II. Institutional Framework and Management Capacity

4. The public procurement system is mainstreamed and well integrated into the public financial management system

4(a) Procurement planning and the budget cycle

The legal and regulatory framework, financial procedures and systems provide for the following:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag | Initial input for recommendations |
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| (a) Annual or multi-annual procurement plans are prepared, to facilitate the budget planning and formulation process and to contribute to multi-year planning. | <p>Section 58 of the Act provides that a PDE's Purchasing and Disposing Unit (PDU) shall in every financial year prepare and submit to the Secretary to the Treasury and to the Authority its annual procurement plan for the following financial year.</p> <p>In accordance with the budget preparation procedures, a procuring and disposing entity shall in each financial year, by a date determined by the Secretary to the Treasury, prepare and submit to the Secretary to the Treasury and to the Authority, its annual procurement plan for the following financial year.</p> <p>A procuring and disposing entity is required to plan its procurement and disposal in the following manner:</p> <ul style="list-style-type: none"> • aggregate its requirements where possible, both within the procuring and disposal entity and between procuring and disposal entities, to obtain value for money and to reduce procurement costs; • make use of framework contracts wherever appropriate to provide an efficient, cost effective and flexible means to procure works, services | None | <p>Partially met</p> <p>PDEs are continuously failing to plan and cost procurements especially the large and complex projects and as a result, they end up over or under estimating the costs of the required items. This is also attributable to PDEs' lack of capacity in clearly scoping their projects. Furthermore, the procurement plans contain information in a complex format. These do not: include any information on the need of certain goods, works and services; explain the methodology used to estimate the costs; and show that the required items of goods, works and services have been combined into discreet procurement packages to use competitive procurement methods to achieve value for money.</p> <p>There is no information on the responsibility and timeline for the preparation of technical specifications without which a</p> | * | The Act should provide for multi-year planning for the sake of economy, efficiency, transparency and fairness in multi-year contracts. |

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| | <p>or supplies that are required continuously or repeatedly over a set period of time;</p> <ul style="list-style-type: none"> • not split a procurement or a disposal to defeat the use of the appropriate procurement or disposal method; and • integrate its procurement budget with its expenditure program. <p>Entities must plan their procurements at the beginning of each fiscal year, with the goal of aggregating requirements into larger contracts, gaining economies of scale, and avoiding emergency procurement whenever possible. Before the procurement process starts, the Accounting Officer commits funds to specific contracts; s/he undertakes assessments of market prices and the unit costs for each construction project and s/he advertises bid opportunities. The Accounting Officer is responsible submitting the procurement plans to the Secretary of Treasury and to PPDA at the beginning of each fiscal year. In summary, Accounting Officers hold a considerable share of power in the procurement process.</p> <p>Statutory Instrument 2014: No. 7 is dedicated to procurement planning. Reg.3 (1) provides that the PDU shall for every financial year, prepare an annual procurement plan for the PDE which will prepare such a plan based on the procurement plans of the user departments.</p> | | <p>procurement plan implementation cannot be initiated. In order to ensure an effective implementation of procurement plans, the PDEs User Departments should be required to submit a plan for the preparation of technical specifications actions.</p> <p>The legislation does not provide for multi-year annual plans. This makes it difficult for PDEs as well as for providers to enter into procurement contracts exceeding one year.</p> <p>Cash flow issues also lead to delays in implementation of procurement plans.</p> <p>In order to ensure efficient and economic procurement that yields value for money, 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. Since the PDEs' procurement plans become the basis of annual budget formulation, correct procurement planning based on historic unit prices, unit price databases, and market research is essential.</p> | | |
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| | <p>Multi-year planning and contracting is yet to be introduced.</p> <p>The 2021 amendment to the Act provides for a procuring and disposing entity that is to undertake a procurement over a period of more than one financial year shall prepare a multi-year procurement plan for that procurement, using guidelines issued for that purpose.</p> | | | | |
| <p>(b) Budget funds are committed or appropriated in a timely manner and cover the full amount of the contract (or at least the amount necessary to cover the portion of the contract performed within the budget period).</p> | <p>Statutory Instrument 2014: No. 7 Reg. 3 (2) provides that a PDE's user department shall, based on the approved budget of the PDE, prepare the procurement plan for the user department, and submit it to the PDU.</p> <p>Section 59 (2) of the Act provides that procurement or disposal shall only be initiated or continued on the confirmation that funding, in the full amount over the required period, is available or will be made available at the time the contract commitment is made.</p> | None | <p>Not met.</p> <p>Multi-year budgets not provided for major procurements.</p> <p>But there is also low credibility of the release of funds even for annual procurement plans for one year only.</p> | | <p>Multi-year budgets should be made for major procurements.</p> |
| <p>(c) A feedback mechanism reporting on budget execution is in place, in particular regarding the completion of major contracts.</p> | <p>There is no legal framework about the feedback mechanism reporting on budget execution, in particular regarding the completion of major contracts. However, the PPDA annually collects and analyses public procurement budget execution data. It compares by a PDE individually and for all PDEs together the total value of contracts awarded in the year with the total value in the procurement plan.</p> | None | <p>Not met</p> <p>The legal framework should be strengthened 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,</p> | ** | <p>The legal framework should be strengthened to include the provision of a feedback mechanism reporting on budget execution, in particular regarding the completion of major contracts.</p> |

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| | | | and by building the procurement capacity of public officials involved in public procurement. | | |
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4(b) Financial procedures and the procurement cycle

The legal and regulatory framework, financial procedures and systems should ensure that:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag | Initial input for recommendations |
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| (a) No solicitation of tenders/proposals takes place without certification of the availability of funds. | <p>Section 59 (2) of the Act provides that procurement or disposal shall only be initiated or continued 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.</p> <p>Statutory Instrument 3: 2014: No. 8 Reg. 3 (c) provides that initiation of a procurement requirement shall include confirmation of availability of funding.</p> <p>Statutory Instrument 3: 2014: No. 8 Reg. 4 provides that a procuring and disposing entity shall not initiate any procurement for which funds are not available or adequate, except where—</p> <p>(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;</p> <p>(b) in the case of framework contracts, funds will be committed at the time of issue of each specific call off order; or</p> <p>(c) the Secretary to the Treasury confirms in writing that the required funding shall be made available.</p> | None | <p>Not met</p> <p>Initiation of procurement without the availability of full or partial funds for deliveries beyond a budget year may not help achieve value for money as bidders may not be interested in participation in an unfunded or partially funded bid or they may bid higher prices to include their assumed risks. Therefore, in multi-year contracts, multi-year planning should be used and funds earmarked as needed beyond the budget year.</p> | * | Procurement processes should be initiated only after securing the corresponding budget funds. |

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| | <p>(2) The availability of funds shall be evidenced by budgeted or supplementary funds for the current financial year or an allocation for subsequent years.</p> <p>(3) The accounting officer or an officer authorized by the accounting officer shall confirm the availability of funds.</p> <p>(4) Procurement may be initiated, in accordance with this regulation, before the receipt of funds, but a contract shall not be awarded before the availability of funds.</p> <p>Circular on procurements 001</p> <p>Section 59 (2) of the Act provides that Procurement or disposal shall only be initiated or continued 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.</p> <p>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:</p> <ul style="list-style-type: none"> 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. | | | | |
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| | 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 or an officer authorized by the AO shall confirm the availability of funds. | | | | |
| (b) The national regulations/procedures for processing of invoices and authorisation of payments are followed, publicly available and clear to potential bidders*. | <p>Statutory Instrument 3: 2014: No. 14 Reg. 41-50 Provides the procedures for the Payment terms, Payment method, Payment structure, Advance payment, Interim or stage payment, Retained payment, Payment security, Payment documents, Payment to a provider and Delays in payment.</p> <p>Statutory Instrument 3:2014: No14 Reg39. Provides that a procuring and disposing entity shall place a contract based on fixed prices, for a procurement requirement that is to be completed within eighteen months from the placement of the contract which. However, there is a provision for price adjustment in the case of rapidly rising prices; or significant price fluctuations in the case of imported goods due to the changes in foreign currency.</p> <p>Statutory Instrument 3: 2014: No. 14 Reg. 41-50 Provides the procedures for the Payment terms, Payment method, Payment structure, Advance payment, interim or stage payment, Retained payment, Payment security, Payment documents,</p> | None | Met | | None |

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| | <p>Payment to a provider and Delays in payment.</p> <p>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.</p> <p>Where a payment request contains errors or discrepancies or is supported by incorrect or incomplete documentation or is not in accordance with the terms of a contract, the payment request shall not be certified and shall be returned to the provider, specifying the reasons for the rejection. A provider whose payment request is rejected shall be entitled to present a new or amended payment request, which shall be treated as the original payment request. Where a PDE queries any part of a payment invoice from a provider, the PDE shall pay the unchallenged portion of the invoice to the provider. The framework stipulated payment of invoices in 30 days from the submission. It also provides for compensation in case of delays beyond this period.</p> | | | | |
| // Minimum indicator // * Quantitative indicator to | | No invoices were available on file. | | * | Measures need to be taken that files are |

Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified
Red Flags are identified by *

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| substantiate assessment of sub-indicator 4(b) Assessment criterion (b): - invoices for procurement of goods, works and services paid on time (in % of total number of invoices). Source: PFM systems. | | | Absence of invoices of providers is a red flag. | | complete with all documents including invoices and payment certificates. |
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5. The country has an institution in charge of the normative/regulatory function

5(a) Status and legal basis of the normative/regulatory institution function

The legal and regulatory framework, financial procedures and systems provide for the following:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag | Initial input for recommendations |
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| (a) The legal and regulatory framework specifies the normative/regulatory function and assigns appropriate authorities formal powers to enable the institution to function effectively, or the normative/regulatory functions are clearly assigned to various units within the government. | <p>Part II Section 5 to 23A of the Act sets out the functions and responsibilities of the Regulatory Authority while Part II Section 24 to 42 of Act sets out composition and responsibility of the Procuring and Disposing Entities to avoid conflict of interest.</p> <p>The Public Procurement and Disposal of Public Assets Authority (PPDA) is an autonomous oversight and regulatory body. Besides policy functions (such as advising government and public entities on best practices and capacity building) and regulatory ones (which include, among others, issuing guidelines and regulations, investigating breaches of the law, and carrying out performance audits of government contracts and public bodies' performance), the PPDA collects data on management functions and the allocation of government contracts.</p> | None | Met | | No |

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| | <p>The PPDA is governed by the Board of Directors appointed by the Minister of Finance, which consists of between six and eight members, including the PPDA Executive Director as an ex officio member, and the Secretary to the Treasury or his or her nominee.</p> <p>The Board appoints the Executive Director of the PPDA who is responsible its management and operations. The PPDA has the following departments: Executive Director and Corporate Office, Procurement Audit and Investigations, Finance and Administration, Internal Audit, Legal and Advisory Services, and Compliance and Training and Capacity Building.</p> <p>The role of PPDA in the decentralized system is to regulate and guide procurement and disposal processes by offering support and building capacity in the PDEs.</p> | | | | |
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5(b) Responsibilities of the normative/regulatory function

The following functions are clearly assigned to one or several agencies without creating gaps or overlaps in responsibility:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag | Initial input for recommendations |
|--|--|--------------------------------------|---|--------------------|-----------------------------------|
| (a) providing advice to procuring entities | The PPDA is responsible for advising PDEs on the application of the Act, regulations, and guidelines made under the Act. | None | Met | | |
| (b) drafting procurement policies | The Ministry of Finance is responsible for advising the Government and drafting policies. The Ministry may give direction to PPDA on policy related matters and PPDA shall follow those directions. The Ministry | None | Met | | No |

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| | drafts public procurement policies in consultation with and based on the recommendations of PPDA. | | | | |
| (c) proposing changes/drafting amendments to the legal and regulatory framework | The Ministry of Finance is responsible for proposing changes/drafting amendments to the legal and regulatory framework. | None | Met | | |
| (d) monitoring public procurement | <p>Ministry of Finance is responsible for overall monitoring of PFM systems, including public procurement.</p> <p>PPDA monitors and ensures that PDEs carry out procurement in compliance with the Act and Regulations and with the key objective of achieving value for money.</p> | None | <p>Partially met</p> <p>The legal framework does not provide specific areas to consider when monitoring public procurement</p> | | <p>The legal framework should include provision of specific areas to consider when monitoring public procurement</p> <p>The Ministry of Finance should identify areas where it has strengths and credibility to perform the monitoring and leave other areas to PPDA which has systems and structures for such a mandate. There should be collaboration and team spirit in identifying what is the best approach for the country.</p> |
| (e) providing procurement information | The ministry of Finance provides information that relates to government policy direction. | None | Met | | No |

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Red Flags are identified by *

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| | The PPDA provides information relating to regulation of public procurement and public procurement operations. | | | | |
| (f) managing statistical databases | Both the Ministry of Finance and PPDA manage statistical databases that relate to their legal mandates. | | Partially met The statistical databases are inadequate. Information such as number and value of contracts nationally not readily available when requested. One cited weakness with the Register of Providers managed by PPDA is the lack of verification/due diligence to confirm the qualifications and experience cited by vendors This is one area of improvement which is being addressed by the migration of the ROP to eGP register. | | Improve on data collection and publication eGP register should be promoted |
| (g) preparing reports on procurement to other parts of government | The PPDA prepares annual performance and evaluation reports on procurement which it submits to the minister for onward presentation to parliament | None | Met | | No |
| (h) developing and supporting implementation of initiatives for improvements of the public procurement system | Both the Ministry of Finance and PPDA support implementation initiatives for improving public procurement system through the update of the policy and regulatory frameworks respectively | None | Met | | no |
| (i) providing tools and documents, including integrity training programmes, to support | The PPDA provides the tools and documents, including capacity building of PDE staff | None | Met | | |

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| training and capacity development of the staff responsible for implementing procurement | | | | | |
| (j) supporting the professionalisation of the procurement function (e.g. development of role descriptions, competency profiles and accreditation and certification schemes for the profession) | The ministry of finance is responsible for Professionalization of the Procurement cadre and function | | Partially met Competency profiles and accreditation and certification schemes for the profession are yet to be accomplished. The Institute of Procurement and Supply Chain Management to regulate conduct and behaviour of the Cadre (The Principles of the Bill have been approved by Cabinet) | | In order to professionalize Public procurement, MOFPED should prepare a competencies framework |
| (k) designing and managing centralised online platforms and other e-Procurement systems, as appropriate | Ministry of Finance is responsible for the EGP Project implementation | None | Compliance | | |

5(c) Organisation, funding, staffing, and level of independence and authority

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag | Initial input for recommendations |
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| (a) The normative/regulatory function (or the institutions entrusted with responsibilities for the regulatory function if there is not a single institution) and the head of the institution have a | Section 7 (1) and (2) of the Act spells out the functions of the authority. Although the public procurement normative/regulatory function, its Board and the Executive Director are associated with the Ministry of Finance, Planning and Economic Development, they are autonomous and have an authoritative standing in the government. | None | Met | | None |

| high-level and authoritative standing in government. | | | | | |
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| <p>(b) Financing is secured by the legal/regulatory framework, to ensure the function's independence and proper staffing.</p> | <p>Section 19 (1) and (2) of the Act provides that The funds of the Authority shall consist of— (a) money appropriated by Parliament for the purposes of the Authority; (b) loans or grants received by the Authority for its activities; and (c) revenues collected from services that are rendered by the Authority. (2) The Authority shall open and maintain bank accounts in banks approved by the Board.</p> <p>Section 20 (1) of the Act provides that The Executive Director shall, not later than three months before the end of each financial year, prepare and submit to the Board an Annual Management Plan which shall include a budget for its approval for the next financial year.</p> <p>PPDA is financed with (a) the money appropriated by Parliament for the purposes of PPDA; (b) loans or grants received by the PPDA for its Activities; and (c) revenues that PPDA generates through its services. The PPDA maintain bank accounts in the banks approved by its Board. The Executive Director of the PPDA, not later than three months before the end of each financial year, prepares and submit to the Board for approval its Annual Management Plan which includes a budget required for the next financial year. The funding arrangement of the PPDA ensures independence of its functions and proper staffing.</p> | None | Met | | No |

Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified
Red Flags are identified by *

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| <p>(c) The institution's internal organisation, authority and staffing are sufficient and consistent with its responsibilities.</p> | <p>Section 11 (1-4) of the Act provides the composition of the board. The PPDA is well organized and adequately staffed.</p> <p>The PPDA is governed by the Board of Directors appointed by the Minister of Finance, which consists of between six and eight members, including the 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 the PPDA who is responsible its management and operations. The PPDA has the following departments: Executive Director and Corporate Office, Procurement Audit and Investigations, Finance and Administration, Internal Audit, Legal and Advisory Services, and Compliance and Training and Capacity Building. The Executive Director, who is the PPDA's Accounting Officer, is responsible for its day to day affairs. As of June 2020, the PPDA had a staff complement of 114 (82%) out of the 138 approved positions. The PPDA has Regional Offices in Mbale, Gulu, and Mbarara.</p> | <p>None</p> | <p>Met</p> | <p>No</p> | <p>No</p> |
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5(d) Avoiding conflict of interest

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / Potential conclusions (describing any red-flag substantial gaps) | Initial input for recommendations |
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| <p>(a) The normative/regulatory institution has a system in place to avoid conflicts of interest.*</p> <p>* Recommended quantitative indicator to</p> | <p>Section 93 (1-2) of the Act provides that Public Officers as well as experts engaged to deliver specific services shall sign the Code of Ethical Conduct specified in Schedule 5.</p> <p>(2) All providers of works, services or supplies shall be required to sign a declaration of compliance with those codes of conduct determined by the Authority from time to time.</p> | <p>Perception that the normative/regulatory institution is free from conflicts of interest (in 50% of responses). Survey of Private providers and CSOs</p> | <p>Partially met</p> | <p>PPDA's role of audit of public procurement needs to be reconsidered and shifted to internal and external auditing bodies.</p> |

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| <p>substantiate assessment of sub-indicator 5(d) Assessment criterion (a): - Perception that the normative/regulatory institution is free from conflicts of interest (in % of responses). Source: Survey.</p> | <p>Section 37 (7) of the Act provides that all members of the Evaluation Committee shall 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.</p> <p>PPDA ACT Schedule 5 (2) Standard Declaration Form.</p> <p>PPDA Guideline 4: 2014: Code of Ethical Conduct</p> <p>PPDA conducts audit of PDE's procurement transactions, which, in international practice, a role of the external and internal auditors in conducting audit of public procurement should be enhanced and well-coordinated.</p> | | | | |
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6. Procuring entities and their mandates are clearly defined

6(a) Definition, responsibilities and formal powers of procuring entities

The legal framework provides for the following:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / Potential conclusions (describing any red-flag substantial gaps) | Initial input for recommendations |
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| <p>(a) Procuring entities are clearly defined.</p> | <p>Section 24 (a - e) of the Act provides the composition of the Procuring and Disposing Entities (PDEs).</p> <p>Each PDE is composed of an Accounting Officer, a Contracts Committee, a Procurement and Disposal Unit (PDU), a User Department, and an Evaluation Committee, which must act independently and not interfere unduly in the operations of others.</p> | | Met | No |

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| | <p>The PDEs comprise Central Government PDEs (Ministries, Agencies and Departments (MDAs), Hospitals, Public Universities) and Local government institutions (Districts, and Municipal Councils) that get 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 1 City Authority. The high spend sectors include road infrastructure; energy; water and environment; education; and health.</p> <p>The PDEs include Central Government entities (Ministries, Agencies and Departments (MDAs), Hospitals, Public Universities) and Local government institutions (Districts, and Municipal Councils) that get 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 PPDA. The high spend sectors include road infrastructure, energy, water and environment, education, and health. SOEs are also PDEs. The PDE comprises an Accounting Officer, a Contracts Committee, a Procurement and Disposal Unit (PDU), a User Department, and an Evaluation Committee, which must Act independently and not interfere unduly in the operations of others.</p> | | | | |
| (b) Responsibilities and competencies of procuring entities are clearly defined. | Section 25 (1-2) of the Act provides that a procuring and disposing entity shall be responsible for the management of all procurement and disposal activities within its jurisdiction in accordance with this Act, regulations and guidelines made under this Act. | | Met | No | No |

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| | <p>(2) Notwithstanding subsection (1), the Secretary to the Treasury shall, for each financial year, appoint an agent to carry out the procurement and disposal activities of the Authority, except the micro procurement activities as described in section 86 of the Act, which shall be carried out by the Authority.</p> <p>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. However, the Secretary to the Treasury appoints, for each financial year, an agent to carry out the procurement and disposal Activities of the PPDA, except the micro procurement Activities.</p> | | | | |
| <p>(c) Procuring entities are required to establish a designated, specialised procurement function with the necessary management structure, capacity and capability*</p> <p><i>// Minimum indicator // *</i> <i>Quantitative indicator to substantiate assessment of sub-indicator 6(a)</i> <i>Assessment criterion (c): - procuring entities with a designated, specialised procurement function (in % of total number of procuring entities).</i> <i>Source:</i></p> | <p>Section 26-37 of the Act clearly spells out the roles and responsibilities of the Accounting Officer, Contracts Committee, Procurement and Disposal Unit.</p> <p>Statutory Instrument 3: 2014: No. 7 Reg 9-16</p> <p>Each PDE is required to establish a Procurement and Disposal Unit (PDU). The PDU is headed by the AO, and comprises the Contracts Committee, and Evaluation Committee, whose membership varies according to the complexity of procurement. The framework clearly spells out the roles and responsibilities of the PDU, the AO, Contracts Committee, and Evaluation Committee. The PDU manages all procurement or disposal Activities PDE except adjudication and the award of contracts; supports the functioning of the Contracts Committee; implements the</p> | <p>Procuring entities with a designated, specialised procurement function (in 100 % of total number of procuring entities).</p> | Met | | No |

Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified
Red Flags are identified by *

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| <i>Normative/regulatory function.</i> | decisions of the Contracts Committee; liaises with the 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 User Departments. 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. | | | | |
| (d) Decision-making authority is delegated to the lowest competent levels consistent with the risks associated and the monetary sums involved. | The decision-making Authority is delegated to the Accounting Officer, and the Contract Committee which exist in each PDE. | | Met | | |
| (e) Accountability for decisions is precisely defined. | The framework clearly spells out the Actions at different levels of procurement hierarchy that will constitute a breach of the provisions of the framework and specifies the resulting sanctions for such breaches. | | Met | | |

6(b) Centralized procurement body

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag | Initial input for recommendations |
|--|---|--------------------------------------|--|--------------------|---|
| (a) The country has considered the benefits of establishing a centralised procurement function in charge of consolidated procurement, framework agreements or specialised procurement. | <p>There is no centralised procurement function. However, the framework does provide for combined procurement of frequently used items. In the absence of a centralised procurement system, 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. Establishing such a function has become a common procurement practice, and needs to be provided for in the framework. Alternatively, a system should be created where, every FY, PPDA's Board nominates a suitable PDE to carry out combined procurement in bulk on behalf of the other PDEs.</p> <p>According to the 2021 amendment 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 procuring and disposing entities, determine the procuring and disposing entities with procurement requirements that qualify to be aggregated.</p> <p>The Secretary to the Treasury shall communicate to the concerned procuring and disposing entities giving instructions on how the requirements that are aggregated are to be reflected in the procurement plan of the procuring and disposing entity.</p> | <u>Not Applicable</u> | <p>Not met</p> <p>In the absence of a centralized procurement function, common and frequently used items of goods are procured separately by each PDE. This deprives the GOU of economy of scales and duplicates efforts. Using such a function is a common practice and should be used in Uganda.</p> | * | <p>Include a provision in the legislative and regulatory framework to nominate a PDE, on a rotation basis, to procure commonly and frequently used items of goods centrally for all PDES.</p> <p>Also, consider the possibility of establishing a centralised procurement function.</p> |

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| | <p>The procurement of aggregated requirements shall be in accordance with guidelines issued for that purpose.</p> <p>A procuring and disposing entity that is to undertake a procurement over a period of more than one financial year shall prepare a multi-year procurement plan for that procurement, using guidelines issued for that purpose.</p> | | | | |
| <p>(b) In case a centralised procurement body exists, the legal and regulatory framework provides for the following:</p> <ul style="list-style-type: none"> • Legal status, funding, responsibilities and decision-making powers are clearly defined. • Accountability for decisions is precisely defined. • The body and the head of the body have a high-level and authoritative standing in government. | A centralized procurement body does not exist. | Not Applicable | <p>Not met</p> <p>The centralised body does not exist</p> | * | See above |
| <p>(c) The centralised procurement body's internal organisation and staffing are sufficient and consistent with its responsibilities.</p> | A centralized procurement body does not exist. | Not Applicable | Not met | * | <p>If a centralized procurement functions is established, or an entity assigned to coordinate this function, sufficient resources in terms of staff and funding should be adequately allocated to support</p> |

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| | | | | | coordination activities of the assigned entity. |
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7. Public procurement is embedded in an effective information system

7(a) Publication of public procurement information supported by information technology

The country has a system that meets the following requirements:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| <p>(a) Information on procurement is easily accessible in media of wide circulation and availability. Information is relevant, timely and complete and helpful to interested parties to understand the procurement processes and requirements and to monitor outcomes, results and performance.</p> | <p>Section 53 of the Act provides that Copies of the Act, regulations, guidelines and forms made under this Act, standard bidding documents and decisions of the Authority shall be made accessible to the public by the Authority.</p> <p>Statutory Instrument 3: 2014: No. 6 Reg. 16 Website and notice board of the Authority</p> <p>The PPDA website www.ppda.go.ug.</p> <p>In 2017/18, the Government Procurement Portal (GPP) was rolled out to 28 PDEs bringing the total number of entities on the system to 195 representing a coverage of 54%. The PPDA was able to assess performance of 195 PDEs which entered data on the Portal.</p> <p>The PPDA website contains the following information:</p> <ul style="list-style-type: none"> • procurement laws and regulations, which are on the PPDA website. • procurement plans for central government are also on the PPDA website. | None | Partially met e-GP roll out yet to be completed. | | EGP roll out should be expedited |

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| | <ul style="list-style-type: none"> • bidding opportunities, e.g. tender notices, etc. • Information on contract awards. • complaints procedures and guides the public on how to launch complaints, and the actions and the redress to expect, but no data on resolved complaints. • various reports with annual procurement statistics in form of the corporate, audit and investigative reports. <p>The GPP provides timely, online information on all government procurement activities with the goal of achieving a full-fledged e-procurement system, is the right approach. However, many firms and stakeholders complain about the limited effectiveness of the current system, due to implementation shortcomings. Hence, newspapers and local associations still remain the prevalent source of information about tenders for small local firms, and competition remains limited.</p> <p>The central portal should be a one-stop information portal on all public procurement within the country, including local government. All advertisements and publication for public procurement across the country needs to be accessible from the Portal.</p> <p>The GOU has a strategy for implementing e-GP prepared in 2019. This strategy serves to achieve the following three objectives:</p> <ol style="list-style-type: none"> a) improved Governance through enhanced transparency and accountability; | | | | |
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| | <p>b) effectiveness through management information and efficient processes; and</p> <p>c) economic development through competitiveness and improved investment climate.</p> <p>The e-Procurement system 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.</p> <p>The implementation of e-GP System will be in phased rollout model as opposed to phased module Activation model. This means that the initial system developed shall cover all methods of procurement and stages of the procurement process and all the required functionality to enable piloting of a complete system. Phases of rollout would be divided into</p> | | | | |
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| | two phases: (i) Pilot in selected MDAs, and (ii) Wider rollout throughout the country. | | | | |
| (b) There is an integrated information system (centralised online portal) that provides up-to-date information and is easily accessible to all interested parties at no cost. | <p>Yes</p> <p>The PPDA website www.ppda.go.ug. The website provides information about new developments in public procurement. It has information on the legislation, regulations, standard bid documents, guidelines and circulars</p> <p>The GPP Portal https://gpp.ppda.go.ug/public Has procurement plans, bid notices, evaluation results and contract notices</p> | None | Met | | No |
| (c) The information system provides for the publication of: * | PPDA Website and GPP portal carries procurement plans and information related to specific procurements with respect to bid notices, best evaluated bidder notices and signed contracts | Not all PDEs are using the system | Partially met. It is not wholly being used. Not all entities have plans on website. | | Ensure that all PDEs begin using the GPP portal |
| <ul style="list-style-type: none"> • procurement plans • information related to specific procurements, at a minimum, advertisements or notices of procurement opportunities, procurement method, contract awards and contract implementation, including amendments, payments and appeals decisions • linkages to rules and regulations and other information relevant for | | | | | |

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| <p>promoting competition and transparency.</p> <p>// Minimum indicator //</p> <p>Quantitative indicators to substantiate assessment of sub-indicator 7(a)</p> <p>Assessment criterion (c):</p> <ul style="list-style-type: none">• procurement plans published (in % of total number of required procurement plans)• key procurement information published along the procurement cycle (in % of total number of contracts) :• invitation to bid (in % of total number of contracts)• contract awards (purpose, supplier, value, variations/amendments)• details related to contract | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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³ Source: GPP

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| implementation (milestones, completion and payment) • annual procurement statistics • appeals decisions posted within the time frames specified in the law (in %). Source: Centralised online portal. | | <table><tr><td>Total number of appeals received</td><td>% of total appeals decisions posted⁴</td></tr><tr><td>45</td><td>33%</td></tr><tr><td>62</td><td>39%</td></tr><tr><td>48</td><td>50%</td></tr></table> | Total number of appeals received | % of total appeals decisions posted ⁴ | 45 | 33% | 62 | 39% | 48 | 50% | | | |
| Total number of appeals received | % of total appeals decisions posted ⁴ | | | | | | | | | | | | |
| 45 | 33% | | | | | | | | | | | | |
| 62 | 39% | | | | | | | | | | | | |
| 48 | 50% | | | | | | | | | | | | |
| (d) In support of the concept of open contracting, more comprehensive information is published on the online portal in each phase of the procurement process, including the full set of bidding documents, evaluation reports, full contract documents including technical specification and implementation details (in accordance with legal and regulatory framework). | Only bid notice is published on the portal. | None | Not met Procurement plans, full set of bidding documents, evaluation reports, full contract documents including technical specification and implementation details are not published which impairs transparency and disclosure | * | No Improve on disclosure by enforcing the requirement to publish information related to procurement plans, evaluation reports, contracts and other documents | | | | | | | | |
| (e) Information is published in an open and structured machine-readable format, using identifiers | No Information is not published in data format | Data not available for analysis | Not met Information not published in data format hence not possible to readily get it for analysis. | * | Introduce the system of publishing information in open data format. | | | | | | | | |

⁴ Posted on PPDA website

Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified
Red Flags are identified by *

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| and classifications (open data format).* | | | | | |
| <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 7(a) Assessment criterion (e):</p> <p>- Share of procurement information and data published in open data formats (in %).</p> <p>Source: Centralised online portal.</p> | | | | | |
| (f) Responsibility for the management and operation of the system is clearly defined. | Not clear, whose role it is operate the system whether Ministry of Finance or PPDA | None | Not met Conflict on who is responsible for the management and operation of the system | * | No Responsibility should be clearly defined |

7(b) Use of e-Procurement

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / Potential conclusions (describing any red-flag substantial gaps) | Initial input for recommendations |
|---|---|---|---|---|
| <p>(a) E-procurement is widely used or progressively implemented in the country at all levels of government*</p> <p>// <i>Minimum indicator</i> //</p> <p>* <i>Quantitative indicators</i></p> | The Government of Uganda (GOU) in its effort to improve procurement performance and value for money is implementing e-Government Procurement (e-GP). The GOU through PPDA has an e-GP strategy that is guiding in the design and implementation of the electronic procurement system. The e-GP is expected to address serious challenges including corruption, Not met with the procurement Act and Regulations, across | Analysis not calculated. Data not available. | Partial met The system is not yet used at all levels. The GOU is rolling out e-GP but the roll out is slow. Also, legal framework has no provision for the use and implementation of E-procurement. | Expedite roll out of e-GP Legal framework should have a provision for the use and implementation of E-procurement ⁵ |

⁵ eGP is now operational in 36 PDEs and the roll-out continues

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| <p><i>to substantiate assessment of sub-indicator 7(b) Assessment criterion (a): uptake of e-Procurement</i></p> <ul style="list-style-type: none"> <i>- number of e-Procurement procedures in % of total number of procedures</i> <i>- value of e-Procurement procedures in % of total value of procedures</i> <p><i>Source: e-Procurement system.</i></p> | <p>Procuring and Disposal Entities, continuous delays in delivery of supplies and services, and wastage of resources through uncompetitive and closed purchases. The vendor for implementing the e-GP has been contracted and is currently developing the e-GP. The pilot programme for e-GP was rollout in July 2018the extent of development of e-GP platform and its implementation in the ten proposed pilot entities us ongoing.</p> <p>The e-platform is being developed and it was envisaged that piloting in would start in early 2020. One of the reasons why implementing e-procurement has been challenging is that several public agencies lack the technology or the skills to do so. This indicates the need for the central government to increase efforts towards capacity building of the most remote and less-skilled agencies, which to date remain too sporadic.</p> <p>The GOU has a strategy for implementing e-GP prepared in 2019. This strategy serves to achieve the following three objectives:</p> <ul style="list-style-type: none"> 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. <p>The e-Procurement system is a web-based system. It will provide tender opportunities to all potential national and international bidders. It</p> | | | | |
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Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified
Red Flags are identified by *

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| | <p>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.</p> <p>The implementation of e-GP System will be in phased rollout model as opposed to phased module Activation model. This means that the initial system developed shall cover all methods of procurement and stages of the procurement process and all the required functionality to enable piloting of a complete system. Phases of rollout would be divided into two phases: (i) Pilot in selected MDAs, and (ii) Wider rollout throughout the country.</p> | | | | |
| (b) Government officials have the capacity to plan, develop and manage e-Procurement systems. | The Government officials do not have adequate e-GP planning, developing and managing capacity. | None | Not met No substantial program in place to develop e-GP capacity of the relevant public officials. | | Design and implement a program to develop e-GP capacity of public officials involved in |

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| | | | | | planning, developing and managing e-GP. ⁶ |
| (c) Procurement staff is adequately skilled to reliably and efficiently use e-Procurement systems. | Procurement staff is generally not adequately skilled. There is need of carrying out a 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 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. | None | Not met The e-GP strategy includes a plan to develop the e-GP capacity of public officials but the plan is yet to be implemented. | | Design and implement an e-GP capacity building program ⁷ |
| (d) Suppliers (including micro, small and medium-sized enterprises) participate in a public procurement market increasingly dominated by digital technology* * Recommended quantitative indicators to substantiate assessment of sub-indicator 7(b) Assessment criterion (d): - bids submitted online (in %) - bids submitted online by micro, small and | 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-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, | | Partially met The public procurement market is gradually but increasingly being digitized for the benefit of all, public and private sector entities. | | Legal framework should have provision for additional efforts on the part of the Government necessary to ensure that all companies (including micro, small and medium sized enterprises) have equal access to a public procurement market increasingly dominated by digital technology. |

⁶ Training Manuals Developed and Capacity building is ongoing

⁷ Training Manuals Developed and Capacity building is ongoing

Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified

Red Flags are identified by *

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| medium-sized enterprises (in %) Source: e-Procurement system. | procurement performance statistical and analytical reports. | | | | |
| (e) If e-Procurement has not yet been introduced, the government has adopted an e-Procurement roadmap based on an e-Procurement readiness assessment. | The system has been developed and is currently being piloted in 12 PDEs and will be rolled to all PDEs in the next two 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 both of both the staff of PDEs and those of the private sector. | None | Partially met An e-GP roadmap exists in the form of the e-GP strategy. However, implementation of the strategy needs to be expedited. | | Expedite implementation of the e-GP strategy. ⁸ |

7(c) Strategies to manage procurement data

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / Potential conclusions (describing any red-flag substantial gaps) | Initial input for recommendations |
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| (a) A system is in operation for collecting data on the procurement of goods, works and services, including consulting services, supported by e-Procurement or other information technology. | <p>Section 7 (g) of the Act provides that the authority should organise 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;</p> <p>Section 56 (2) of the Act provides that A procuring and disposing entity shall use the standard forms issued by the Authority to record all details of the procurement or disposal process, except where it obtains the consent of the Authority to use forms other than those provided by the Authority.</p> <p>The GPP was being rolled out to PDEs in a phased manner, starting with a pilot of 97 PDEs</p> | None | <p>Not met</p> <p>The system is not in operation. Incomplete procurement data affecting its usefulness for government to make mid-course corrections in procurement processes for better system performance</p> | <p>MOFPED and PPDA Collect procurement data at the source (PDEs) to ensure its completeness, analyze these and use the results both for use by the government and by stakeholders.</p> |

⁸ eGP is currently deployed in 36 PDEs (Central and Local Government)

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| | in FY 2015/16. In the Financial Year 16/17, 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 374 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. | | | | |
| (b) The system manages data for the entire procurement process and allows for analysis of trends, levels of participation, efficiency and economy of procurement and compliance with requirements. | <p>Section 7 (g) of the Act provides that the authority should organise 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.</p> <p>Section 7 (g) of the Act provides that the 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 the PPDA. The PPDA uses the GPP for collection of procurement data from the PDEs. 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, with the roll out of the e-GP it is expected to improve.</p> | None | Not met | | MOFPED and PPDA Collect procurement data at the source (PDEs) to ensure its completeness, analyze these and use the results both for use by the government and by stakeholders. |
| (c) The reliability of the information is high (verified by audits). | Section 7 (j) of the Act provides that the authority 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 | None | Not met | | MOFPED and PPDA Collect procurement data at the source (PDEs) to ensure its completeness, |

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| | <p>completion of the contract in respect of any procurement or disposal, as may be required.</p> <p>Section 7 (j) of the Act provides that the 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, the 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 further more prone to manipulation/bid tampering and inefficiencies in the process.</p> | | government to make mid-course corrections in procurement processes for better system performance | | analyze these and use the results both for use by the government and by stakeholders. |
| <p>(d) Analysis of information is routinely carried out, published and fed back into the system. *</p> <p><i>// Minimum indicator //</i></p> <p>* Quantitative indicators to substantiate assessment of sub-indicator 7(c)</p> <p>Assessment criterion (d):</p> <ul style="list-style-type: none"> total number and value of contracts | <p>The PPDA collects and analyzes the available procurement and publishes the results of the analyses in a comprehensive annual report on public procurement. The annual reports are published on the PPDA website and the latest report available on the website is for 2017/18.</p> <p>The reports do not contain the country data that is useful for assess total number of contracts and the value.</p> | Data was not readily availed for analysis | Not met Data not readily available | | PPDA should collect relevant data. Data that when analysed highlights procurement performance |

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| <ul style="list-style-type: none"> • <i>public procurement as a share of government expenditure and as share of GDP</i> • <i>total value of contracts awarded through competitive methods in the most recent fiscal year.</i> <p>Source: Normative/regulatory function/E-Procurement system.</p> | | | | | |
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8. The public procurement system has a strong capacity to develop and improve

8(a) Training, advice and assistance

There are systems in place that provide for:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / Potential conclusions (describing any red-flag substantial gaps) | Initial input for recommendations |
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| (a) substantive permanent training programmes of suitable quality and content for the needs of the system. | <p>Section 6 (e), 7 (c) & (m), 17 (2) (d) of the Act focuses on building procurement and disposal capacity in Uganda and promoting, training and disciplining of the officers and staff of the Authority in accordance with their terms and conditions of appointment.</p> <p>The Capacity Building and Advisory Services Directorate of the 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 to the set standards.</p> | None | <p>Not met (substantive gap)</p> <p>A system is not place that provides for a substantive permanent procurement training programs of public officials involved in procurement.</p> | <p>A long term and sustainable mechanism of procurement training program needs to be prepared and implemented.</p> |

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| | <p>In 2017-18, the PPDA conducted trainings for 2,050 participants. The major capacity building activities include induction of contracts committee members for Central Government Entities, training of the CSOs, government officials and demand driven training.</p> <p>The Capacity Building and Advisory Services Directorate of the 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 to the set standards.</p> <p>A system is not place that provide for a substantive permanent procurement training programs of public officials involved in procurement. Existing training programs mostly delivered by the PPDA are inadequate and do not provide training opportunities to all those who, both from public and private sectors, need it to efficiently do their procurement work. A durable and sustainable mechanism of procurement training program needs to be prepared and implemented. Such a program needs to consider the use of all the available sources of training, including the Civil Service College of Uganda, universities, private sector training institutions, etc. For achieving this objective, the PPDA needs to carry out a procurement skills gap inventory and training needs analysis, based on the results of the analysis, design and develop a substantive and permanent training program and identify training institutions both from the public and</p> | | | | |
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| | private sectors and make arrangements with them for implementing the training programs. | | | | |
| (b) routine evaluation and periodic adjustment of training programmes based on feedback and need. | <p>Section 7 (c) and (m) of the Act provide that the function of the authority is to advise competent authorities on standards for procurement education and training, competence levels and certification requirements; and develop a procurement and disposal capacity building strategy for institutional and human resource development.</p> <p>Section 7 (c) and (m) of the Act provide that the function of the 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. 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, the PPDA needs to carry out a training needs analysis. The PPDA should also obtain feedback from the relevant stakeholders on the training programs that the PPDA has been implementing so that it can adjust them as needed.</p> | None | Not met There is no evaluation of and periodic adjustment of training programs. | * | Training programs needs to be evaluated periodically and corrections made as needed. |
| (c) advisory service or help desk function to resolve questions by procuring entities, suppliers and the public. | 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. | None | Met But legal framework has no provision for advisory service or help desk function to resolve questions by procuring entities, suppliers and the public. | | Legal framework should include a provision for establishing an advisory service or help desk function to resolve questions by procuring entities, |

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Red Flags are identified by *

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| | | | | | suppliers and the public. ⁹ |
| (d) a strategy well-integrated with other measures for developing the capacity of key actors involved in public procurement. | <p>Section 6 (e) of the Act provides that the authority should build procurement and disposal capacity in Uganda.</p> <p>PPDA, under Section 6 (e) of the Act 2003, is mandated to conduct capacity building for PDEs. This is aimed at creating awareness and enhancing the capacity of different stakeholders on the public procurement and disposal system in Uganda. However, it is yet to elaborate a training strategy.</p> <p>In 2021, the PPDA provided demand and supply driven training for 2,138 participants both from the public and private sectors in various aspects of /the procurement and disposal system.</p> | None | Partially met The five-year capacity building strategy expired in 2019. At the time of the assessment in 2021, the PPDA was in the process of preparing one.. | * | Set up an institutionalized training system to ensure a provision of regular procurement a training with accreditation for all procurement personnel in the PDEs. Prepare and implement a training strategy for training of all public procurement stakeholders according to their needs; |

8(b) Recognition of procurement as a profession

The country's public service recognises procurement as a profession:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag | Initial input for recommendations |
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| (a) Procurement is recognised as a specific function, with procurement positions defined at different professional levels, and job descriptions and the requisite qualifications | <p>Section 7 (c) of the Act provides that the authority advises competent authorities on standards for procurement education and training, competence levels and certification requirements.</p> <p>The Institute of Procurement Professionals of Uganda (IPPU), a non-profit organization has the objectives of training and professionalising</p> | None | Partially met 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 | | Prepare public procurement competencies framework to expedite making public procurement a profession. |

⁹ A help desk has been established under the eGP and the PPDA regional offices can be used to help in this regard

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| <p>and competencies specified.</p> | <p>the procurement and supply chain practitioners. 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. The public procurement capacity and the status of the public procurement profession will be assessed. As of August 2020, there were over 237 registered professionals according to the IPPU.</p> <p>According to 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 Institute of Procurement Professionals of Uganda (IPPU), a non-profit organisation has the objectives of training and professionalising the procurement and supply chain practitioners. 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.</p> | | <p>procurement competencies framework.</p> | | |
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Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified

Red Flags are identified by *

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| (b) Appointments and promotion are competitive and based on qualifications and professional certification. | 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 based on qualifications and professional experience. | None | Met | | none |
| (c) Staff performance is evaluated on a regular and consistent basis, and staff development and adequate training is provided. | According to the Public Service Act 2008, the evaluation of performance of public officers has 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. | None | Met | | None |

8(c) Monitoring performance to improve the system

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag | Initial input for recommendations |
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| (a) The country has established and consistently applies a performance measurement system that focuses on both quantitative and qualitative aspects. | Section 6 (d) of the Act provides that the authority monitors compliance of procuring and disposing entities; Section 7 (i) of the Act provides that the authority must conduct periodic inspections of the records and proceedings of the procuring and disposing entities to ensure full and correct application of this Act. | None | Not met A public procurement performance measurement system has not been established. | * | Introduce an indicator-based Public procurement measurement system. |
| (b) The information is used to support strategic policy making on procurement. | The PPDA collects and analyses procurement information for supporting policy making on procurement but the data collected is incomplete and inaccurate. | None | Partially met Data collected is inadequate. | | Roll out e-GP and use it for data collection. |

Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified
Red Flags are identified by *

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| (c) Strategic plans, including results frameworks, are in place and used to improve the system. | Strategic plans are prepared by PPDA. | None | Met | | None |
| (d) Responsibilities are clearly defined. | The framework makes the PPDA responsible for collecting data and measure and monitor the performance of the system. The PPDA, therefore, prepares an annual performance report, which deals with various aspects of public procurement. | None | Met | | None |

Pillar III. Public Procurement Operations and Market Practices

9. Public procurement practices achieve stated objectives

9(a) Planning

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| (a) Needs analysis and market research guide a proactive identification of optimal procurement strategies. | (a) Criteria not met , needs analysis and market research that guide a proactive identification of optimal procurement strategies is not carried out. Such plans are prepared when the project is funded by donors which makes it enforceable to have a procurement plan in place. In most of the instances as well these procurement plans are not updated to reflect the planned and actual processes. | | Not met Needs analysis and market research that guide a proactive identification of optimal procurement strategies not done. In the absence of complete, detailed, or informed 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. | * | PDEs should conduct Needs analysis in order to have plans based on facts |
| (b) The requirements and desired outcomes of contracts are clearly defined. | (b) Yes , All PDEs are able to produce clear specifications for goods and bills of quantities for works and the terms of reference for services. The requirements and desired outcomes of contracts are clearly defined. In all sampled cases, specifications for goods are available and for works the bills of quantities and specifications are | None | Partially met In the absence of needs analysis, the requirements and desired outcomes of contracts cannot be clearly defined. | | Need analysis ought to be carried out in form budgeting and the procurement process. |

Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified
Red Flags are identified by *

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| | <p>available. For services terms of reference are available. 100%</p> <p>Most of the statement of requirement were of standard in nature and not restrictive. These assist them to have clearly defined outcomes. In the absence of needs analysis, the requirements and desired outcomes of contracts cannot be clearly defined.</p> | | | | |
| <p>(c) Sustainability criteria, if any, are used in a balanced manner and in accordance with national priorities, to ensure value for money.</p> | <p>(c) No, other than purchasing requisitions, there was no documentation showing any needs analyses which are aligned to the national priorities or sustainability criteria.</p> <p>Procurements are not linked with the national priorities.</p> <p>However, there has been effort to use some sustainability criteria for instance, Preference and Reservation Schemes have made an attempt, also use of Community Purchasing in Local Government.</p> | | <p>Not met</p> <p>100% lacked Sustainability criteria for all procurements.</p> | * | <p>PDEs should start utilizing sustainability criteria based on the 2021 PPDA amendments that introduced sustainability aspects in</p> |

9(b) Selection and contracting

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| (a) Multi-stage procedures are used in complex procurements to ensure that only qualified and eligible participants are included in the competitive process. | Yes Multi-stage procedures were used in 3 out of 20 PDEs assessed. KCCA, MAAIF and UNRA had sample procurements with multi stage procedures given the nature and thresholds of their procurements and the rest of the entities had no cases of multi-stage procedures/ complex procurements. | | Met | | |
| (b) Clear and integrated procurement documents, standardised where possible and proportionate to the need, are used to encourage broad participation from potential competitors. | <p>Section 62 (1) and (2) of the Act provides that a procuring and disposing entity shall use the standard documents provided by the Authority as models for drafting all solicitation documents for each individual procurement or disposal requirement</p> <p>(2) All solicitation documents shall—</p> <p>(a) detail the terms and conditions, which shall apply to any resulting contract; and</p> <p>(b) contain the General Conditions of Contract, or a statement of the General Conditions of Contract which shall apply.</p> <p>Statutory Instrument 3: 2014: No.8 Reg. Part V provides the rules for preparing bidding documents.</p> <p>Yes All entities worked used Standard bidding documents provided by PPDA for the respective procurement methods, threshold and category of procurements. Also specialized procurement documents for different sectors and thresholds, for instance PPDA Works document is only suitable for works below USD 10M.</p> | | Met | | |

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| <p>(c) Procurement methods are chosen, documented and justified in accordance with the purpose and in compliance with the legal framework.</p> | <p>Part IV of the Act provides the methods of procurement: A procuring and disposing entity shall in respect of— the procurement of goods, works and non-consulting services, use any of the methods in sections 80, 81, 82, 83, 84, 85 and 86 and the conditions for their use specified in the Fourth Schedule to this Act; and the procurement of consulting services, use section 88A and the conditions for procuring consultancy services specified in the Fourth Schedule to this Act.</p> <p>GUIDELINE 1 – 2014 – THRESHOLDS FOR PROCUREMENT METHODS</p> <ul style="list-style-type: none"> (1) Thresholds for the procurement of works (2) Thresholds for the procurement of supplies and non-consultancy services (3) Thresholds for the procurement of consultancy services <p>Yes Appropriate procurement methods are being used and justified except for the case of Arua DLG that had no justification for Direct Procurement.</p> <p>Direct Procurement and use of Framework work contract was commonly used by NMS and National Water and Sewerage Corporation given the unique and continuous nature of their requirements.</p> | | Met | | |
| <p>(d) Procedures for bid submission, receipt and opening are clearly described in the procurement documents and complied with. This means, for instance, allowing bidders or their representatives to attend</p> | <p>Section 69 of the Act provides that all bidding processes shall include a formal bid receipt and a bid opening.</p> <p>Statutory Instrument 3: 2014: No.8 Reg. Part IV provides the bidding procedures</p> <p>Form 8— Record of sale or issue of bidding documents or addenda.</p> | None | Met | | No |

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| <p>bid openings, and allowing civil society to monitor bid submission, receipt and opening, as prescribed.</p> | <p>Form 9— Request for approval of addendum to bidding document. Form 10—Record of minutes of the pre-bidding meeting. Form 11—Record of bids received. Form 12—Record of bid opening.</p> <p>Yes Bid submission, receipt and opening are clearly described in the procurement documents.</p> <p>The bidding procedures, evaluation criteria and contract award processes in all entities were clearly stipulated in the Bidding documents as standard PPDA documents were maintained.</p> <p>Bidders were allowed to attend bid opening for procurement methods that require it.</p> <p>In all entities, it has been established that there is no provision for civil society involved as stakeholders in procurement processes since it is not a requirement of the PPDA.</p> | | | | |
| <p>(e) Throughout the bid evaluation and award process, confidentiality is ensured.</p> | <p>Section 37 (6) of the Act provides that All members of the Evaluation Committee shall 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.</p> <p>Section 93 of the Act provides the Code of conduct. (1) Public Officers as well as experts engaged to deliver specific services shall sign the Code of Ethical Conduct specified in the Fifth Schedule. (2) All providers of works, services or supplies shall be required to sign a declaration of compliance with those codes of conduct determined by the Authority from time to time.</p> | None | Met | No | No |

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| | <p>PPDA Form 13 - Declaration to abide by Code of Ethical Conduct in Business</p> <p>Yes Each Member must sign the Ethical Code of Conduct. Evaluations are conducted as per criteria stated in bidding documents however there are cases of evaluation reports not being fully signed by all Evaluation committee members (1%) and unsigned codes of ethical conduct by evaluation committee members.</p> | | | | |
| <p>(f) Appropriate techniques are applied, to determine best value for money based on the criteria stated in the procurement documents and to award the contract.</p> | <p>Section 76 of the Act provides that an award decision is not a contract. (2) An award shall not be confirmed by a procuring and disposing entity until— (a) the period specified by regulations made under this Act has lapsed; and (b) funding has been committed in the full amount over the required period. (3) An award shall be confirmed by a written contract signed by both the provider and the procuring and disposing entity only after the conditions set out in subsection (2) have been fully satisfied. (4) The award decision shall be posted in a manner prescribed by regulations during the period specified in paragraph (a) of sub-section (2). Statutory Instrument 3: 2014: No.14 Reg. Part II provides the procedures of awarding a contract. YES Section 71. Of the PPDA Act on Evaluation.</p> | | Met | | None |

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| | <p>(1) The choice of an evaluation methodology shall be determined by the type, value and complexity of the procurement or disposal.</p> <p>(2) All solicitation documents shall fully and comprehensively detail the evaluation methodology and criteria which shall apply.</p> <p>(3) No evaluation criteria other than that stated in the bidding documents shall be taken into account.</p> <p>Regulation 7. Of the PPDA (Evaluation) Regulations 2014 S. I No. 9</p> <p>(1) The evaluation of a bid, shall be conducted in accordance with the evaluation criteria stated in the Public Procurement and Disposal of Public Assets (Rules and Methods for Procurement of Supplies, Works and Non Consultancy Services) Regulations, 2014 and in the bidding document.</p> <p>(2) An evaluation committee shall not, during an evaluation, make an amendment or addition to the evaluation criteria stated in the bidding document, and shall not use any other criteria other than the criteria stated in the bidding document.</p> <p>(3) The evaluation criteria shall assess—</p> <p>(a) the compliance of the bid with the statement of requirements;</p> <p>(b) the ability of the bidder to perform the proposed contract; and</p> <p>(c) the ability of the bid to meet the objectives of the procurement.</p> <p>(4) The evaluation criteria shall not be drafted in a way which restricts competition, except where this is necessary to meet the objectives of the procurement or where the preference or reservation scheme is applied.</p> | | | | |
| (g) Contract awards are announced as prescribed. | <p>Yes</p> <p>Evidence on file, all files sampled announced contract awards via best evaluated bidder notices</p> | None | Met | | None |

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| (h) Contract clauses include sustainability considerations, where appropriate. | No. However, Section 61 A of the Act as amended in 2021 requires a PDE for each procurement to take into account environmental protection, social inclusion and stimulating innovation. An attempt has been made in the new Works SBD 2019 to captures ESHS issues. | None | Not met Legal framework does not provide for inclusion of sustainable Contract clauses. | * | Legal framework should have provision for inclusion of sustainable Contract clauses. | | | | | | | |
| (i) Contract clauses provide incentives for exceeding defined performance levels and disincentives for poor performance. | No However, an attempt has been made in Target Price Contracts, however, these are not standard in the SBD. | None | Partially met Contract clauses do not have provision for incentives for exceeding defined performance levels and disincentives for poor performance. | | Contract clauses should have provision for including incentives for exceeding defined performance levels and disincentives for poor performance. | | | | | | | |
| (j) The selection and award process is carried out effectively, efficiently and in a transparent way. * *Recommended quantitative indicators to substantiate assessment of sub-indicator 9(b) Assessment criterion (j): - average time to procure goods, works and services number of days between advertisement/solicitation | Yes The award process is done effectively and in a transparent manner. From the minutes the regulation below is followed. Regulation 5. Of the PPDA (Evaluation) Regulations 2014 S. I No. 9 (3) A meeting of an evaluation committee shall not be held unless all members of the evaluation committee are present. (4) Notwithstanding subregulation (3), a meeting of the evaluation committee may be held where a member who is absent agrees or where it is not possible or practical for all the members to be present at the meeting. (5) A member who is absent from a meeting in accordance with subregulation (4) shall be informed of the proceedings and decisions of the meeting. | Average time to procure goods, works and services number of days between advertisement/solicitation and contract signature (for each procurement method used) <table><tr><td>FY 2017/2018</td><td>FY 2018/2019</td><td>FY 2019/2020</td></tr><tr><td>102</td><td>126</td><td>117</td></tr></table> <table><tr><td>Number of days between advertisement/ Submission</td></tr></table> | FY 2017/2018 | FY 2018/2019 | FY 2019/2020 | 102 | 126 | 117 | Number of days between advertisement/ Submission | Met | | None |
| FY 2017/2018 | FY 2018/2019 | FY 2019/2020 | | | | | | | | | | |
| 102 | 126 | 117 | | | | | | | | | | |
| Number of days between advertisement/ Submission | | | | | | | | | | | | |

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| n and contract signature (for each procurement method used) - average number (and %) of bids that are responsive (for each procurement method used) - share of processes that have been conducted in full compliance with publication requirements (in %) - number (and %) of successful processes (successfully awarded; failed; cancelled; awarded within defined time frames) Source for all: Sample of procurement cases. | (6) Where a member who is absent from a meeting in accordance with subregulation (4), does not agree with a decision taken at the meeting, the member shall inform the chairperson of the evaluation committee, who shall call a meeting to consider the decision. | Procurement Methods | FY 17/18 | FY 18/19 | FY 19/20 |
| | | ODB | 30 | 23 | 25 |
| | | OIB | | 47 | |
| | | Comp – Prelim Qualification | | 16 | 13 |
| | | RB | 18 | 19 | 18 |
| | | RFQ/P | 10 | 8 | 7 |
| | | DP | 8 | 7 | 7 |
| | | Micro | 1 | | 5 |
| | | average number (and %) of bids that are responsive (for each procurement method used) | | | |
| | | not assessed / not in the questionnaire share of processes that have been conducted in full compliance with publication requirements (in %) 100% number (and %) of successful processes (successfully awarded; 100% failed; cancelled; awarded within defined time frames) | | | |

9(c) Contract Management

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| <p>(a) Contracts are implemented in a timely manner. *</p> <p>Recommended quantitative indicator to substantiate assessment criterion (a): time overruns (in %; and average delay in days)</p> | <p>Completion certificates were not being given to suppliers/ contractors for most of the entities. Files have documentation up to contracting except for 2 files in Fort Portal, 3 from Busia, 2 from Gulu University of sampled files. Only KCCA had delivery document and completion certificates issued to contractors.</p> <p>Unjustified contract delays were cited in Luweero and MAAIF with no clear documentation of extensions</p> | | <p>Partially met Without completion certificates and contract management records it is difficult to establish completion time.</p> | <p>*</p> | <p>PPDA to ensure that PDE give contractors completion certificates</p> <p>PPDA to ensure that PDUs take charge of procurement records especially contract management records.</p> |
| <p>(b) Inspection, quality control, supervision of work and final acceptance of products is carried out. *</p> <p>Recommended quantitative indicator to substantiate assessment criterion (b): quality-control measures and final acceptance are carried out as stipulated in the contract (in %)</p> | <p>Completion certificates were not being given to suppliers/ contractors for most of the entities. Files have documentation up to contracting except for 2 files in Fort Portal, 3 from Busia, 2 from Gulu University of sampled files. Only KCCA had delivery document and completion certificates issued to contractors.</p> <p>Unjustified contract delays were cited in Luweero and MAAIF with no clear documentation of extensions</p> <p>Time overruns are a common problem in contract management as well as delayed payments and inadequate enforcement of the contract provisions – please indicate these and other challenges including abscondment and misuse of advance payment (World Bank)</p> | | <p>Partially met Without completion certificates and contract management records it is difficult to establish completion time.</p> <p>Time overruns are a common problem in contract management as well as delayed payments and inadequate enforcement of the contract provisions (World Bank)</p> | | <p>PPDA to ensure that PDE give contractors completion certificates</p> <p>PPDA to ensure that PDUs take charge of procurement records especially contract management records.</p> |
| <p>(c) Invoices are examined, time limits for payments comply with</p> | <p>Yes For the files that had documentation, payments are paid within 30 days; the stipulated time in the</p> | | <p>Partially met The legal framework specifies the payment</p> | <p>*</p> | <p>The procuring entity should ensure that payments are made</p> |

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| <p>good international practices, and payments are processed as stipulated in the contract.</p> <p>Recommended quantitative indicator to substantiate assessment criterion (c): invoices for procurement of goods, works and services are paid on time (in % of total number of invoices).</p> | <p>documents. However, it was noted that 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.</p> | | <p>period as part of the payment structure yet it does not provide a reasonable payment period above which providers/suppliers can take legal action.</p> | | <p>within the agreed contractual payment schedule. Delays in payments should be adequately justifiable to avoid penalties.</p> |
| <p>(d) Contract amendments are reviewed, issued and published in a timely manner. *</p> <p>Recommended quantitative indicator to substantiate assessment criterion (d): contract amendments (in % of total number of contracts; average increase of contract value in %)</p> | <p>Contract amendments were provided for in the contract agreements but were rarely utilized as delays in implementation were not observed in the few files that had contract documentation.</p> <p>Unjustified contract delays were cited in Luweero and MAAIF with no clear documentation of extensions</p> <p>For most files contract management documents were missing so it was not possible to get a clear opinion on amendments. The few files that had contract management documents, were completed without the need for amendments</p> | | <p>Not met No information available for assessment.</p> | | <p>Entities should ensure that information on contract amendments are appropriately filed as part of contract documents.</p> |
| <p>(e) Procurement statistics are available and a system is in place to measure and improve procurement practices.</p> | <p>There is no effective system to combine procurement related data</p> | <p>None</p> | <p>Not met Legal framework makes no provision for the availability of Procurement statistics and a system to measure and improve procurement practices.</p> | <p>*</p> | <p>Legal framework should have a provision for the availability of Procurement statistics and a system to measure</p> |

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| | | | | | and improve procurement practices. |
| <p>(f) Opportunities for direct involvement of relevant external stakeholders in public procurement are utilised. *</p> <p>Recommended quantitative indicator to substantiate assessment criterion (f): percentage of contracts with direct involvement of civil society: planning phase; bid/proposal opening; evaluation and contract award, as permitted; contract implementation) Source for all: Sample of procurement cases.</p> | <p>The legal and regulatory framework does not give opportunities for direct involvement of relevant external stakeholders in public procurement hence affecting effective and efficient delivery of services.</p> | | <p>Not met</p> <p>The legal and regulatory framework does not give opportunities for direct involvement of relevant external stakeholders in public procurement hence affecting effective and efficient delivery of services.</p> | * | <p>The legal and regulatory framework should have a provision for giving opportunities for direct involvement of relevant external stakeholders in public procurement so as to foster effective and efficient delivery of services.</p> |
| <p>(g) The records are complete and accurate, and easily accessible in a single file*</p> <p><i>// Minimum indicator // * Quantitative indicators to substantiate assessment of sub-indicator 9(c) Assessment criterion (g): - share of contracts with complete and accurate records and databases</i></p> | <p>No</p> <p>Most of the procurement records had missing records for example contracts, contract manager appointments, payment records among others</p> | <p>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</p> | <p>Partially met</p> <p>Legal and regulatory framework does not exist to encourage compilation of contract records in single files hence hindering easy accessibility.</p> | | <p>The assigned contract managers should ensure that records of contract management including certification documents are made available to the procurement unit as well for record.</p> |

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| (in %) Source: Sample of procurement cases* | | department which limits accessibility. | | | |
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10. The public procurement market is fully functional

10(a) Dialogue and partnerships between public and private sector

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis / conclusions</u> (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|---|--|---|---------------------|--|
| <p>(a) The government encourages open dialogue with the private sector. Several established and formal mechanisms are available for open dialogue through associations or other means, including a transparent and consultative process when formulating changes to the public procurement system. The dialogue follows the applicable ethics and integrity rules of the government*</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 10(a) Assessment criterion (a): - perception of openness and effectiveness in engaging</p> | <p>The Policy (NPSPP) recognizes dialogue with the private sector</p> <p>2-3 CSOs are consulted when formulating changes to public procurement system. However, there is no formal procedures for dialoguing.</p> | <p>Sub-indicator 10(a): - Perception of openness and effectiveness in engaging with the private sector.</p> <p>2.) Dialogue and partnerships between public and private sector</p> <p>2.1) Does the government consults with private association before making changes in the legislation and regulations in the area of procurement? [4 yes, always – 3 Yes, mostly - 2 No, not really – 1 No, not at all]</p> <p>Yes, always 5% Yes, mostly 35% Not really 40% No, not at all 20%</p> <p>Average weightage: 2.25</p> | <p>Partially met There is no formal consultation process with the private sector and CSOs</p> | | <p>The MOFPED should streamline the consultation process for changing the public procurement system by establishing formal procedures for stakeholder engagement</p> |

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| with the private sector (in % of responses). Source: Survey. | | <i>It can be concluded that about 60% of responses confirmed that the government does not consult with private sector before making changes in the legislation and regulations in the area of procurement.</i> | | | |
| (b) The government has programmes to help build capacity among private companies, including for small businesses and training to help new entries into the public procurement marketplace. | No There is no programme to assist private companies develop procurement capacity | Not applicable | Non compliance There is no legal framework that supports offering information and training programmes on public procurement for the private sector. | * | Strengthen the procurement system to support offering of information and training programmes on public procurement for the private sector. |

10(b) Private sector's organization and access to the public procurement market

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-lag? | Initial input for recommendations |
|--|--|--------------------------------------|---|--------------------|--|
| (a) The private sector is competitive, well-organised, willing and able to participate in the competition for public procurement contracts.* * Recommended quantitative indicator to substantiate assessment of sub-indicator 10(b) | The private sector is organized through various business associations. Established in 1995, the Private Sector Foundation Uganda, is a major player, 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 Ugandan government and development partners to strengthen capacity for policy advocacy and market competitiveness, including in the area of trade development. | | Not met No procedures to assess the organizational capacity of the small and medium sized enterprises and the access they have to information. | * | Put provision for legal framework to support offering information and training programmes on public procurement for the private sector. MOFPED and PPDA should explore the possibility of |

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| <p>Assessment criterion (a):</p> <ul style="list-style-type: none"> • number of registered suppliers as a share of total number of suppliers in the country (in %) • share of registered suppliers that are participants and awarded contracts (in % of total number of registered suppliers) • total number and value of contracts awarded to domestic/foreign firms (and in % of total) <p>Source: E-Procurement system/Supplier Database.</p> | <p>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.</p> <p>The private sector is not organized, is not competitive and is ignorant of opportunities in public procurement.</p> | | | | <p>partnership with Umbrella bodies such as UMA, PSFU, USSEA to obtain and compile this information on their online platforms which can be integrated on the Government eservices portal for access by those who need it</p> |
| <p>(b) There are no major systemic constraints inhibiting private sector access to the public procurement market.</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 10(b)</p> <p>Assessment criterion (b):</p> <ul style="list-style-type: none"> - perception of firms on the appropriateness of conditions in the public procurement market (in % of responses). <p>Source: Survey.</p> | <p>No</p> | <p>Sub-indicator 10(b)</p> <ul style="list-style-type: none"> - Perception of firms on the appropriateness of conditions in the public procurement market <p>3.) Good market conditions for the private sector to participate in public procurement</p> <p>3.1) Do you find the changes to the procurement framework difficult to follow? [4 yes, always – 3 Yes, mostly - 2 No, not really – 1 No, not at all]</p> | <p>Partially met</p> <p>based on the quantitative analysis where 45% still find huddles</p> | | <p>study the private sector to find out why there still huddles so that access to procurement market is increased.</p> |

Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified
Red Flags are identified by *

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| | | <p>Yes, always 0%</p> <p>Yes, mostly 45%</p> <p>No, not really 45%</p> <p>No, not at all 10%</p> <p>Average weightage: 2.35</p> <p>It can be concluded that about 45% of responses still find that the changes to the procurement framework difficult to follow.</p> | | | |
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10(c) Key sectors and sector strategies

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| (a) Key sectors associated with the public procurement market are identified by the government. | No Government does not identify key sectors associated with the public procurement market | No | Not met There is no legal framework to support conducting a sector market analysis. | * | The Policy, Legal and Institutional Framework should be strengthened to support performing sector market analysis. |
| (b) 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. | No There is no practice of assessing risks associated with key sectors. | No | Not met There is no legal framework to support conducting assessment of sector related risks. | * | Legal Framework should be strengthened to support determination of sector-related risks. |

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

11. Transparency and civil society engagement foster integrity in public procurement

11(a) Enabling environment for public consultation and monitoring-

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| (a) A transparent and consultative process is followed when formulating changes to the public procurement system. | <p>No – not documented</p> <p>Government does take steps to consult the public and other key players and to incorporate some of the comments provided. The stakeholders were involved, but the process was not formal/transparent.</p> <p>The key stakeholders that include providers, procuring and disposing entities (Government agencies), professional organizations/individuals, and CSOs are consulted when formulating changes to the public procurement system. Representatives are part of the task force created for purpose of validating the changes in the public procurement system</p> <p>The Policy, NPSPP, recognizes involvement of civil society in making reforms.</p> | Not Applicable | <p>Partially met</p> <p>No framework exists for enabling a transparent and consultative process to be followed for reforming the public procurement system.</p> | | Strengthen the framework and practice for enabling a transparent and consultative process to be followed when formulating changes to the public procurement system. |
| (b) Programmes are in place to build the capacity of relevant stakeholders to understand, monitor and improve public procurement. | Programs for building stakeholders' capacity to understand, improve and monitor public procurement are inadequate. | Not Applicable | <p>Partially met</p> <p>Key stakeholders are provided few opportunities by the Government, both at central and local levels. In terms of seminars, workshops, discussions, talks on public procurement. As a result, the</p> | * | Create partnerships between government, both central and local, on the one hand, and private sector, and CSOs, on the other enhance their understanding of |

Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified
Red Flags are identified by *

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| | | | stakeholders' understanding of public procurement is weak. They are, therefore, not able to play a key role in the procurement process, including monitoring and contributing to improvement of public procurement. Government agencies especially local governments do not have capacity to help stakeholders understand procurement. | | public procurement to build capacity of stakeholders. Also, prepare and implement programs to raise awareness of citizens of the function of public procurement and its benefits to them. |
| (c) There is ample evidence that the government takes into account the input, comments and feedback received from civil society. | Regulatory agencies such as PPDA, MoFPED consult and obtain input, comments and feedback from providers, CSOs. | Not Applicable | Partially met No framework for enabling a transparent and consultative process to followed when formulating changes to the public procurement system. | | Strengthen the legal framework for enabling a transparent and consultative process to followed when formulating changes to the public procurement system. |

11(b) Adequate and timely access to information by the public

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| (a) Requirements in combination with actual practices ensure that all stakeholders have adequate and timely access to information as a precondition for effective participation. | Although the PPDA and the Law on Access to Information provide for access to information, it is not easy for interested parties to obtain information especially on the performance of public procurement. | Not Applicable | Partially met Non-disclosure of pro-active information. Even when citizens (CSO) ask for information by Ct is not provided. Mechanisms for holding government agencies accountable for non-disclosure are weak or non-existence. | | Review and strengthen the legal framework and mechanisms for holding government agencies accountable for non-disclosure and provide for sanctions fir withholding information to which |

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| | | | | | access is allowed by law. |
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11(c) Direct engagement of civil society

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| (a) The legal/regulatory and policy framework allows citizens to participate in the following phases of a procurement process, as appropriate: • the planning phase (consultation) • bid/proposal opening (observation) • evaluation and contract award (observation), when appropriate, according to local law • contract management and completion (monitoring). | <p>Citizens are not involved in the following phases of public procurement:</p> <ul style="list-style-type: none"> the planning phase (consultation) evaluation and contract award (observation), when appropriate, according to local law contract management and completion (monitoring). <p>However, CSOs are free to attend as observers in bid/proposal opening (observation) for publicly opened bids/proposals for procurements under the open bidding method but not selective or direct procurement methods.</p> <p>No evidence that they attend</p> <p>However, Evaluation is a confidential process, and given the level of leakages of public information, best to restrict who can handle evaluation to public officials who can be held accountable. But CSOs may be allowed to review BERs (World Bank)</p> | Not Applicable | <p>Not met</p> <p>CSOs are not involved in most crucial stages of the procurement cycle such as evaluation and contract management.</p> <p>However, Evaluation is a confidential process, and given the level of leakages of public information, best to restrict who can handle evaluation to public officials who can be held accountable. But CSOs may be allowed to review BERs (World Bank)</p> | * | The legal framework should be strengthened to allow CSOs' involvement in all crucial stages of the procurement cycle such as planning, evaluation and contract management without compromising the confidentiality principle. |
| (b) There is ample evidence for direct participation of citizens in procurement processes through consultation, | <p>No</p> <p>There is no evidence that the citizens participate in the procurement process</p> | Not Applicable | <p>Not met</p> <p>Citizens are not directly involved in monitoring of contracts that even affect them except through oversight agencies.</p> | | Strengthen the legal framework to allow direct participation of citizens in procurement processes through for example contract monitoring, without |

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| observation and monitoring. | | | | | compromising the confidentiality principle and independence of functional roles of government officials. |
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12. The country has effective control audit systems

12(a) Legal framework, organisation and procedures of the control system

The system in the country provides for:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| (a) laws and regulations that establish a comprehensive control framework, including internal controls, internal audits, external audits and oversight by legal bodies | <p>PPDA Act provides for PPDA to carry out procurement audits under PPDA Act Section 7 (1) (j) to institute—</p> <p>(i) procurement or disposal audits during the bid preparatory process;</p> <p>(ii) contract audits in the course of the execution of an awarded bid; and</p> <p>(iii) performance audit after the completion of the contract in respect of any procurement or disposal, as may be required;</p> <p>There is an internal audit function at every central government entity. The Public Finance Management Act, the financial regulations, and the financial internal audit manual govern internal audit. The internal audit function focuses on adequacy and effectiveness of internal controls, adheres to professional standards but appears to lack quality assurance. Annual audit programs exist and the majority of programmed audits are completed and evidenced by the distribution of their reports to the appropriate parties.</p> <p>The Internal Auditor General in Ministry of Finance Planning and Economic Development (MOFPED) provides technical and professional support and training to the internal auditors in the line ministries.</p> | Not Applicable | <p>Not met</p> <p>There is no evidence of clear coordination between PPDA and OAG in carrying out specialized procurement audits or follow up of recommendations.</p> | * | Legal framework should provide for clear coordination between PPDA and OAG in carrying out specialized procurement audits or follow up of recommendations. |

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| | <p>The IAG also provides some level of quality assurance across the internal audit units in the MDAs. There is currently an Internal Audit and Standards Manual, which has been redrafted and, when finalized, will align with the Public Finance Management Act and Finance Regulations. However, these audits are not procurement specific, as a manual of procurement audit does not exist, and the auditors need training in conducting procurement audit of public procurement.</p> <p>The PPDA is mandated to conduct Procurement and Disposal Audits in PDEs. In fulfillment of the above mandate, it completed 84 (102%) out of the planned 82 audits in the FY 2017/18. The 84 Entities covered representative sample of procurement transactions carried out during the Financial Year 2017/18. The audit involved a review of the procurement system, procurement and asset disposal processes well as procurement performance indicators.</p> <p>The audit findings revealed that overall the compliance level of the Entities for the procurement system was satisfactory with a score of 69.67%; the overall compliance level for the procurement process was satisfactory with a score of 76.18% %, and a disposal compliance rating of 80.74 %. The audit findings also revealed that in 55.05% of the sampled procurements, entities failed to deliver within the planned timelines, 33.35% of the contracts signed were not completed within the contractual period, 36.8% of the signed contracts were not paid in time.</p> | | | | |
| (b) internal control/audit mechanisms and functions that ensure appropriate oversight of | The PPDA Act, Section 22 (1), provides for reporting by the PPDA, within nine months after the end of each financial year by submitting to Minister of Finance Planning and Economic Development (MoFPED) and Office of the Auditor General (OAG) an Annual Performance Evaluation Report in respect of that | Not Applicable | Partially met Internal audit of procurement processes not done in timely manner | | Strengthen PPDA with both human and financial resources to enable it conduct annual procurement audits for all entities |

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| <p>procurement, including reporting to management on compliance, effectiveness and efficiency of procurement operations</p> | <p>year's activities that includes an evaluation of the operations of the Authority and the procuring and disposing entities.</p> <p>This report to AOG may not capture the necessary details of each entity or PDE and instead is more on the performance of PPDA.</p> <p>Internal Audit in Government comes in at the tail end during Payment.</p> <p>PPDA has mainly been focused on after contract audits and not procurement or disposal audits during the bid preparatory process or contract audits in the course of the execution. PPDA has made attempts to audit however, they do not have capacity to monitor or audit every institution in Uganda and abroad.</p> <p>The Minister of Finance Planning and Economic Development is required under PPDA Act, Section22(2) to lay before Parliament the PPDA Annual Performance Evaluation Report within two months from the date of his or her receiving the report, or at the next sitting of Parliament, whichever comes first.</p> | | | | |
| <p>(c) internal control mechanisms that ensure a proper balance between timely and efficient decision-making and adequate risk mitigation</p> | <p>PPDA Regulations provide for statutory time frame for; bidding period, evaluation period and display of notice of best evaluated bidder that is dependent on procurement method and type of procurement.</p> <p>PPDA carries out procurement audit of a sample of entities every two years</p> <p>PFMA 2015 The PFM Act under Part VII provides the key function and responsibility for Accounting Officers</p> | <p>Not Applicable</p> | <p>Partially met</p> <p>PPDA Regulations do not provide for statutory time frames for the entire procurement cycle or completion of a procurement process (except for bidding period, evaluation period and display of notice of best evaluated bidder) and there is a common procurement challenge of delayed decision making and delays in procurement</p> | <p>*</p> | <p>Legal framework should provide for statutory time frame for the entire procurement process and completion of a procurement process covering all the stages of the procurement cycle. This provision is included in the</p> |

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| | <p>(Sec.45) and Accountant General (Sec 46) in the public financial management.</p> <p>Sec 45(5) provides that an Accounting Officer shall be responsible and personally accountable to Parliament.</p> <p>Section 47 of the Act establishes the position of the Internal Auditor General and strengthens its independence with direct reporting to the Secretary to Treasury.</p> <p>The Act establishes an Audit Committee for each sector of Government and for a number of votes in Local Government under Sec.49. The audit committees assist Accounting Officers to oversee the effectiveness and efficiency of internal controls within a vote.</p> <p>The Act requires full reporting on performance of entire Government. Entities are required to prepare both half year and annual financial statements. Consolidated Accounts of government include Central Government.</p> | | process at Contracts Committee level, Solicitor General and entity Administrative clearance before signing of Contracts. | | <p>proposed PPDA amendment Bill 2019 only for Contracts Committee.</p> <p>Enforce Accountability for delays. Including timelines with no sanctions for delays has been the cause of continued noncompliance to the provisions</p> |
| <p>(d) independent external audits provided by the country's Supreme Audit Institution (SAI) that ensure appropriate oversight of the procurement function based on periodic risk assessments and controls tailored to risk management</p> | <p>Yes</p> <p>The office of the Auditor General (OAG) is the Supreme Audit Institution (SAI) that 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.</p> <p>The AG reports have a section on procurement audit National Audit Act 2008</p> <p>Section 13. Functions of Auditor General</p> <p>(1) The Auditor General shall— (a) audit and report on the public accounts of Uganda and of all public offices including the courts, the central and local government administrations, universities and public institutions of a similar nature, and any public corporation or other</p> | Not Applicable | Met | | No |

Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified
Red Flags are identified by *

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| | bodies or organizations established by an Act of Parliament; (b) conduct financial, value for money audits and other audits such as gender and environment audits in respect of any project or activity involving public funds; (c) audit classified expenditure; (d) audit all Government investments; (e) carry out procurement audits; and (f) audit treasury memoranda. | | | | |
| (e) review of audit reports provided by the SAI and determination of appropriate actions by the legislature (or other body responsible for public finance governance) | Under Article 163 (4) of the Constitution OAG is required to submit to Parliament annually a Report of the Accounts audited OAG for the year immediately preceding. OAG does audit procurement files, however, it is not clear how PPDA's findings fit within OAG and its reporting to Parliament. | Not Applicable | Met | | None |
| (f) clear mechanisms to ensure that there is follow-up on the respective findings. | No evidence | Not Applicable | Not met There is no clear mechanisms to ensure that there is follow-up on the respective findings of audit by PPDA. | | Legal framework should provide for clear mechanisms to ensure that there is follow-up on the respective findings and actions recommendations. |

12(b) Coordination of controls and audits of public procurement

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|--|--------------------------------------|---|---------------------|---|
| (a) There are written procedures that state requirements for internal controls, | No There are no written procedures nor internal control manual | Not Applicable | Non compliance No legal requirements for an audit manual that details procedure. | * | Legal framework should provide for requirements for a procurement audit manual. |

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| ideally in an internal control manual. | | | | | |
| (b) There are written standards and procedures (e.g. a manual) for conducting procurement audits (both on compliance and performance) to facilitate co-ordinated and mutually reinforcing auditing. | 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. | Not Applicable | Non compliance Lack of clearly and detailed written standards and procedures for conducting procurement audits. | | Legal framework should provide clearly for detailed written standards and procedures for conducting procurement audits to be put in place, adhered to and monitored. |
| (c) There is evidence that internal or external audits are carried out at least annually and that other established written standards are complied with.* * Recommended quantitative indicator to substantiate assessment of sub-indicator 12(b) Assessment criterion (c): - number of specialised procurement audits carried out compared to total | Auditor General carries out audit every year. PPDA carries out audits every year but may not have capacity to exhaust covering all entities, domestic and foreign. PPDA audits when budget is available for the exercise. Under the new PFM Act, all internal Audit Offices/Units are supposed to make a report to the Internal Auditor General. Observation on Procurement is that most internal Audits are Post Contractual during time for payment. | | Partially met Annual audits do not cover all PDEs | | Conduct internal and external audits regularly, at least on an annual basis. |

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| <p>number of audits (in %). - share of procurement performance audits carried out (in % of total number of procurement audits). Source: Ministry of Finance/Supreme Audit Institution.</p> | | | | | |
| <p>(d) Clear and reliable reporting lines to relevant oversight bodies exist.</p> | <p>Yes AOG, PPDA, IG all report to Parliament.</p> <p>However, it is not clear how they report to each other.</p> <p>The institution of the Office of the Auditor-General, also known as the Supreme Audit Institution of Uganda, has been created by the Constitution and the National Audit Act 2008 to act on behalf of the citizens of Uganda, in providing an independent assurance on the use of public resources (Article 163 of the Constitution).</p> <p>In the matter of management and control of Public Finances, the National Parliament of Uganda plays a very important role. The raising and expenditure of public funds by the National Government is subject to authorization and control by the Parliament. In incurring expenditure of public funds, the Executive is required to exercise strict commitment and expenditure control and ensure efficiency and economy of operations in accordance with the intentions of parliament. It is also required to prepare</p> | <p>Not Applicable</p> | <p>Partially met</p> <p>Lack of clear and reliable reporting lines to relevant oversight bodies.</p> | <p>*</p> | <p>Legal framework should provide clearly for clear and reliable reporting lines to relevant oversight bodies as well as coordination of the Regulator and other oversight agencies.</p> |

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Red Flags are identified by *

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| | detailed sets of accounts and financial statements. These are audited by the Auditor-General and his reports are tabled in Parliament. The accountability cycle ends in Parliament with the review of the Public Accounts and the Auditor-General's Reports, by the oversight accountability Committees of Parliament, namely the Public Account Committee (PAC), Committee on Statutory Authorities and State Enterprises (COSASE) and the local government accounts committees. | | | | |
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12(c) Enforcement and follow-up on findings and recommendations

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|--|--|--------------------------------------|---|---------------------|---|
| <p>(a) Recommendations are responded to and implemented within the time frames established in the law.*</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 12(c) Assessment criterion (a):</p> <p>- Share of internal and external audit recommendations implemented within the time frames established in the law</p> | No follow up in the legal frame work on Audit findings and recommendations by PPDA. This is a weakness of the system, further still PPDA may not have capacity to undertake all this given their enormous mandate. | | <p>Not met</p> <p>There is no timely follow-up on recommendations</p> | * | Strengthen the mechanisms to ensure follow up of audit findings and recommendation. |

Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified
Red Flags are identified by *

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| (in %). Source: Ministry of Finance/Supreme Audit Institution. | | | | | |
| (b) There are systems in place to follow up on the implementation/enforcement of the audit recommendations. | No follow up in the legal framework on audit findings and recommendations by PPDA. This is a weakness of the system, further still PPDA may not have capacity to undertake all this given their enormous mandate. | Not Applicable | Not met Lack of clear and enforceable systems to follow up on the implementation and enforcement of the procurement audit recommendations. | * | Legal framework should provide clearly for systems to follow up on the implementation and enforcement of the procurement audit recommendations. |

12(d) Qualification and training to conduct procurement audits

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
|---|--|--------------------------------------|---|---------------------|---|
| (a) There is an established programme to train internal and external auditors to ensure that they are qualified to conduct high-quality procurement audits, including performance audits. * Recommended quantitative indicator to substantiate assessment of sub-indicator 12(d) Assessment criterion (a): | Office of the Auditor General appears to be building capacity by setting up department. However, there are no clear-cut PFM programs known for building capacity for Auditors in Procurement. Procurement Auditors under PPDA are under the Directorate of Performance Monitoring, these may have internal training but not at a Program Level. | | Partially met There is no program to build auditors' capacity | | Prepare and implement a program for auditors in auditing procurement. |

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| <p>- number of training courses conducted to train internal and external auditors in public procurement audits. Source: Ministry of Finance/Supreme Audit Institution.</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 12(d) Assessment criterion (a):</p> <p>- share of auditors trained in public procurement (as % of total number of auditors). Source: Ministry of Finance/Supreme Audit Institution.</p> | | | | |
| <p>(b) The selection of auditors requires that they have adequate knowledge of the subject as a condition for carrying out procurement audits; if auditors lack procurement knowledge, they are</p> | <p>According to the copy of the advertisement for a procurement audit and investigative officer on https://www.theugandanjobline.com/2015/08/7-officers-procurement-audit-investigations-ppda.html?m=1, the Qualifications, Skills and Experience were;</p> <p>·The candidates for the Officer Procurement Audit and Investigations should possess an Honours degree in Procurement, Engineering, Commerce, Business Administration, Economics or any other procurement related field from a recognised University.</p> | <p>Not Applicable</p> | <p>Partially met</p> <p>The selection of auditors does not adequately require that auditors recruited have adequate knowledge of the subject as a condition for carrying out procurement audits and there is no evidence to tell such auditors recruited with lack of</p> | <p>The internal procedures for selection of auditors should state that auditors to recruit must have minimum knowledge of the subject as a condition for carrying out</p> |

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Red Flags are identified by *

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| <p>routinely supported by procurement specialists or consultants.</p> | <ul style="list-style-type: none"> · Credits in both Math and English at ‘O’ Level. · Good time management skills · Skills in managing teams/supervision · Auditing skills · Excellent planning and organizational skills · Excellent analytical and investigative skills · Advanced report writing skills · Exceptional Communication and interpersonal skills · Age: 21- 30 years <p>The Auditors under Auditor General have qualifications in Auditing /Accounting are professionally regulated under their professional bodies. Auditors under PPDA are compliance Auditors and may not have the same requirements as Auditor General or be professionally regulated.</p> <p>PPDA Auditors should be called compliance assessors and not Auditors.</p> <p>Auditors under Auditor General and Internal Audit General appear to lack capacity in procurement. OAG is building capacity by recruiting Procurement Officers.</p> | | adequate procurement audit competences knowledge are routinely supported by procurement specialists or consultants. | | <p>procurement audits and that auditors recruited must be routinely supported by procurement specialists or consultants.</p> <p>A similar requirement should apply for hiring of procurement audit firms to ensure that key staff have the minimum procurement audit competences to carry out an effective audit assignment.</p> <p>PPDA Auditors should be called compliance assessors and not Auditors.</p> |
| <p>(c) Auditors are selected in a fair and transparent way and are fully independent.</p> | <p>Yes. Advertisements are done in the open media and selection carried out by high level section committees of Board or Management.</p> | Not Applicable | Met | | None. |

13. Procurement appeals mechanisms are effective and efficient

13(a) Process for challenges and appeals

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| (a) Decisions are rendered on the basis of available evidence submitted by the parties. | <p>YES</p> <p>S. I.NO 16, Regulation 4, 7 and 8 make mandatory to provide evidence against the complaint made.</p> <p>Regulation 4. Complaint to Accounting Officer.</p> <p>(1) A bidder who is aggrieved by a decision of a procuring and disposing entity shall make a complaint to the Accounting Officer.</p> <p>(2) The complaint made under sub regulation (1) shall indicate—</p> <p>(a) the name and contact details of the bidder or the person representing the bidder;</p> <p>(b) the procurement or disposal requirement to which the complaint relates;</p> <p>(c) the substantive and factual grounds of the complaint, including—</p> <p>(i) the provision of the Act or regulations made under the Act which are the subject of the breach or omission by the procuring and disposing entity; and</p> <p>(ii) where known, the names of the person involved in the subject of the complaint, the events and the facts that constitute the complaint;</p> <p>(d) the corrective measures requested by the bidder;</p> <p>(e) the documentary evidence and any other evidence, relevant to the complaint, that is in the possession of the bidder; and</p> <p>(f) any other information relevant to the complaint.</p> | Not Applicable | Met | | None |
| (b) The first review of the evidence is carried out by the entity specified in the law. | Yes, the entity specified in the law is the PDE | Not Applicable | <p>Partially met</p> <p>PDEs can award a contract after entity level before the appeal process timeframe is exhausted thereby rendering the process ineffective</p> <p>Lack of legal framework to stop entity to contract before appeal process days are over.</p> | | <p>Legal framework should stop entity from signing contract during the administrative review process within the allowable timeframe for appeal. This provision is</p> |

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| | | | | | provided for in the PPDA amendment bill 2019. |
| <p>(c) The body or Authority (appeals body) in charge of reviewing decisions of the specified first review body issues final, enforceable decisions. *</p> <p>// Minimum indicator // *</p> <p>Quantitative indicator to substantiate assessment of sub-indicator 13(a)</p> <p>Assessment criterion (c):</p> <p>- number of appeals.</p> <p>Source: Appeals body.</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 13(a)</p> <p>Assessment criterion (c):</p> <p>number (and percentage) of enforced decisions.</p> | <p>Yes</p> <p>The tribunal is mandated to listen conduct administrative review. The aggrieved party can appeal to the high court in case they are not satisfied with the decision.</p> | <p>Not assessed</p> <p>Due to lack of data on Number (and percentage) of enforced decisions.</p> | No | | No |

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| Source: Appeals body. | | | | | |
| (d) The time frames specified for the submission and review of challenges and for appeals and issuing of decisions do not unduly delay the procurement process or make an appeal unrealistic. | <p>The times frames are lengthy because they are many Players in the Administrative Review Process</p> <p>Entity level- PPDA Act 90 (1) (b) provides that a complaint by a bidder against a procuring and disposing entity shall be made within 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” Under PPDA Act 90 (2) the entity then carries out investigation and is required to make a decision within fifteen (15) working days.</p> <p>PPDA Tribunal level- Under PPDA Act sec 91 (5), A bidder who upon appeal to PPDA is again not satisfied with the decision of PPDA given under may appeal against the decision of PPDA may appeal to the Tribunal. Under PPDA Act sec 91(I) (7), the Tribunal must issue a decision within a period of not more than ten (10) working days after receiving an application for review.</p> | Not Applicable | Met | | |

13(b) Independence and capacity of the appeals body

The appeals body:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| (a) is not involved in any capacity in procurement transactions or in the process leading to contract award decisions | PPDA Tribunal is not involved in any capacity in procurement transactions or in the process leading to contract award decisions. | | Met | | none |

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| (b) does not charge fees that inhibit access by concerned parties | No it does not charge fees. | Not applicable | Met | | None |
| D(c) follows procedures for submission and resolution of complaints that are clearly defined and publicly available <i>// Minimum indicator</i> <i>// * Quantitative indicator to substantiate assessment of sub-indicator 13(b)</i> <i>Assessment criterion (c):</i> <i>- appeals resolved within the time frame specified in the law/exceeding this time frame/unresolved (Total number and in %).</i> <i>Source: Appeals body.</i> | Yes, it does It has own Regulations under Statutory Instrument 16 of 2016 Also has time frames within the law in which to dispose of a Complaint | All complaints handled by the Appeals Tribunal were resolved within the time frame (100%) | Met | | No |
| (d) exercises its legal authority to suspend procurement proceedings and impose remedies | Yes, with the law, PPDA Act. PPDA (Tribunal) (Procedure) Regulations, 2016. 18. Suspension of procuring or disposal proceedings by Tribunal. Where a party to the proceedings applies to the Tribunal or where the Tribunal is of the view that proceedings before the Tribunal for review of a | Not applicable | Met | | None |



Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified
Red Flags are identified by *

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| | <p>decision of the Authority may be rendered irrelevant if procurement or disposal proceedings subject to the review are not suspended, the Tribunal shall notify the concerned procuring or disposing entity suspending the procurement or disposal proceedings of the entity, until the Tribunal decides on the matter.</p> <p>Under Admin Review Regulations, It is only the PPDA(Authority) to suspend procurement proceedings Yes</p> | | | | |
| (e) issues decisions within the time frame specified in the law/regulations* | <p>Yes</p> <p>It does within the timeframes.</p> <p>Extract from the Tribunal report for 2020</p> <p>In the period, the Tribunal received and successfully determined 13 Applications and 5 References successfully. The Tribunal issued decisions within the ten (10) working days timeline stipulated under the PPDA Act, 2003 after receipt of an application for review</p> | Not applicable. | Met | | None |
| (f) issues decisions that are binding on all parties | <p>Yes</p> <p>There has not been appeals to the high court contesting the TAT decision.</p> | Not applicable | Met | | None |
| (g) is adequately resourced and staffed to fulfil its functions. | The Tribunal is directly under the Ministry responsible for Finance as a subvention, it is adequately resourced and staffed. However, the Tribunal may need to recruit its own support staff. | Not Applicable | Met | | None |

13(c) Decisions of the appeals body

Procedures governing the decision-making process of the appeals body provide that decisions are:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| <p>(a) based on information relevant to the case.</p> | <p>Yes,</p> <p>S. I .NO 16, 2014, Regulation 4, 7 and 8 make it mandatory to provide evidence against the complaint made.</p> <p>S. I .NO 16, 2016, Regulation 6. Application, documents accompanying application, etc.</p> <p>(1) An application made to the Tribunal under section 91I of the Act by—</p> <p>(a) a bidder;</p> <p>(b) a procuring and disposing entity; or</p> <p>(c) any person whose rights are adversely affected by a decision of the Authority, shall be filed with the Tribunal by the applicant or applicant's representative.</p> <p>(2) The application shall—</p> <p>(a) include a brief statement of the reasons for the application and issues on which a decision is sought and shall be accompanied by—</p> <p>(i) the decision to be reviewed, where applicable;</p> <p>(ii) request for information from the Authority, where necessary; and</p> <p>(iii) evidence of payment of filing fee.</p> <p>(b) be as specified in Form 1 set out in the Schedule;</p> <p>(c) be submitted in eight bound copies in book form, with a title on the cover including an index and each page consecutively numbered.</p> <p>(d) be accompanied by a filing fee of three hundred thousand shillings.</p> <p>(3) An application under these Regulations shall be incomplete if not accompanied by the documents referred to in sub regulation (2)(a).</p> | <p>Not Applicable</p> | <p>Met</p> |  | <p>None</p> |
| <p>(b) balanced and unbiased in consideration of the</p> | <p>PART III—PROCEDURE FOR HANDLING APPLICATIONS AND REFERENCES BEFORE THE TRIBUNAL</p> | <p>Sub-indicator 13(c): - Share of suppliers that perceive the challenge and</p> | <p>Met</p> |  | <p>None</p> |

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| <p>relevant information.*</p> <p>Recommended quantitative indicator to substantiate assessment of sub-indicator 13(c) Assessment criterion (b):</p> <ul style="list-style-type: none"> - share of suppliers that perceive the challenge and appeals system as trustworthy (in % of responses). Source: Survey. - share of suppliers that perceive appeals decisions as consistent (in % of responses).Source: Survey. | <p>Lodging of applications and references</p> <p>6. Application, documents accompanying application, etc.</p> <p>7. Reference by the Authority.</p> <p>8. Time within which application or reference may be lodged.</p> <p>9. Procedure on receipt of application or reference.</p> <p>10. Service on the respondent.</p> <p>11. Response to application.</p> <p>12. Response to reference.</p> <p>13. Conferencing session.</p> <p>14. Interlocutory applications.</p> <p>15. Consolidation of applications.</p> <p>16. Withdrawal of applications or references.</p> <p>17. Notification of proceedings.</p> <p>18. Suspension of procuring or disposal proceedings by Tribunal.</p> <p>Review by Tribunal</p> <p>19. Summons to appear before Tribunal.</p> <p>20. Summons for witnesses.</p> <p>21. Service of summons or notices.</p> <p>22. Substituted service.</p> <p>23. Arrest warrant for witnesses.</p> <p>24. Experts.</p> <p>25. Attendance at hearing.</p> <p>26. Order of addresses.</p> <p>27. Rules of evidence.</p> <p>28. Adjournments.</p> <p>29. Recording of evidence.</p> <p>PART IV—MISCELLANEOUS</p> <p>30. Evidence by interrogatories, commissions and letters of request.</p> <p>31. Vacation period.</p> <p>32. Tribunal business in vacation.</p> <p>33. Computation of time.</p> <p>34. Other applications to Tribunal.</p> | <p>appeals system as trustworthy.</p> <ul style="list-style-type: none"> - Share of suppliers that perceive appeals decisions as consistent <p>4.) Decisions of the appeals body</p> <p>4.1) Have you ever participated to a public tender run by a government body?</p> <p>Yes = 85%</p> <p>No = 15%</p> <p>4.2) Have you ever appealed a decision by such a body?</p> <p>Yes = 15%</p> <p>No = 85%</p> <p>Did you feel the system was trustworthy and fair?</p> <p>Yes = 33%</p> <p>No = 67%</p> <p><i>It can be concluded that about 33% of responses (those who participated in the appeal) believe the system is trustworthy and fair</i></p> | <p>Given the quantitative indicators. Also note that at time of survey, the Authority was still involved in the administrative review process but law has since changed – the Authority is no longer part of the administrative review process</p> | |
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| | 35. Application of the Advocates (Remuneration and Taxation of Costs) Rules. 36. Applicability of Rules of Practice and Procedures 37. Communications to Tribunal. | Did you believe the appeal decision was consistent? Yes = 33% No = 67% <i>It can be concluded that about 33% of responses believe the appeal decision was consistent</i> If you answered no to questions above can you explain why? Relevant answers are the following: Wrong disqualification of our bid Took too long to get a decision Settlement made out of court through arbitration | | | | | | | |
| (c) result in remedies, if required, that are necessary to correcting the implementation of the process or procedure.* * Recommended quantitative | Yes, but enforcement is still inadequate | 4.3) If you have never appealed a decision by such a body, it was because: <table><tr><td>you felt the award of the contract was fair and you had no reason to appeal</td><td>50%</td></tr><tr><td>you felt the decision of the</td><td>50%</td></tr></table> | you felt the award of the contract was fair and you had no reason to appeal | 50% | you felt the decision of the | 50% | Partially met Based on quantitative indicators | | Streamline enforcement to assure trust |
| you felt the award of the contract was fair and you had no reason to appeal | 50% | | | | | | | | |
| you felt the decision of the | 50% | | | | | | | | |

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| <p>indicator to substantiate assessment of sub-indicator 13(c) Assessment criterion (c): - outcome of appeals (dismissed; decision in favour of procuring entity; decision in favour of applicant) (in %).Source: Appeals body.</p> | | <p>procurement entity was unfair but you did not believe the appeal system was sufficiently trustworthy to embark in an appeal</p> | | | | |
| | | <p><i>It can be concluded that about 50% of responses felt the decision of the procurement entity was unfair but they did not believe the appeal system was sufficiently trustworthy to embark in an appeal</i></p> <p>4.4) Generally speaking, how would you assess the challenge and appeals system (incl. its consistency) with regards to public procurement? [4 the system acts in accordance with rule of law and are predictable – 3 Most actions within the system are in accordance with rule of law and are predictable – 2 Only a very limited number of actions is in accordance with rule of law and predictable - 1 The actions do not seem to be in</p> | | | | |

accordance with rule of law and are not predictable.]

| | |
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| 4 The system acts in accordance with rule of law and are predictable | 20% |
| 3 Most actions within the system are in accordance with rule of law and are predictable | 30% |
| 2 Only a very limited number of actions is in accordance with rule of law and predictable | 30% |
| 1 The actions do not seem to be in accordance with rule of law and are not predictable | 20% |

Average weightage: 2.5

It can be concluded that 50% of responses believe that the system and most actions within are in accordance with rule of law and are predictable

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| <p>(d) decisions are published on the centralised government online portal within specified timelines and as stipulated in the law.*</p> <p>// <i>Minimum indicator</i> //</p> <p><i>*Quantitative indicator to substantiate assessment of sub-indicator 13(c) Assessment criterion (d):</i></p> <p><i>- share of appeals decisions posted on a central online platform within timelines specified in the law (in %).Source: Centralised online portal.*</i></p> | <p>Decisions are captured in the PPDA Appeals Tribunal Compendium. The decisions can be accessed by the Public if requested but are not mandatorily published by the law.</p> <p>Only the particulars of the summons or notice are published in a newspaper or using other media circulating in the area of residence, work or business of the person.</p> | <p><i>13(c) Assessment criterion (d):</i></p> <p><i>- share of appeals decisions posted on a central online platform within timelines specified in the law (in %).</i></p> <p><i>Not calculated due lack of info</i></p> | Met | | None |
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14. The country has ethics and anticorruption measures in place

14(a) Legal definition of prohibited practices, conflict of interest, and associated responsibilities, accountabilities, and penalties:

The legal/regulatory framework provides for the following:

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| (a) definitions of fraud, corruption and other prohibited practices in | <p>Yes</p> <p>These are mainly defined in section 3 of the Act</p> | Not applicable | Compliance | | None |

Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified
Red Flags are identified by *

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| procurement, consistent with obligations deriving from legally binding international anti-corruption agreements. | Fraud and Conflict of Interest in the Act, Corruption and Corrupt Practices | | | | |
| (b) 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. | The PPDA Act has provided for offenses and Penalties under section 95 of the Act and other sanctions. | Not applicable | Compliance | | None |
| (c) definitions and provisions concerning conflict of interest, including a cooling-off period for former public officials. | Yes Conflict of Interest Under section 91U (3) of the PPDA act and Code of Ethical Conduct. The Law however does not provide for cooling-off period for former public officials. | Not applicable | Partially met The Law does not provide for cooling-off period for former public officials. | | The legal framework should be amended to accommodate a cooling off period for former public officials |

14(b) Provisions on prohibited practices in procurement documents

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| (a) The legal /regulatory | Yes, | Not applicable | Partially met | | The legal framework should |

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| <p>framework specifies this mandatory requirement and gives precise instructions on how to incorporate the matter in procurement and contract documents.</p> | <p>The Act defines fraudulent Practices; however, does not give precise instructions on how to incorporate the matter in procurement and contract documents.</p> <p>“fraudulent practice” includes a misrepresentation of facts in order to influence a procurement or disposal process or the execution of a contract to the detriment of the procuring or disposing entity, and includes collusive practices among bidders prior to or after bid submission designed to establish bid prices at artificial non-competitive levels and to deprive the procuring and disposing entity of the benefits of free and open competition.</p> | | <p>The Act does not give precise instructions on how to incorporate the matter in procurement and contract documents.</p> | | <p>be amended to include an explicit instruction on how to incorporate prohibited practices into procurement and contract documents</p> |
| <p>(b) Procurement and contract documents include provisions on fraud, corruption and other prohibited practices, as specified in the legal/regulatory framework.</p> | <p>Yes, based on the law, Provided for in Bidding Documents with the following; It is the Government of Uganda’s policy to require that Procuring and Disposing Entities, as well as Bidders and Providers observe the highest standards of ethics during procurement and the execution of contracts. In pursuit of this policy, the Government of Uganda; (a) defines, for the purposes of this provision, the terms set forth below as follows: (i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value, to influence the action of a public official in the procurement process or in contract execution; and (ii) “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation; (iii) “collusive practice” is an arrangement between two or more parties designed to achieve an</p> | <p>Not applicable</p> | <p>Met</p> | | <p>None</p> |

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| | improper purpose, including to influence improperly the actions of another party; (iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party. | | | | |
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14(c) Effective sanctions and enforcement systems

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| (a) Procuring entities are required to report allegations of fraud, corruption and other prohibited practices to law enforcement authorities, and there is a clear procedure in place for doing this. | <p>YES but not adequate</p> <p>Section 94 of the PPDA Act Suspension of providers. The Authority may on the recommendation of a procuring and disposing entity or after investigations on its own initiative, suspend a provider from engaging in any public procurement or disposal process for a period determined by the Authority, where—</p> <p>(a) the provider breaches the Code of Ethics of providers; (b) the provider is debarred from the procurement processes of an international agency of which Uganda is a member; (c) after investigations by the Auditor General or an independent body appointed by the Auditor General, the provider is found to have a record of unsatisfactory performance; (d) the provider is convicted of a corrupt practice or a fraudulent practice under this Act; (e) the provider fails to substantially perform the obligations specified in the contract; (f) the provider is suspended by a professional body of the provider, for professional misconduct; or</p> | None | <p>Not met</p> <p>There is no institutionalized inter-agency reporting mechanisms. The reporting and coordination is currently at the whims of the office bearers.</p> | * | Review the legal framework and institutionalize inter-agency reporting mechanisms across relevant anti-corruption agencies. |

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| | <p>(g) the provider is found to have faulted on the obligations specified under the law.</p> <p>Regulation 66 of Rules and Methods Regulations Complaints on the bidding process.</p> <p>(1) A member of a procuring and disposing entity, who suspects collusion between bidders, may request the Authority to investigate the matter.</p> <p>(2) A member of a procuring and disposing entity who suspects mismanagement or malpractice of a procurement or disposal process within the procuring and disposing entity, shall report this to the accounting officer, who shall take the appropriate action.</p> <p>(3) A bidder may complain about the bidding process in accordance with the Public Procurement and Disposal of Assets (Administrative Review) Regulations, 2014.</p> | | | | |
| <p>(b) There is evidence that this system is systematically applied and reports are consistently followed up by law enforcement authorities.</p> | <p>No</p> <p>There is no evidence that the system of effective sanctions and enforcement systems is systematically applied and reports are consistently followed up by law enforcement authorities.</p> | Not Applicable | Not met | | <p>Review the legal framework and strengthen system of effective sanctions and enforcement systems to ensure that reports are consistently followed up by law enforcement authorities</p> |
| <p>(c) There is a system for suspension /debarment that ensures due process and is consistently applied.</p> | <p>Yes</p> <p>The following section is consistently applied Section 94 of the PPDA Act Suspension of providers.</p> | Not Applicable | Met | | <p>PPDA is take the providers through a corrective program before they readmitted</p> |

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| | <p>The Authority may on the recommendation of a procuring and disposing entity or after investigations on its own initiative, suspend a provider from engaging in any public procurement or disposal process for a period determined by the Authority, where—</p> <p>(a) the provider breaches the Code of Ethics of providers;</p> <p>(b) the provider is debarred from the procurement processes of an international agency of which Uganda is a member;</p> <p>(c) after investigations by the Auditor General or an independent body appointed by the Auditor General, the provider is found to have a record of unsatisfactory performance;</p> <p>(d) the provider is convicted of a corrupt practice or a fraudulent practice under this Act;</p> <p>(e) the provider fails to substantially perform the obligations specified in the contract;</p> <p>(f) the provider is suspended by a professional body of the provider, for professional misconduct; or</p> <p>(g) the provider is found to have faulted on the obligations specified under the law.</p> | | | | |
| <p>(d) There is evidence that the laws on fraud, corruption and other prohibited practices are being enforced in the country by application of stated penalties.*</p> <p>* Recommended quantitative indicator</p> | <p>Yes, but not adequately implemented</p> <p>The laws on fraud, corruption and other prohibited practices exist but are not implemented to an acceptable level.</p> | <p>One hundred three (103) providers were recommended for investigation and possible suspension. 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</p> | <p>Partially met</p> <p>Implementation is inadequate</p> | | <p>Calls for coordination of oversight agencies and top management commitment at the highest level of Government. Anti-corruption agencies to sensitize citizen against the vice</p> |

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| <p>to substantiate assessment of sub-indicator 14(c) Assessment criterion (d):</p> <ul style="list-style-type: none"> - Firms/individuals found guilty of fraud and corruption in procurement: number of firms/individuals prosecuted/convicted; prohibited from participation in future procurements (suspended/debarred). Source: Normative/regulatory function/anti-corruption body. - Government officials found guilty of fraud and corruption in public procurement: number of officials prosecuted/convicted. Source: Normative/regulatory function/anti-corruption body. - Gifts to secure public contracts: number of firms admitting to unethical practices, including making gifts in (in %). Source: Survey. | | <p>in nineteen (19) recommendations. Sixty-five (65) cases were still under investigation.</p> <p>In a survey of the private sector and CSOs about 60% of respondents consider that firms are expected to give a gift to secure a contract in the public sector.</p> | | | <p>inappropriate practice.</p> |
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14(d) Anti-corruption framework and integrity training

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| <p>(a) The country has in place a comprehensive anti-corruption framework to prevent, detect and penalise corruption in government that involves the appropriate agencies of government with a level of responsibility and capacity to enable its responsibilities to be carried out.*</p> <p>*Recommended quantitative indicator to substantiate assessment of sub-indicator 14(d) Assessment criterion (a):</p> <p>- percentage of favourable opinions by the public on the effectiveness of anti-corruption measures (in % of responses).</p> <p>Source: Survey.</p> | <p>Yes.</p> <p>The country has in place a comprehensive anti-corruption framework to prevent, detect and penalize corruption in government that involves the appropriate agencies of government. However, corruption findings are not implemented to an acceptable level.</p> <p>Several anti-corruption agencies, are in place, including the Inspectorate of Government (IG), the, Office of the Auditor General (OAG), the Directorate for Public, Prosecution (DPP), the Directorate for Ethics and Integrity (DEI), the Anti-Corruption Court, State House Anti-Corruption Unit, among others, to fight endemic corruption in the country. A number of laws, including: The Inspectorate of Government Act 2002; the Leadership Code Act 2002; the Public Finance and Accountability Act 2003; the Public Procurement and Disposal of Public Assets Act 2003; the Access to Information Act 2005; the Audit Act 2008; the Anti-Corruption Act 2009; and the Whistle Blowers Protection Act 2010 have been put in place. Home-grown and internationally recommended anti-corruption measures such as rescission of contracts, monetary fines, debarment, asset declaration, whistleblowing, imprisonment of corruption culprits, and criminalizing money laundering have also been adopted to help the fight against rampant corruption in Uganda.</p> | <p>Percentage of favorable opinions by the respondents on the effectiveness of anticorruption measures is 75%.</p> | <p>Partially met</p> <p>Enforcement of anticorruption measures still eludes the country.</p> | | <p>Strengthen enforcement of sanctions.</p> |

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| (b) As part of the anti-corruption framework, a mechanism is in place and is used for systematically identifying corruption risks and for mitigating these risks in the public procurement cycle. | No There is no clear written mechanism is for systematically identifying corruption risks and for mitigating these risks in the public procurement cycle | Not Applicable | Not met There is no clear written mechanism is for systematically identifying corruption risks and for mitigating these risks in the public procurement cycle. | | Review legal framework and put in place clear mechanisms for systematically identifying corruption risks and for mitigating these risks in the public procurement cycle |
| (c) As part of the anti-corruption framework, statistics on corruption-related legal proceedings and convictions are compiled and reports are published annually. | Yes , Under IGG report, Directorate of Public Prosecution, however they are no statistics specific to public Procurement Not Applicable | Not Applicable | Partially met Some statistics on corruption-related legal proceedings and convictions are compiled and reports are published in their annual reports but no such reports are published by other oversight agencies such as PPDA, OAG and Uganda Police (CID) | \ | Review legal framework and strengthen the anti-corruption framework to generate interagency, statistics on corruption-related legal audits, investigations, proceedings and convictions are compiled and reports are published annually and put on websites. Better coordination with other oversight Agencies, making use of MOU's. |
| (d) Special measures are in place for the detection and prevention of | Yes Apart from the whistle blowers Act, most interventions are Post contractual after corruption | Not Applicable | Partially met PPDA and IG do not carry out regular audits besides there are no measures for inter-agency coordination | Yes | Review legal framework and strengthen the anti-corruption framework to |

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| corruption associated with procurement. | and fraud has taken place and not necessarily enough to prevent it (may require survey results) | | | | <p>generate coordinated interagency statistics on procurement corruption-related legal audits, investigations, proceedings and convictions</p> <p>Early Involvement of Internal Audit 2. Regulator to give more focus on core mandate by instituting; (i) procurement or disposal audits during the bid preparatory process; (ii) contract audits in the course of the execution of an awarded bid</p> |
| (e) Special integrity training programmes are offered and the procurement workforce regularly participates in this training. | No There is no evidence that special integrity training programs exist | Not Applicable | Not met | <p>Training is carried out as per organizational policy and in accordance with resources available</p> | <p>Provide regular special integrity procurement related training to the procurement workforce.</p> <p>Beyond the legal frame work, look at Capacity Programs</p> |

Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified
Red Flags are identified by *

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| | | | | | on integrity, strengthening Institutions, monitoring, coordinating, Government Commitment, Partnerships and involvement of CSO's among others. |
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14(e) Stakeholder support to strengthen integrity in procurement - CSO

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| (a) There are strong and credible civil society organizations that exercise social audit and control. | <p>No</p> <p>There are a few strong CSOs such as Africa Freedom of Information Centre (AFIC) and The Civil Society Budget Advocacy Group (CSBAG) and The Anti-Corruption Coalition Uganda (ACCU) which conduct advocacy, social audit and control. But they incapacitated in covering the country and also are not involved in overseeing the procurement process.</p> <p>In this regard, there is a 5-year partnership entered in 2018 between the PPDA and the Africa Freedom of Information Centre (AFIC), a CSO. This partnership between PPDA and AFIC has been championing open contracting and access to information regarding service delivery in Uganda. CSOs are also involved in the national budgeting process. During the assessment, the CSOs' involvement in public procurement will be assessed in depth.</p> | | <p>Partially met</p> <p>There are few strong CSOs whose number limits national coverage besides they are not involved in overseeing procurement process transactions</p> | | Strengthen CSOs to enable them participate in overseeing procurement process transactions |
| (b) There is an enabling environment for civil society | <p>No</p> <p>The enabling environment for CSOs is not adequate. Inadequate channels for engagement and feedback that are promoted by the government.</p> | | <p>Not Met</p> <p>No enabling environment and no clear channels for</p> | | Review and institutionalize legal mechanisms to create an |

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| organizations to have a meaningful role as third-party monitors, including clear channels for engagement and feedback that are promoted by the government. | | | engagement of CSOs within the procurement cycle process hence the criterion is not met | | enabling environment with clear channels for engagement and feedback. CSO's to be involved in monitoring and evaluating Procurement Contracts and other processes to the extent without affecting confidentiality. |
| <p>(c) There is evidence that civil society contributes to shape and improve integrity of public procurement.</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(e) Assessment criterion (c): - number of domestic civil society organizations (CSOs), including national offices of international CSOs)</p> | <p>No</p> <p>A few CSOs are involved. The PPDA involves Civil Society Organizations as key stakeholders in public procurement reforms and as such regularly engage them in public procurement training and capacity building. Civil Society Organizations have also been keen on accessing public procurement information and monitoring of contracts and sensitizing the public about public procurement.</p> <p>MoFPED involved some state Actors and CSO's in the TWG meetings amending the PPDA Act.</p> <p>MoFPED also has a quarterly procurement Policy Dialogue Forum where state and non-state Actor Dialogue of Procurement Policy Issues.</p> | <p>Sub-indicator 14(e): - Number of domestic CSOs, including national offices of international CSOs, actively providing oversight and social control in public procurement:</p> <p>5.4) Are you/or your company aware of any CSO actively providing oversight and social control in public procurement? [If yes, please specify If no, do you think CSO involvement in overseeing procurement contracts could be beneficial in the future? Why?]</p> <p>Yes = 10%</p> | <p>Not Met</p> <p>The number of CSOs contributing is inadequate. Many CSOs have to be brought on board to allow wider coverage of the country.</p> | | <p>Involve more CSOs especially those based in the countryside where oversight to local governments is most needed</p> |

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| <p><i>actively providing oversight and social control in public procurement.</i> <i>Source: Survey/interviews.</i></p> | | <p>No = 90%</p> <p><i>It can be concluded that about 90% of responses are not aware of any CSO actively providing oversight and social control in public procurement</i></p> | | | |
| <p>(d) Suppliers and business associations actively support integrity and ethical behaviour in public procurement, e.g. through internal compliance measures.</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(e) Assessment criterion (d): - number of suppliers that have internal compliance measures in place (in %). Source: Supplier database.</p> | <p>Yes They support integrity and ethical behaviour in public procurement. Through their associations such as Uganda manufacturers association, private sector foundation, they actively support integrity through advocacy and regulating the practice of their members. But also, there is fear for reprisal and victimization by individual suppliers which hinders reporting of unethical behavior.</p> <p>No To a large extent, suppliers are also part of the problem through collusion with Government Officials.</p> | <p>Not assessed due to lack of data</p> | <p>Not met</p> <p>Suppliers fear reprisals and victimizations for fear that when they report, they will not be considered in the next round of procurement</p> | | <p>Supplier Association should monitor the behavior of their members and how they acquire government contracts and make a report to the Authority (PPDA)</p> |

14(f) Secure mechanism for reporting prohibited practices or unethical behaviour

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| (a) There are secure, accessible and confidential channels for reporting cases of fraud, corruption or other prohibited practices or unethical behavior. | <p>Yes</p> <p>The whistle Blowers Act Secure in theory but not in practice since there have been instances where the cover has been exposed.</p> <p>Section 94 of the PPDA Act Suspension of providers. The Authority may on the recommendation of a procuring and disposing entity or after investigations on its own initiative, suspend a provider from engaging in any public procurement or disposal process for a period determined by the Authority, where—</p> <p>(a) the provider breaches the Code of Ethics of providers;</p> <p>(b) the provider is debarred from the procurement processes of an international agency of which Uganda is a member;</p> <p>(c) after investigations by the Auditor General or an independent body appointed by the Auditor General, the provider is found to have a record of unsatisfactory performance;</p> <p>(d) the provider is convicted of a corrupt practice or a fraudulent practice under this Act;</p> <p>(e) the provider fails to substantially perform the obligations specified in the contract;</p> <p>(f) the provider is suspended by a professional body of the provider, for professional misconduct; or</p> <p>(g) the provider is found to have faulted on the obligations specified under the law.</p> | | <p>Partially met</p> <p>The reporter is not secure and can be traced hence victimized.</p> | | Strengthen the mechanisms, make them more secure across MDA |

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| (b) There are legal provisions to protect whistle-blowers, and these are considered effective. | Yes The whistle Blowers Act But not very effective since there have been instances where the cover has been lifted – whistle blower exposed | | Partially met Implementation rules /regulations are not in place and they are not very effective | | Implementation rules/ regulations be put in place and popularized effectively |
| (c) There is a functioning system that serves to follow up on disclosures. | Yes The Inspector General of Government, the PPDA, the Directorate of Public Prosecution , Office of the Auditor General, The State House Anti-Corruption Unit | | Partially met The offices have no system of coordinating their work | | These Offices need better Coordination of efforts and Capacity building in Procurement and Disposal. |

14(g) Codes of conduct/codes of ethics and financial disclosure rules

| Assessment criteria | Step 1: <u>Qualitative analysis</u> (comparison of actual situation vs. assessment criteria) | Step 2: <u>Quantitative analysis</u> | Step 3: <u>Gap analysis</u> / conclusions (describing any substantial gaps) | Potential red-flag? | Initial input for recommendations |
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| (a) There is a code of conduct or ethics for government officials, with particular provisions for those involved in public financial management, including procurement. * Recommended quantitative indicator to substantiate assessment of sub-indicator 14(g) Assessment criterion (a): - share of procurement entities that have a mandatory code of conduct or ethics, with particular provisions for those involved in public | PPDA Act describes the principles and ethical conduct expected of procurement practitioners and providers in carrying out public procurement. The Fifth Schedule contains a Code of Ethical Conduct in Business. The leadership Code Act 2017. | | Partially met It is limited to PDU, EC and providers | | Review and institutionalize code of conduct to cover all key actors involved in the procurement cycle including regulators and auditors, investigators, Accounting Officer and other Players in the Procurement process including the User Department. The key players should also be audited on the key aspects of the |

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| financial management, including procurement (in % of total number of procuring entities). Source: Normative/regulatory function. | | | | | Ethical Code of Conduct to which the ascent their signature to or subscribe to. |
| <p>(b) The code defines accountability for decision making, and subjects decision makers to specific financial disclosure requirements.</p> <p>* Recommended quantitative indicator to substantiate assessment of sub-indicator 14(g) Assessment criterion (b): - officials involved in public procurement that have filed financial disclosure forms (in % of total required by law). Source: Normative/regulatory function.</p> | <p>Yes, IG requires officers above a certain rank including heads of procurement units in entities to declare their assets and liabilities to IG every three years.</p> <p>Section 39 of the Second Schedule of Leadership Code Act 2002 provided for Accountant in a Government Department or in a Parastatal, Constitutional Commissions and all other Statutory Bodies set up by an Act of Parliament as specified Officers to disclose their assets and liabilities.</p> <p>The leadership code Act 2017 was amended by substituting for paragraph 39, the following — “39. Accountant, Internal Auditor and Procurement officer in a government department or parastatal, Constitutional Commissions and all other statutory bodies set up by an Act of Parliament.”</p> <p>This implies that all procurement officers must declare their assets and liabilities.</p> | Not assessed, information not available | Met | | None |
| (c) The code is of mandatory, and the | Yes, the declaration of assets and liabilities to IG. | Not Applicable | Met | | The ethical code of conduct in Business |

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| consequences of any failure to comply are administrative or criminal. | <p>A leader who fails without reasonable cause to submit a declaration under this section commits a breach of this Code.</p> <p>Penalties for breach of Code</p> <p>A leader who commits a breach of this Code shall—</p> <p>(a) in the case of a breach under subsection (7) of section 4, have the excess or undeclared property confiscated and forfeited to the Government;</p> <p>(b) in the case of a breach under subsections (6) and (8) of section 4. be dismissed from or shall vacate office;</p> <p>(c) in the case of a breach under subsection (6) of section 10, be liable to—</p> <p>(i) forfeit the benefit equivalent to the gift, hospitality or benefit, to the Government or institution and shall stand warned;</p> <p>(ii) be warned in writing; or</p> <p>(iii) dismissed;</p> <p>(c) in the case of a breach under sections 8(3), 9(4), 11, 15(6) and 16 be liable to dismissal or shall vacate office.</p> | | | | should be linked to the appropriate section in the leadership code Act 2017 for all players in the Procurement Process. |
| (d) Regular training programmes are offered to ensure sustained awareness and implementation of measures. | <p>Yes</p> <p>In a collaborative approach and effort, the anti-corruption Agencies namely: the IG, PPDA, OAG, Justice Law and Order Sector (JLOS) and Directorate of Ethics and Integrity (DEI) have come together to form a ‘syndicate of anti-corruption agencies to counter all forms of corruption. Every year, a special week is set aside in Uganda in respect of the fight against corruption through national and joint awareness campaign.</p> | Not Applicable | Met | | None |
| (e) Conflict of interest statements, financial disclosure forms and information on | No | Not Applicable | Partially met | | Legal provisions for Conflict of interest statements and financial disclosure |
| | | | Conflict of interest statements only for a few actors. | | |

Colour codes: **Green** = Full Compliance; **Yellow** = Gaps Identified; **Red** = Substantial Gaps Identified
Red Flags are identified by *

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| <p>beneficial ownership are systematically filed, accessible and utilised by decision makers to prevent corruption risks throughout the public procurement cycle.</p> | | | <p>Financial disclosure forms and information on beneficial ownership are not in place. Conflict of interest statements and financial disclosure forms and information are NOT:</p> <ul style="list-style-type: none"> • systematically filed, • accessible and • utilized <p>by decision makers to prevent corruption risks throughout the public procurement cycle.</p> | | <p>forms and information should be reviewed and put in place.</p> |
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