

ASSESSMENT OF NATIONAL PROCUREMENT SYSTEMS: COMPILATION OF BASELINE INDICATORS FOR UGANDA

Background

Increasing the effectiveness, efficiency and transparency of public procurement systems is an on-going concern of governments and of the international development community. All have recognized that increasing the effectiveness of the use of public funds, including funds provided through official development assistance, requires the existence of an adequate national procurement system that meets international standards and that operates as intended.

Under the auspices of the joint [World Bank / OECD Development Assistance Committee \(DAC\) Procurement Round Table initiative](#), developing countries and bilateral and multilateral donors worked together from 2003 – 2004 to develop a set of tools and standards that provide guidance for improvements in procurement systems and the results they produce. The Round Table initiative culminated with the adoption, in December 2004, of the "[Johannesburg Declaration](#)" including a commitment for the adoption of the Baseline Indicators Tool as the agreed international standards for assessment of national procurement systems. This tool was incorporated into the Preliminary DAC Guidelines and Reference Series –[Harmonizing Donor Practices for Effective Aid Delivery: Volume III \(Strengthening Procurement Capacities in Developing Countries\)](#) which was tabled during the High level Forum on Aid Effectiveness in Paris in March, 2005. The Paris Declaration, endorsed on 2 March 2005, committed signatory countries and organisations to continue to increase efforts in harmonisation, alignment and managing aid for results with a set of monitorable actions and indicators. Among the 12 indicators of progress in the Paris Declaration was that partner countries have procurement and public financial management systems that either adhere to broadly acceptable good practices or have a reform programme in place to achieve them.

Following the conclusion of the Round Table initiative, under the coordination of the Working Party on Aid Effectiveness of the OECD/DAC, the Joint Venture for Procurement was created and has further advanced the development of the methodology for application of the baseline indicators and associated compliance and performance indicators. The Joint Venture on Procurement, in which both the Organization for Economic Cooperation and Development (OECD) and the World Bank are contributors, oversees the implementation of the Paris Declaration as it relates to procurement and instigates activities to ensure progress towards the procurement-related targets.

The methodology for assessment of national procurement systems is intended to provide a common tool which developing countries and donors can use to assess the quality and effectiveness of national procurement systems. The understanding among the participants in this process is that the assessment will provide a basis upon which a country can

formulate a capacity development plan to improve its procurement system. Similarly, donors can use the common assessment to develop strategies for assisting the capacity develop plan and to mitigate risks in the individual operations that they decide to fund. The long term goal is that countries will improve their national procurement systems to meet internationally recognized standards enabling greater effectiveness in the use of funds to meet country obligations.

To promote these objectives, two types of indicators have been developed:

1. Baseline Indicators (BLI), which assess whether the features of a good procurement system that meets international standards are present. This is based on a review of the legislative and regulatory framework; the institutional framework and management capacity; procurement operations and market practices; and the integrity and transparency of the public procurement system.
2. Compliance and performance indicators (CPI), which are based on statistical data obtained from national statistics or from a representative sample of contracts and interviews or surveys with stakeholders in the procurement system. An objective is to find out the degree to which the system is following its own regulations or what the perception of compliance is in those cases where the indicator cannot be measured quantitatively.

22 countries from Africa, Asia, Latin America and the Caribbean have been selected as pilot countries in an exercise to field test the new common methodology under different country conditions in order to improve the quality and the usefulness of the methodology and to support an improved policy dialogue between partner countries and their development partners about procurement reforms and capacity development. Uganda has been selected as one of the 13 participating African countries in the pilot exercise.

DFID has recently agreed to sponsor PPDA in compiling CPIs and in the further application of benchmarking and monitoring tools during Financial Year 2007-08, based on further guidelines from the Joint Venture. An initial compilation of CPIs is presently being undertaken by a consultant.

This paper is concerned with presenting BLIs for the Ugandan procurement system according to the latest methodology. A similar exercise in compiling BLIs according to the methodology then prevailing was undertaken in 2005 and presented to the Working Group for validation.

Baseline Indicators for the Ugandan public procurement system

The methodology has a scoring system ranging from 3 to 0 for each baseline sub-indicator. A score of 3 indicates full achievement of the stated standard. A score of 2 is

given when the system exhibits less than full achievement and needs some improvements in the area being assessed and a score of 1 is for those areas where substantial work is needed for the system to meet the standard. A rating of 0 is the residual indicating a failure to meet the proposed standard. The score for each sub indicator has to be a whole number from 0 to 3.

In accordance with the recommended methodology, a team drawn from staff of PPDA and UNDP who had attended a workshop in Nairobi in February 2007 where the methodology was presented made an assessment of the extent of achievement within Uganda of the baseline indicators, giving a score for each indicator.

It was clarified at the Nairobi workshop that scores should be based on the national procurement system, even where there may be variations in the local government system.

In the following account of each indicator, the guidelines from the methodology document are reproduced in italics, followed by a table giving the scoring criteria, the proposed score for the Ugandan procurement system and a note on the reasons given for the score.

Pillar 1: Legislative and Regulatory Framework

Indicator 1. Public procurement legislative and regulatory framework achieves the agreed standards and complies with applicable obligations.

This indicator covers the legal and regulatory instruments from the highest level (national law, act, regulation, decree, etc) down to detailed regulation, procedures and bidding documents formally in use. This indicator is broken into the following eight sub indicators that are individually scored.

Sub-indicator 1 (a) – Scope of application and coverage of the legislative and regulatory framework.

The OECD guidelines state that the purpose of this sub-indicator is to determine: a) the structure of the regulatory framework governing the public procurement; b) the extent of its coverage; and c) the public access to the laws and regulations.

The assessor should evaluate adequacy of the structure of the legal framework, its clarity and the precedence of the different instruments. It is important that the legal framework be differentiated between laws, regulations and procedures and that precedence is firmly established to minimize inconsistencies in application. Higher level instruments normally should be less detailed and more stable. Their modification requires higher levels of authority and for this reason the stability of different provisions and of the entire systems depends on where in hierarchy of the legal framework the different provisions are placed.

The assessor should also evaluate the extent to which the legal framework applies to all procurement (goods, works and services, including consulting services) undertaken using public funds and the extent to which national legislation applies to all public bodies and

sub-national governments and entities when national budget funds are used. A particular aspect to evaluate is whether the laws or regulations exclude agencies or parts of the public expenditure from the provisions of the law (i.e. the army, defence or similar expenditures, autonomous or specialized state owned enterprises) and whether these exclusions are made by law or can be made administratively and not subject to public oversight.

Uniformity and universality of coverage contribute to predictability and savings in the operation of the procurement system, while access to the rules and regulations contribute to transparency thereby resulting in more economic procurement. .

Accessibility to the laws can be through availability in public places of easy access to the public. If the information is primarily posted on the Internet, the assessor should verify accessibility of information to the public.

Scoring criteria	Range of scores	Uganda's score
The legislative and regulatory body of norms complies with all the following conditions: a. Is adequately recorded and organised hierarchically (laws, decrees, regulations, procedures) and precedence is clearly established. b. All laws and regulations are published and easily accessible to the public at no cost. c. It covers goods, works and services (including consulting services) for all procurement using national budget funds.	3	3
The legislative and regulatory body of norms complies with (a) plus one of the above conditions.	2	
The legislative and regulatory body of norms complies with (a) of the above conditions.	1	
The system does not substantially comply with any of the above conditions.	0	

The Public Procurement and Disposal of Public Assets Act no.1 of 2003 and its attendant Regulations were deemed to comply with the conditions a, b, and c. The Public Procurement and Disposal of Public Assets Act, no. 1 of 2003, governs all public procurement in the country. The Act is supported by Regulations, Guidelines, Forms and Standard Bidding Documentation. The laws are published and accessible to the public on the PPDA website. The law covers goods, works and services. These are also covered in the PPDA Regulations under division i, ii, iii respectively.

Sub-indicator 1(b) – Procurement Methods

This sub indicator assesses whether the legal framework includes: a) a clear definition of the permissible procurement methods; and b) the circumstances under which each method is appropriate.

The legal framework should make open competitive tendering the default method of procurement. The law and regulations should define the situations in which other less

competitive methods can be used and ensure that acceptable justification and approval levels are clearly specified. Fractioning of contracts to avoid open competition should be prohibited.

The hierarchy of the legal instruments where acceptable procurement methods are established should be such that the discretion of individual agencies or procurement officials is reasonably controlled to minimize the use of methods that limit competition.

Scoring criteria	Range of scores	Uganda's score
The legal framework meets all the following conditions: (a) Allowable procurement methods are established unambiguously at an appropriate hierarchical level along with the associated conditions under which each method may be used, including a requirement for approval by an official that is held accountable. (b) Competitive procurement is the default method of public procurement. (c) Fractioning of contracts to limit competition is prohibited. (d) Appropriate standards for international competitive tendering are specified and are consistent with international standards	3	3
The legal framework meets the conditions of (a) and (b) plus one of the remaining conditions.	2	
The legal framework meets the conditions of (a) and (b).	1	
The legal framework fails to substantially comply with any three of the conditions a) through d).	0	

The legal framework (PPDA Act and Regulations) establish the procurement methods under Part VI of the PPDA Act and under Part IV, Division III of the PPDA Regulations. Section 80 of the PPDA Act also determines competitive procurement as the default method of procurement. Regulation 109 of the Regulations defines situations in which less competitive methods could be used. The law prohibits fractioning of contracts to avoid open competition. The law also specifies under Section 29 of the PPDA Act that the Contracts Committee is responsible for approving the methods of procurement. The standards for international competitive tendering are also specified under the 4th schedule of the PPDA Act 2003.

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

This sub indicator assesses whether: a) the legal framework includes requirements to publish contract awards as a matter of public interest and to promote transparency; b) there is wide and easily accessible publication of business opportunities; and, c) there is adequate time provided between publication of opportunities and submission date,

consistent with the method and complexity of the procurement, to prepare and submit proposals.

Time between publication of the invitation for prequalification applications, or for an open tender and the submission of proposals relates to the complexity of the procurement and the level of competition expected. If foreign bidders are expected to compete, this is a factor to consider. The law and regulations should establish the criteria for setting the minimum time between advertisement and submission of proposals.

Scoring Criteria	Range of scores	Uganda's score
The legal framework meets the following conditions : <ul style="list-style-type: none"> (a) Requires that procurement opportunities other than sole source or price quotations be publicly advertised. (b) Publication of opportunities provides sufficient time, consistent with the method, nature and complexity of procurement, for potential bidders to obtain documents and respond to the advertisement. Such timeframes are extended when international competition is sought. (c) Publication of open tenders is mandated in at least a newspaper of wide national circulation or in a unique Internet official site, where all public procurement opportunities are posted, that is easily accessible. (d) Content of publication includes sufficient information to enable potential bidders to determine their ability and interest in bidding. 	3	3
The legal framework meets the conditions of (a) and (b) plus one of the remaining conditions.	2	
The legal framework meets the conditions of (a) plus one of the remaining conditions.	1	
The legal framework only meets the conditions of (a) above.	0	

The regulatory framework (Regulation 141 of the PPDA Regulations) specifies the minimum advertising period for each procurement method. The same Regulation requires bids to be published in a newspaper of wide circulation. The law also requires entities to post their bid notices on the PPDA website. Regulation 140 also requires that a bid notice be based on the standard format that is provided for in the 7th schedule. This provides sufficient information for potential bidders to determine whether they are able to meet the requirements of the bid.

Sub-indicator 1(d) – Rules on participation

This sub-indicator assesses the participation and selection policies to ensure that they are non discriminatory. As a general principle, firms, including qualified foreign firms, should not be excluded from participating in a tendering process for reasons other than lack of qualifications. Exclusions from tendering that are not based on the qualifications of the firm may arbitrarily limit competition and may result in inefficient procurement and higher prices.

There may be cases in which the legal framework will allow restrictions that require purchasing from or associating with domestic firms, or mandate inclusion of a minimum locally manufactured content. Many countries also allow price preferences for domestic firms. Excessive price preferences or other concessions for certain groups of bidders can deter effective competition and reduce gains in efficiency. The assessor should review carefully the justification and adequacy of these provisions to ensure that they do not unduly affect the economy and efficiency of the system. The regulatory framework should not include the obligation for foreign firms to associate with local firms or to establish subsidiaries in the country as a condition of bidding. These conditions may promote the maintenance of oligopolistic or monopolistic conditions as opposed to promoting local industry development and can be a de facto barrier to competition.

Registration as a condition to participate in a bid may become an entry barrier unless registration is open all the time and can be completed in a simple way any time prior to contract award.

Administrative debarment (e.g. failure to perform in earlier contracts, etc.) is acceptable provided that there is due process to reach the decision and that the process, including any possible appeals, has been exhausted.

Other legitimate exclusions (e.g. prohibition of commercial relations by law or adherence to UN Security Council sanctions) or for judicial finding of corruption (after the due process has been exhausted) are acceptable. There also may be international agreements that limit participation to members of the agreements.

Participation of state owned enterprises should be governed by rules that create a level playing field for all competitors and should not be subject to preferential treatment on account of subsidies or tax exemptions, etc.

Scoring Criteria	Range of scores	Uganda's score
<p>The legal framework meets the following conditions:</p> <p>(a) Establishes that participation of any contractor or supplier or group of suppliers or contractors is based on qualification or in accordance with international agreements; requires the use of pass/fail basis for determining qualifications to extent possible; limits domestic price preferential, if allowed, to a reasonable amount (e.g. 15% or less); and requires justification for set asides that limit competition.</p> <p>(b) Ensures that registration if required does not constitute a barrier to participation in tenders and does not require mandatory association with other firms.</p> <p>(c) Provides for exclusions for criminal or corrupt activities, administrative debarment under the law subject to due process or prohibition of commercial relations.</p> <p>(d) Establishes rules for the participation of government owned enterprises that promote fair competition.</p>	3	
The law and regulations meet the conditions of (a) and (b) plus one of the remaining conditions.	2	2
The law and regulations meet the conditions of (a) plus one of the remaining conditions.	1	
The law and regulations do not meet the conditions of a) through d) above.	0	

The Regulatory system meets the conditions a, b and c. However, there are no clear rules for the participation of Government-owned enterprises that promote fair competition. This condition is among the considerations being made in the amendment of the law, a process that is still at the consultations stage.

Sub-indicator 1(e) – Tender documentation and technical specifications

The sub indicator assesses the degree to which the legal framework specifies the content of tendering or solicitation documents to enable suppliers to understand clearly what is requested from them and how the tendering process is to be carried out.

Tendering documents should contain sufficient information to enable the submission of responsive tenders/proposals and to establish the basis for a transparent evaluation and award process. Specifications included in the tender documents must be neutral and refer to international standards where possible or other officially recognized standards that are essentially equivalent to the ones specified.

It is important that the content requirements for tender and solicitation documents are relevant to making an award decision. Information not needed for the process should not be required as part of the submission. Excessive information and documentation

requirements are considered to cost money and can reduce competition or lead to disqualification of potential bidders on the basis of unnecessary requirements.

Scoring Criteria	Range of scores	Uganda's score
The legal framework meets the following conditions: (a) Establishes the minimum content of the tender documents and requires that content is relevant and sufficient for tenderers to be able to respond to the requirement. (b) Requires the use of neutral specifications citing international standards when possible. (c) Requires recognition of standards which are equivalent when neutral specifications are not available.	3	3
The legal framework substantially meets the conditions of (a) plus one of the remaining conditions.	2	
The legal framework meets the conditions of (a).	1	
The content of the bidding documents is totally or largely left at the discretion of the procuring entity.	0	

There are Standard Bidding Documents which establish the minimum content of the tender documents and ensures that this is sufficient to enable bidders to respond. Regulation 135 requires a statement of requirements to use common specification standards based on national or international standards.

Sub-indicator 1(f) – Tender evaluation and award criteria

This sub indicator assesses: a) the quality and sufficiency of the legal framework provisions in respect to the objectivity and transparency of the evaluation process; and, b) the degree of confidentiality kept during the process to minimize the risk of undue influences or abuse.

Pre disclosed and objective criteria are essential for efficiency, fairness and transparency in the evaluation of tenders. Objectivity means that there is little room for subjective interpretation of the criteria by the evaluator. For this reason it is desirable that evaluation criteria be quantifiable as far as possible, or stated in pass/fail terms. Exceptions include consulting services or other requirements where scoring of the technical aspects of a proposal is needed.

The decision criteria for award should be based on awarding to the lowest price evaluated tender. Vague criteria (e.g. award to the tender most convenient to the interest of the state) are not acceptable. The regulatory framework should prohibit the use of evaluation criteria different from those set out in the tendering documents.

Confidentiality and regulated communications with the bidders during the evaluation period are necessary to avoid abuse and undue interference in the process. The evaluation period comprises from the conclusion of the bid opening to the point at which the award of the contract is decided and announced. Information related to the evaluation process and results can be disclosed to interested parties after the evaluation is complete. There should be rules of disclosure that protects information provided by bidders that is of proprietary nature, commercially or financially sensitive.

Scoring criteria	Range of scores	Uganda's score
<p>The legal framework mandates that:</p> <p>(a) The evaluation criteria are relevant to the decision, and precisely specified in advance in the tender documents so that the award decision is made solely on the basis of the criteria stated in the tender documents.</p> <p>(b) Criteria not evaluated in monetary terms are evaluated on a pass/fail basis to the extent possible.</p> <p>(c) The evaluation of proposals for consulting services gives adequate importance to the quality and regulates how price and quality are considered.</p> <p>(d) During the evaluation period, information relating to the examination, clarification and evaluation of tenders is not disclosed to the participants or to others not involved officially in the evaluation process;</p>	3	3
The legal framework covers the conditions of (a) and (b) plus one of the remaining conditions.	2	
The legal frame work covers (a) but does not fully cover the other conditions.	1	
The legal framework does not adequately address any of the conditions (a) through (d) above	0	

The Regulatory system meets all the 4 conditions. Section 71 (2) of the PPDA Act requires evaluation criteria to be detailed in the solicitation documents. Regulation 330 (2) of the PPDA Regulations also allows for pass / fail basis method of evaluation for non monetary evaluation. Regulation 330 also stipulates how price and quality should be considered during evaluation. Section 47 of the Act requires confidentiality to be maintained.

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

This sub indicator assesses how the legal framework regulates the process of reception of tenders and tender opening. Public opening of tenders is a means of increasing transparency to an open tendering exercise. Bidders or their representatives must be permitted to attend, as well as others legitimately interested (e.g. representatives of civil society bodies duly recognized as having a stake on the tendering process). Opening immediately after the deadline for submission of tenders diminishes the possibility of loss or alteration of proposals or submissions.

The exception to this rule may be opening of prequalification submissions or opening of technical proposals for consulting services (that are not priced) in which cases they may

be opened privately followed by a simple notification to all participants of the list of submissions.

The law or regulations should establish that for open tendering, the names and addresses of the bidders and the tender prices (and any withdrawals or modifications to tenders duly submitted), and those of any alternative offers requested or permitted are read aloud and recorded. Records should be retained and available for review and audit purposes.

For appropriate security, tenders should be submitted in sealed envelopes and maintained in a safe place with access controlled. In the case of electronic tendering, online submissions must be received into an electronic bid box and maintained to high standards of security for long term record-keeping and audit. At no time shall bids/proposals be in unencrypted format. Copies decrypted for bid evaluation purposes shall not affect the integrity of the original record.

Clarity on how bids are submitted is critical in minimizing rejection of otherwise compliant proposals. The law and the regulations must give clear provisions in this respect. For example, the number of copies, the sealing and marking of envelopes and in the case of electronic bidding, the security requirements should all be specified.

Scoring Criteria	Range of scores	Uganda's score
The legal framework provides for the following conditions: (a) Public opening of tenders in a defined and regulated proceeding immediately following the closing date for bid submission. (b) Records of proceedings for bid openings are retained and available for review. (c) Security and confidentiality of bids is maintained prior to bid opening and disclosure of specific sensitive information during debriefing is prohibited. (d) The modality of submitting tenders and receipt by the government is well defined to avoid unnecessary rejection of tenders.	3	3
The legal framework provides for (a) and (b) plus one of the remaining conditions.	2	
The legal framework provides for (a) plus one of the remaining conditions.	1	
There is no requirement in the legal framework for public opening of tenders.	0	

All 4 conditions are met. Regulation 160 defines conditions for the opening of public tenders. Regulation 164 requires that the opened bids are to be kept in a secure place. Regulation 164 also allows for records of bid opening to be available for review. Regulation 159 stipulates how bids are to be received and Regulation 159 (2) requires that the security and confidentiality of bids is maintained prior to bid opening.

Sub-indicator 1(h) – Complaints

The purpose of this indicator is to assess whether the legal framework establishes; a) the right to review, b) the matters that are subject to review; c) the timeframe for such reviews; and, d) the different steps in the review process.

Confidence in a procurement system is a powerful incentive to competition. A fundamental part of this is the establishment of the right to review procurement decisions by an efficient and functionally independent process.

Even though the first review is normally carried out by the procurement entity, there should be an administrative/judicial review body that is independent from the procuring agency. That is, has no direct interest in the procurement process and does not report to the procurement agency and ideally is a separate agency.

Scoring Criteria	Range of scores	Uganda's score
The legal framework provides for the following: (a) The right to review for participants in a procurement process (b) Provisions to respond to a request for review at the procuring/agency level with administrative review by another body independent from the procuring agency that has the authority to grant remedies and includes the right for judicial review. (c) Establishes the matters that are subject to review (d) Establishes timeframes for issuance of decisions by the procuring agency and the administrative review body.	3	3
The legal framework provides for (a) and (b) plus one of the remaining conditions.	2	
The legal framework provides for (a) plus one of the remaining conditions.	1	
The right for review of the proper application of the procurement process is not provided in the legal framework.	0	

The law provides for the right of review for participants in a procurement process. Section 89-91 of the PPDA Act provide for administrative review where a bidder feels there is a breach of the Regulations, with the review being conducted by the Accounting Officer of the entity concerned in the first instance but providing for a right of appeal to the Authority if the bidder is not satisfied with the Accounting Officer's decision. The matters that are subject to review are defined under Regulation 343, while Regulation 344 establishes the time frames for issuance of decisions by the procuring agency and administrative body. Although it is not specified in the law, parties have a right to go to Court when not satisfied with the decision of the Authority.

Indicator 2. Existence of Implementing Regulations and Documentation

This indicator verifies the existence, availability and quality of implementing regulations, operational procedures, handbooks, model tender documentation, and standard conditions of contract. Ideally the higher level legislation provides the framework of principles and policies that govern public procurement. Lower level regulations and more detailed instruments supplement the law, make it operational, and indicate how to apply the law to specific circumstances. This indicator consists of six sub-indicators (a-f).

Sub-indicator 2(a) – Implementing regulation that provide defined processes and procedures not included in higher-level legislation

This sub-indicator aims at verifying the existence, clarity, accessibility and comprehensiveness of regulations to the law that further detail and clarify its application. Regulations are an important aspect of a procurement system as they provide the detail that explains and enables the application of the legal framework in a variety of applications.

Scoring Criteria	Range of scores	Uganda's score
There are regulations that supplement and detail the provisions of the procurement law that meet the following requirements: (a) They are clear, comprehensive and consolidated as a set of regulations available in a single and accessible place (b) They are updated regularly; (c) The responsibility for maintenance is defined.	3	3
The regulations meet the conditions of (a) plus one of the remaining conditions.	2	
The regulations exist but there is no regular updating, the responsibility for updating is not clearly defined or there are many important omissions in the regulations or inconsistencies with the law.	1	
There are no regulations or the existing ones do not meet substantially any of the requirements listed above.	0	

The PPDA regulations are clear and comprehensive and are accessible to the public through the PPDA website and Uganda Government Gazette. They came into place in 2003. Responsibility for maintenance and monitoring their compliance forms part of the mandate of the Department of Legal and Compliance in PPDA. A process for reviewing the Act and Regulations is presently underway.

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

Model documents of good quality promote competition and increases confidence in the system. Potential contractors or suppliers are more willing to participate when they are

familiar with the documents and their interpretation. Model documents should contain the basic required clauses that will be incorporated into contracts in order to enable the participants to value the cost and risk of mandatory clauses when performing a contract for the government. If model documents are not available, there should be, as a minimum, a set of standard and mandatory clauses and templates that will help in the formulation of the tender documents.

Scoring Criteria	Range of scores	Uganda's score
<p>(a) There are model invitation and tender documents provided for use for a wide range of goods, works and services procured by government agencies;</p> <p>(b) There is a standard and mandatory set of clauses or templates that are reflective of the legal framework, for use in documents prepared for competitive tendering.</p> <p>(c) The documents are kept up to date with responsibility for preparation and updating clearly assigned.</p>	3	3
Model documents and a minimum set of clauses or templates are available, but the use of such documents is not mandatory or regulated. The documents are not updated regularly.	2	
Model documents are not available, but a set of mandatory clauses is established for inclusion in tender documents.	1	
There are no model documents and the procuring entities develop their own documents for with little or no guidance.	0	

The Ugandan system meets all 3 conditions. There are Standard Bidding Documents which PDEs are required to use. Regulation 318 of the PPDA Regulations also details the contents of a solicitation document. The updating and preparation of the standard bidding documents is the responsibility of the Department of Legal and Compliance in the PPDA.

Sub-indicator 2(c) – Procedures for pre-qualification

This sub-indicator covers the existence of procedures for pre-qualification of participants in a particular procurement. Pre-qualification is normally limited to requirements of a high level of complexity where it is possible to determine, primarily using pass/fail criteria, if the interested companies possess the capacity to perform the requirement. Assessment of qualifications can be combined with the tender documents as part of the specific procurement or it can be initiated as a separate exercise that is conducted before full offers are requested. In highly complex procurement, use of pre-qualification as a separate process can make the procurement more efficient by ensuring only qualified participants are included and it can save money by limiting the number of participants incurring the expense of putting together a comprehensive bid.

Pre-qualification should be defined by procedures in order to ensure that it is not abused and used as a method for limiting competition by overstating the qualification requirements.

Scoring Criteria	Range of scores	Uganda's score
Procedures exist that define pre-qualification which: (a) Provide for limitations on the content of pre-qualification criteria that are based on the needs of the specific procurement (b) Specify the use of pass/fail for application of qualification criteria. (c) Provide guidance on when to apply a pre-qualification procedure.	3	3
Procedures exist that cover (a) plus one of the remaining conditions.	2	
Procedures exist that cover (a).	1	
Procedures for the application of pre-qualification procedures do not exist.	0	

The use of pre-qualification is fully detailed in Division IV of the PPDA Regulations. It is stated in Regulation 124 (2) that the criteria for pre-qualification shall be limited to what is necessary for performance of the intended contract and shall not be unduly restrictive. The evaluation criteria facilitate the use of pass/fail grounds. Regulation 120 provides guidance on when to apply pre-qualification procedure.

Sub-indicator 2(d) – Procedures suitable for contracting for services or other requirements in which technical capacity is a key criterion.

If technical capacity and/quality is a key criteria for selection of consulting services or other requirements, the law should specify clearly how this aspect is to be considered. While technical qualifications can be assessed by a pass/fail review, in most cases a scored evaluation of technical qualification against stated criteria is considered necessary in order to select the highest qualified proposal, price and other factors considered. In the case of consultants and other professional services, selection based on technical qualifications alone should also be authorized.

If a combination of price and technical capacity is permitted by law, it should establish the obligation to include in the solicitation documents the manner in which they are combined and the relative weights to be allocated to technical capacity and price.

Scoring Criteria	Range of scores	Uganda's score
The legal framework and its implementing regulations provide for the following: (a) Conditions under which selection based exclusively on technical capacity is appropriate and when price and quality considerations are appropriate. (b) Clear procedures and methodologies for assessment of technical capacity and for combining price and technical capacity under different circumstances.	3	3
Implementing regulations meet a) above but leave b) to the discretion of the procuring entity.	2	
Implementing regulations leave the possibility of use of technical capacity in selection but neither the law nor the regulations elaborate on the procedure.	1	
Neither the law nor implementing regulations cover this procedure	0	

Regulations 203-205 describe the circumstances when quality based selection should be used and Regulations 210-213 similarly describe how least cost selection should be used. Regulations 214-217 provide clear procedures to be followed in the assessment of technical capacity and combining price and technical capacity.

Sub-indicator 2(e) – User's guide or manual for contracting entities

This sub-indicator covers the existence of a user's guide or manual for contracting entities. This is an important implementation tool that can help provide staff with information that incorporates the law, policy and procedures and helps turn policy into practice. Such tools are more important as a system becomes more decentralized. Creating a manual or user's guide is often a function of a central management unit and can help create a consistency of application within the government procurement system. Although not a substitute for training, a manual can contribute to building and maintaining capacity and provides an easy reference for users.

Scoring Criteria	Range of scores	Uganda's score
(a) There is a unique procurement manual detailing all procedures for the correct administration of procurement regulations and laws. (b) The manual is updated regularly; (c) The responsibility for maintenance of the manual is clearly established.	3	3
There is no unique manual but there is an obligation for the procuring agencies to have one that meets conditions (b) and (c.)	2	
There is no manual and no obligation to have one but many procurement agencies have an internal manual for administration of procurement.	1	
There is no manual or requirement to have one.	0	

There is a Users' Guide presenting the Act Regulations and Guidelines in user-friendly format that is published in hard copy and on the PPDA website. The responsibility for maintenance of the user guide rests with the department of Legal and Compliance in the PPDA. The Users' Guide was issued in 2004. Since then there have been no changes to the Act or Regulations but a revised version of the Guide will be produced once the planned legislative revisions have been completed. A similar Guide for local governments' procurement is in preparation.

Sub-indicator 2(f) – General Conditions of Contracts (GCC) for public sector contracts covering goods, works and services consistent with national requirements and, when applicable, international requirements

This sub-indicator deals with General Conditions of Contracts that set forth the basic provisions which will be included in a contract with the government. The GCC are based on the laws in the country and generally reflect the commercial codes that deal with contracts between parties. It is important to participants in a procurement that they know the specific conditions under which they will perform a contract before they submit a price for performing the contract since conditions of contract will often have an impact on pricing. The GCC provide information that enables participants to understand the allocation of risk between parties to a contract as well as other obligations that the signatories to the contract will incur.

It is important that the government establish GCC that are consistent, applicable to the requirement, and are reflective of laws that impact on contracts and their performance. GCC need to be mandatory in their use and not subject to negotiations on terms and conditions of contract.

Scoring Criteria	Range of scores	Uganda's score
Both of the following apply: a) There are GCC for the most common types of contracts and their use is mandatory. b) The content of the GCC is generally consistent with internationally accepted practice.	3	3
There are GCC for the most common types of contracts, consistent with international practice, but their use is not mandatory.	2	
There are GCC for the most common types of contracts but they do not conform to internationally accepted practice and their use is not mandatory.	1	
There are no GCC and individual agencies use the form of contract of their choice.	0	

The Standard Bidding Documents contain general conditions of contracts which are consistent with internationally accepted standards because only special conditions of contract can be added but none of the general conditions of contract can be removed or added.

Pillar II. Institutional Framework and Management Capacity

Pillar II looks at how the procurement system as defined by the legal and regulatory framework in a country is operating in practice through the institutions and management systems that are part of the overall public sector governance in the country.

Indicator 3. The public procurement system is mainstreamed and well integrated into the public sector governance system.

This indicator looks at the procurement system to: a) determine its suitability to discharge the obligations prescribed in the law without gaps or overlaps; b) whether the necessary links with other sectors of government affecting procurement exist; c) whether procurement operations are constrained by other external institutional factors; and d) whether the managerial and technical capacity of the system are adequate to do procurement without unnecessary cost or delay.

This indicator deals with the degree of integration of the procurement system with other parts of government and particularly with the financial management system given the direct interaction between the two, from budget preparation and planning to treasury operations for payments. There are four sub-indicators (a-d) to be scored under Indicator 3.

Sub-indicator 3(a) – Procurement planning and associated expenditures are part of the budget formulation process and contribute to multiyear planning

Formulation of annual or multi annual budgets are based on the outcomes or outputs that the government as a whole and its agencies expect to achieve in a particular period. Overall government or sector strategies are the basis for the exercise. These determine

the multi year corporate plans, the associated operating plans for each fiscal period and the procurement of goods, works and services necessary to implement the plans. Proper preparation of budgets needs reliable cost data and timetables for planned procurement.

Procurement plans need to be periodically updated as the budget may be updated and revised to reflect changes that take place in timing of contracts. Experience based on the actual cost of goods, works and services provide excellent information to predict the cost of similar goods, works or services in future budget years. Understanding the timing of major contracts can also help to predict cash flow needs within government to make timely payments and reduce the extra costs associated with delaying contract completion and not having adequate funds to finance full performance.

Scoring Criteria	Range of scores	Uganda's score
<p>There is a regular planning exercise instituted by law or regulation that:</p> <ul style="list-style-type: none"> • starts with the preparation of multiyear plans for the government agencies, from which annual operating plans are derived • followed by annual procurement plans and estimation of the associated expenditures • And culminates in the annual budget formulation. <p>Procurement plans are prepared in support of the budget planning and formulation process.</p>	3	
<p>The majority of procurement plans are prepared based on the annual and multiyear operating plans independently from budget allocation but they are revised to meet the forward budget estimates for the sector or agency allocations before expenses are committed.</p>	2	2
<p>Procurement plans are normally prepared based on the annual and multiyear operating plans. Links with budget planning are weak and plans are not required to match the budgetary allocation available before expenses are committed.</p>	1	
<p>There is no integrated procurement and budget planning of the nature described. Procurement plans are drawn without obvious and direct connection with the budget planning exercise and there is no requirement to match procurement plans with availability of funds before expenses are committed.</p>	0	

Although the Ministry of Finance and Economic Planning and Development's budget call circular requires entities to submit procurement plans that are derived from their annual work plans and budgets, procurement planning is not required by law. The second statement would seem to correspond most closely to the practice in Uganda.

Sub-indicator 3(b) – Budget law and financial procedures support timely procurement, contract execution, and payment.

This sub-indicator assesses the degree to which budget law and financial management procedures are adequate to meet procurement needs. The processes in place should not

constrain the timely processing of procurement or the implementation of contracts. The procurement, budget and financial management systems should interact in a way that once procurement decisions are made they trigger the corresponding actions on the budget and financial side.

(a) Budget funds are committed or appropriated within a week from the award of the contract to cover the full amount of the contract (or amount to cover the portion of the contract to be performed within the budget period).

(b) There are published business standards for processing of invoices by the government agencies that meet obligations for timely payment stated in the contract.

(c) Payments are authorized within four weeks following approval of invoices or monthly certifications for progress payments.

Scoring Criteria	Range of scores	Uganda's score
Budget and financial procedures in place meet the requirements of a) to c) above	3	
Budget and financial procedures in place meet the requirements of a) but there are no published business standards. Authorization of payments is generally timely.	2	
Procedures in place take longer than stated in a) and conditions b) and c) are not generally met.	1	1
The procedures in place do not meet the requirements in a material way.	0	

Regulation 105 provides that no entity shall initiate procurements before confirmation of funds. However, while the standard calls for commitment of funds before procurement can be made, actual practice frequently falls short of this standard.

Sub-indicator 3 (c) – No initiation of procurement actions without existing budget appropriations.

This indicator assesses whether there are safeguards in the system precluding initiation of procurement actions unless funds have been allocated to the procurement in question. For this the following requirements should be in place:

(a) The law requires certification of availability of funds before solicitation of tenders takes place.

(b) There is a system in place (e.g. paper or electronic interface between the financial management and the procurement systems) that ensures enforcement of the law.

Scoring Criteria	Range of scores	Uganda's score
The system meets requirements (a) and (b) above.	3	
The system meets requirement (a) but requirement (b) is not fully enforced due to weaknesses in the system.	2	2
The system meets requirement (a) only.	1	
There system does not meet requirements (a) and (b).	0	

Regulation 105 requires certification of availability of funds before solicitation of tenders takes place. There is a system in place, i.e a requirement to fill in PP form 20 which creates an interface between financial management and procurement systems. However, the requirement at (b) is not fully enforced.

Sub-indicator 3(d) – Systematic completion reports are prepared for certification of budget execution and for reconciliation of delivery with budget programming.

This sub-indicator is a measurement of the feedback mechanism needed to ensure that information on contracts covering major budget expenditures is provided to the budgetary and financial management systems in a timely manner to support the overall public financial management system.

Scoring Criteria	Range of scores	Uganda's score
The procurement system is sufficiently integrated with the financial management and budgetary systems to provide information on the completion of all major contracts.	3	
Information on completion of the majority of large contracts is submitted as described above.	2	2
Information on the completion of contracts is erratic or is normally submitted with considerable delay after the fiscal budgetary period. .	1	
The procurement system does not generally provide this information.	0	

Entities are required to report to the PPDA their monthly procurements on PP form 200. However, there is insufficient integration with the financial management and budgetary systems to provide information on the completion of all major contracts. The government is implementing the Integrated Financial Management System, which should improve performance of this indicator.

Indicator 4. The country has a functional normative/regulatory body

Although this indicator refers to a normative/regulatory body, what matters most is not the existence of a body but the existence of the functions within the public sector and the proper discharge and coordination of them (i.e. one agency may be responsible for policy

while another can be doing the staff training and another might be taking care of the statistics). When the assessment criteria below refers to the “regulatory body” this may be read to refer to the “regulatory function” if applicable to the particular assessment. The assessment of the indicator will focus on the existence of the functions, the independence of the regulatory function, the effectiveness of performance and the degree of coordination between responsible organizations. There are four sub-indicators (a-d) to be scored.

Sub-indicator 4(a) – The status and basis for the normative/regulatory body is covered in the legislative and regulatory framework.

The body and its responsibilities are created by the legal and regulatory framework to ensure that the body assigned functional responsibilities has an appropriate level of authority to enable it to function effectively. Alternatively the legal and regulatory framework may assign the key functions described in sub indicator b) to different agencies in a clearly defined basis.

Scoring Criteria	Range of scores	Uganda’s score
There is a normative or regulatory body or the functions are clearly assigned to various units within the government which is specified in the legal and regulatory framework in unambiguous way without gaps or overlaps.	3	3
There is a regulatory body or functional designation to various units within government, but it is not established as part of the legal and regulatory framework and there are gaps or overlaps of regulatory responsibilities.	2	
Only part of the functional responsibilities of a regulatory body are assigned throughout the government leaving significant parts of the work unassigned.	1	
Separate functional responsibilities to regulate the procurement system are not recognized as part of the legal and regulatory framework and are not effectively performed.	0	

The Public Procurement and Disposal of Public Assets Authority (PPDA) constitutes the regulatory body for public procurement and derives its mandate from section 5 of the Public Procurement and Disposal of Public Assets Act no. 1 of 2003. The objectives, functions and powers of the Authority are described in section 6, 7 and 8 of the same Act.

Sub-indicator 4(b) – The body has a defined set of responsibilities that include but are not limited to the following:

- **providing advice to contracting entities;**
- **drafting amendments to the legislative and regulatory framework and implementing regulations;**
- **monitoring public procurement;**
- **providing procurement information;**
- **managing statistical databases;**

- **reporting on procurement to other parts of government;**
- **developing and supporting implementation of initiatives for improvements of the public procurement system; and**
- **providing implementation tools and documents to support training and capacity development of implementing staff.**

Scoring Criteria	Range of scores	Uganda's score
All the eight functions listed in the sub indicator are clearly assigned to one or several agencies with out creating gaps or overlaps in responsibility.	3	3
At least five functions are assigned to an appropriate agency or agencies and there is no overlap or conflict in responsibilities.	2	
Four or less functions are assigned to appropriate entities and there are overlaps and conflicts in responsibilities.	1	
Functions are not clearly assigned and/or assignments are often in conflict with other agency responsibilities.	0	

All the eight functions stated are carried out by the PPDA.

Sub-indicator 4 (c) - The body's organization, funding, staffing, and level of independence and authority (formal power) to exercise its duties should be sufficient and consistent with the responsibilities.

The regulatory body needs to have a high level and authoritative standing in Government to be effective, including a degree of independence to enable it to carry out its responsibilities without interference. Adequate funding is necessary to ensure proper staffing and resources to keep the services at the level of quality required.

The head of the regulatory body needs to be of sufficient level within the governance structure to enable the body to exercise its authority and responsibilities.

Scoring Criteria	Range of scores	Uganda's score
The regulatory body (or the assignment of responsibilities for the regulatory function if there is not a body) is at an adequate level in Government and financing is secured by the legal/regulatory framework.	3	
The body is at an adequate level but financing is subject to administrative decisions and can be changed easily.	2	2
The level of the body is too low or financing is inadequate for proper discharge of its responsibilities.	1	
The level of the body is low, financing is inadequate and the body has no or little independence to perform its obligations.	0	

Section 5 of the Act establishes the PPDA as an autonomous body regulatory that is able to carry out its responsibilities without interference. While the PPDA has enjoyed regular financial support from the Government of Uganda and from its donor partners, the financing is not secured by law but is subject to the Mid Term Expenditure Framework, which can be changed.

Sub-indicator 4(d) – The responsibilities should also provide for separation and clarity so as to avoid conflict of interest and direct involvement in the execution of procurement transactions.

The body is not responsible for direct procurement operations and is free from other possible conflicts (e.g. by being member of evaluation committees, etc.). Due to the nature of this sub-indicator, scoring is either a 3 or a 0.

Scoring Criteria	Range of scores	Uganda's score
The body meets the requirement stated above.	3	3
NA		
NA		
The body does not meet the requirement as stated above.	0	

The PPDA is not directly involved in procurement in Uganda. Its own procurement needs are met through a procurement agent. It is thus free to perform a regulatory function without possible conflicts arising.

Indicator 5. Existence of institutional development capacity.

The objective of this indicator is to assess the extent to which the country or agency has systems to support and monitor the performance of the entire system, and to formulate and implement improvement plans. This requires among other things the availability of information systems, a capacity for analysis, feedback mechanisms and planning capacity for implementation of improvements. It is very important that responsibilities are clearly assigned and are being performed. This indicator has four sub-indicators (a-d) to be scored.

Sub indicator 5(a) – The country has a system for collecting and disseminating procurement information, including tender invitations, requests for proposals, and contract award information.

The objective of this indicator is to determine a) the existence and capacity of the procurement information system in the country; b) the accessibility of the information system; c) the coverage of the information system; and, d) whether the system provides one stop service (to the extent feasible) where those interested can find information on

procurement opportunities and outcomes. The system should include annual or multi annual procurement plans, specific advertisements or notices of procurement opportunities, publication of contract awards, linkages to rules and regulations and other information that is relevant to promote competition and transparency. For purposes of practical application, the collection and dissemination of information should focus on procurement above a set value that reflects established thresholds for use of competitive procedures. Depending on the country, information systems may only focus on procurement financed by the national budget.

Scoring Criteria	Range of scores	Uganda's score
There is an integrated information system that provides as a minimum, up-to-date information as described above and is easily accessible to all interested parties at no or minimum cost. Responsibility for its management and operation is clearly defined.	3	
There is an integrated system of the characteristics described that provides up-to-date information for the majority of contracts at the central government level but access is limited.	2	
There is a system but it only provides information on some of the contracts and the system accessibility is limited	1	1
There is no procurement information system except for some individual agency systems. Entities keep information on contract awards and some statistics.	0	

Information from Procuring and Disposing Entities is obtained by the Authority through the monthly procurement reports that Entities are required by law to submit to the Authority. There is also an administrative arrangement whereby Entities submit returns of procurements above \$200,000 quarterly. However, the monthly reports are not complete, as some Entities fail to submit any returns or submit returns that are incomplete or significantly late.

Sub-indicator 5(b) – The country has systems and procedures for collecting and monitoring national procurement statistics.

Statistical information on procurement is essential to evaluate the policies and the operation of the system. Statistics also provide a means for monitoring performance and determining if the statistic demonstrates compliance with other aspects of the system that are defined in the legal and regulatory framework. Statistical information can also be a tool for procurement planning and market analysis. For purposes of this sub-indicator, the focus is on data available on procurement undertaken using central budget funds.

- (a) There is a system in operation to collect data.*
- (b) The system collects data on procurement by method, duration of different stages of the procurement cycle, awards of contracts, unit prices*

for most common types of goods and services and other information that allows analysis of trends, levels of participation, efficiency and economy of the purchases and compliance with requirements.

(c) Reliability of the information is high (verified by audits)

(d) Analysis of information is routinely carried out, published and fed back into the system.

Scoring Criteria	Range of scores	Uganda's score
The country has a system that meets the four requirements (a) through (d) listed above.	3	
The country has a system that meets (a) plus two of the remaining conditions.	2	
The system is in place to meet (a) plus one of the remaining conditions.	1	1
There is no statistical data collection system in place.	0	

The system only meets a and d. There is a system for the returns from the monthly reports to be tabulated into statistical data and the reports are analysed by the department of Legal and Compliance. There is provision for contracts above \$200,000 to be reported by entities to PPDA and this information is published in a medium of wide circulation and on the PPDA website.

Sub-indicator 5 (c) – A sustainable strategy and training capacity exists to provide training, advice and assistance to develop the capacity of government and private sector participants to understand the rules and regulations and how they should be implemented.

The purpose of this sub indicator is to verify existence of permanent and relevant training programs for new and existing staff in government procurement. These programs are essential to maintain the supply of qualified procurement staff to public and private sectors. Another objective is to assess the existence and quality of advisory services on procurement matters for government agencies and the public at large.

The evaluator should look at the curricula of the existing programs and judge their relevance, nature, scope and sustainability. A well functioning system should provide for evaluation of the training program and monitoring of progress in addressing capacity issues. The assessment should include verification of advisory services or help desks for public or private sector parties where they can get advice on application and interpretation of policy and rules.

Scoring Criteria	Range of scores	Uganda's score
There is a training and capacity building strategy that provides for: (a) Substantive permanent training programs of suitable quality and content for the needs of the system. (b) Evaluation and periodic adjustment based on feedback and need. (c) Advisory service or help desk to absolve questions by procuring entities, suppliers, contractors and the public.	3	3
There is a training and capacity building strategy that provides for a) above.	2	
The existing program is of poor quality and insufficient to meet the needs of the system and there is no procurement help desk or advisory service.	1	
No formal training or help desk programs exist.	0	

The PPDA Act under section 7(c) and Regulation 11 mandate the PPDA to carry out a training and capacity building function. The PPDA has a department of Training and Capacity Building that has developed a strategy that provides for training programmes suitable for the quality and content needs of the system. The training sessions are interactive with opportunity for questions to be raised. The department periodically reviews the training modules and adjusts them based on feedback from procurement practitioners and other stakeholders. The Legal and Compliance department also offer an advisory service to help PDEs to meet their obligations under the law.

Sub-indicator 5(d) – Quality control standards are disseminated and used to evaluate staff performance and address capacity development issues.

The purpose of this sub-indicator is to verify existence, relevance and comprehensiveness of the quality assurance and standards for processing procurement actions and to ensure their systematic application to provide for monitoring of performance. Examples of such standards might include response times to reply to inquiries, or length of time to prepare tender documents after receipt of a requirement.

Although these types of standards will vary widely between countries and levels of government, they should as a minimum:

- (a) Provide quality assurance standards and a monitoring system for procurement processes and products*
- (b) Provide for a staff performance evaluation process based on outcomes and professional behaviors.*
- (c) Ensure that operational audits are carried out regularly to monitor compliance with quality assurance standards.*

Scoring Criteria	Range of scores	Uganda's score
The procurement system complies with (a) through (c) above.	3	
The procurement system complies with (a) and (b) above but there is no regular auditing to monitor compliance.	2	
The procurement system has quality standards but does not monitor nor use the standards for staff performance evaluation.	1	1
The system does not have quality assurance or staff performance evaluation systems	0	

Although quality standards are set in the legislation and in the Guidelines and are promulgated through the training programmes, there is no body as yet to provide quality assurance standards. The monitoring of the procurement system is done by PPDA through its scrutiny of the monthly reports, compliance checks and procurement audits and investigations. There are efforts under way to form a local body for procurement professionals that will subject them to a code of conduct.

Pillar III. Procurement Operations and Market Practices

This Pillar looks at the operational effectiveness and efficiency of the procurement system at the level of the implementing entity responsible for issuing individual procurement actions. It looks at the market as one means of judging the quality and effectiveness of the system when putting procurement procedures into practice. This Pillar is distinguished from Pillars I and II in that it is not looking at the legal/regulatory or institutional systems in a country but more at how they operate.

Indicator 6. The country's procurement operations and practices are efficient

This indicator looks at the efficiency of the operations and operational practices as implemented by the procuring agencies. Efficiency is considered to mean that the operational practices result in timely award of contracts at competitive market prices as determined by effective and fair implementation of procurement procedures. There are four sub-indicators (a-d) to be rated under this indicator.

Sub-indicator 6(a) – The level of procurement competence among government officials within the entity is consistent with their procurement responsibilities.

The purpose of this indicator is to assess the degree of professionalism and knowledge of those responsible for implementation of procurement activities.

- (a) There are defined skill and knowledge profiles for specialized procurement jobs.*
- (b) There is systematic matching of skills against requirements for competitive recruitment.*

(c) Staff required to undertake procurement activities on an ad hoc basis have the knowledge they need to undertake the activity or have access to professional staff that can provide this knowledge.

Scoring Criteria	Range of scores	Uganda's score
The system meets the requirements (a) through (d) listed above.	3	3
The system meets (a) plus one of the remaining conditions.	2	
The system only meets (a) above.	1	
The system does not meet any of the requirements.	0	

The Ministry of Public Service has issued guidelines on the recruitment of procurement professionals to fill the posts in the procurement units at different levels of Government. The guidelines define the skills and knowledge profiles for the procurement jobs. Staff required to undertake procurement activities on an ad hoc basis, for example members of contracts committee and evaluation committees etc have access to professional staff from the Procurement and Disposal Units and their functions are spelt out in the PPDA Act.

Sub-indicator 6(b) – The procurement training and information programs for government officials and for private sector participants are consistent with demand.

This sub indicator assesses the sufficiency of the procurement training and information programs in terms of content and supply.

- (a) Training programs' design is based on a skills gap inventory to match the needs of the system.
- (b) Information and training programs on public procurement for private sector are offered regularly either by the government or by private institutions.
- (c) The waiting time to get into a course (for public or private sector participants) is reasonable, say one or two terms.

Scoring criteria	Range of scores	Uganda's score
The training and information programs available meet all the requirements listed in (a)-(c) above.	3	3
The training programs are sufficient in terms of content and frequency (waiting time) for government participants but there are few information programs for private sector.	2	
There are training programs but they are deficient in terms of content and supply.	1	
There is no systematic training or information program for public or private sector participants.	0	

The department of Training and Capacity Building's training modules are based on a Capacity Needs Assessment to reveal the skills gaps which the training programmes should address. Information and training programs for the private sector are provided by PPDA under its training and capacity building function. PPDA also trains providers who are mainly from the private sector. Procurement practitioners in public procurement receive regular training.

Sub-indicator 6(c) – There are established norms for the safekeeping of records and documents related to transactions and contract management

The ability to look at implementation performance is dependant upon the availability of information and records that track each procurement action. This information is also important to the functioning of control systems both internal and external as it provides the basis for review. A system for safekeeping of records and documents should include the following:

- (a) The legal/regulatory framework establishes a list of the procurement records that must be kept at the operational level and what is available for public inspection, including conditions for access.*
- (b) The records should include:*
 - Public notices of bidding opportunities*
 - Bidding documents and addenda*
 - Bid opening records*
 - Bid evaluation reports*
 - Formal appeals by bidders and outcomes*
 - Final signed contract documents and addenda and amendments*
 - Claims and dispute resolutions*
 - Final payments*
 - Disbursement data (as required by the country's financial management system).*
- (c) There is a document retention policy that is compatible with the statute of limitations in the country for investigating and prosecuting cases of fraud and corruption and with the audit cycles.*
- (d) There are established security protocols to protect records either physical or electronic.*

Scoring Criteria	Range of scores	Uganda's score
The procurement system complies with the requirements (a) through(d) listed above	3	
The procurement system complies with requirements (a), plus two of the remaining conditions.	2	2
The procurement system complies with (a) but not with the rest.	1	
There is no mandatory list of documents or retention policy leaving it to the discretion of the procuring entity.	0	

The legal framework under section 56 of the PPDA Act and Regulation 90 specify the records that are to be kept by the Entities and such records are open to inspection by the Authority. The records include all those specified in (b) above. The law requires public records to be retained by an entity for at least 7 years. However, there are no clearly established security protocols to protect records, either physical or electronic.

Sub-indicator 6(d) - There are provisions for delegating authority to others who have the capacity to exercise responsibilities.

Delegation of authority and responsibility is key to having a well functioning system especially when procurement is decentralized. When delegation is not provided, the system tends to function inefficiently and it can lead to excessive concentration of decision making under a few individuals who have neither the training nor knowledge to make procurement decisions. Delegation should be undertaken in accordance with the following:

- (a) Delegation of decision making authority is decentralized to the lowest competent levels consistent with the risks associated and the monetary sums involved.*
- (b) Delegation is regulated by law.*
- (c) Accountability for decisions is precisely defined.*

Scoring criteria	Range of scores	Uganda's score
The system meets all requirements listed in a) – c) above.	3	3
The law establishes delegation and accountabilities but the system concentrates decisions at a high level creating congestions and delays.	2	
Delegation is regulated in very general terms creating a need to clarify accountability for decision making.	1	
Delegation is not regulated by law and left at the discretion of the procuring entity. There is lack of clarity on accountability.	0	

The Ugandan regulatory system meets all requirements listed in a) – c). Delegation of powers by the Accounting Officer is covered by Section 39 of the PPDA Act. The law also makes clear which functions may not be delegated. Regulation 69 describes the procedure for delegation of functions.

Indicator 7. Functionality of the public procurement market

The objective of this indicator is primarily to assess the market response to public procurement solicitations. This response may be influenced by many factors such as the general economic climate, the private sector development environment and policies, the existence of strong financial institutions, the attractiveness of the public system as a good reliable client, the kind of goods or services being demanded, etc. There are three sub indicators (a-c) to be scored.

Sub-indicator 7(a) – There are effective mechanisms for partnerships between the public and private sector

Public procurement depends on the partnership that must exist between the government and the private sector. This partnership creates the public procurement marketplace wherein the government is the buyer and the private sector is the supplier of the needed goods, works or services. Accordingly, dialogue between the government and the private sector needs to exist and the voice of the private sector needs to be heard with regard to practices by the government that may undermine the competitive effectiveness of the private sector. This sub indicator must look to see if there are forums for dialog between the government and the private sector. The assessor should also consider the ability for reliance upon private capacity through public/private partnership arrangements such as concession contracts or private public joint ventures for the provision of goods or services.

Scoring Criteria	Range of scores	Uganda's score
<p>(a) Government encourages open dialogue with the private sector and has several established and formal mechanisms for open dialogue through associations or other means.</p> <p>(b) The government has programs to help build capacity among private companies, including for small businesses and training to help new entries into the public procurement marketplace</p> <p>(c) The government encourages public/private partnerships and the mechanisms are well established in the legal framework to make possible such arrangements</p>	3	
The system meets (a) plus one other condition above.	2	2
The system only provides for (a) above.	1	
There are no obvious mechanisms for dialogue or partnership between the public and private sector.	0	

The Government encourages open dialogue with the private sector through organizations like the Uganda Manufacturers Association, Enterprise Uganda and the Private Sector Foundation. There are programmes to help build capacity among private companies. However, the mechanisms for dialogue or partnership between the public and private sector are not well established in the legal framework.

Sub-indicator 7(b) – Private sector institutions are well organized and able to facilitate access to the market.

This sub-indicator looks at the capacity within the private sector to respond to public procurement in the country. An important aspect to assess is the organizational capacity of the Small and Medium Enterprises (SMEs) and the access they have to information and other services to promote their participation. A well organized and competitive private sector should result in keen competition, better prices and an equitable distribution of business.

Scoring Criteria	Range of scores	Uganda's score
The private sector is competitive, well organized and able to participate in the competition for public procurement contracts.	3	
There is a reasonably well functioning private sector but competition for large contracts is concentrated in a relatively small number of firms.	2	2
The private sector is relatively weak and/or competition is limited owing to monopolistic or oligopolistic features in important segments of the market	1	
The private sector is not well organized and lacks capacity and access to information for participation in the public procurement market.	0	

There is a reasonably well functioning private sector that is organized through the Uganda Manufacturers Association and Private Sector Foundation. Though the private sector is able to participate in the competition for public procurement contracts, competition for the large contracts is concentrated in a relatively small number of firms, because most of the local providers lack capacity to handle the big contracts.

Sub-indicator 7 (c) - There are no major systemic constraints (e.g. inadequate access to credit, contracting practices, etc.) inhibiting the private sector's capacity to access the procurement market.

Participation in competition for public contracts depends on many conditions, including some that are controlled or within the control of the government. Access to credit, reasonable contracting provisions that are seen to fairly distribute risks associated with performance of contracts, fair payment provisions that help offset the cost of doing business with the government are examples which can improve access by the private sector to the government marketplace. Alternatively, when the conditions are difficult for the private sector, the degree of competition will suffer. A survey of private sector

participants should be carried out to help assess this item. The narrative of the assessment should describe the main constraints.

Scoring Criteria	Range of scores	Uganda's score
There are no major constraints inhibiting private sector access to the public procurement market.	3	
There are some constraints inhibiting private sector access to the public procurement market, but competition is sufficient.	2	
There are multiple constraints inhibiting private sector access to the public procurement market which often affect competition levels.	1	1
There are major constraints that discourage competition and the private sector firms are generally reluctant to participate in public procurement.	0	

The Ugandan private sector faces many constraints that affect competition levels. For example many providers lack capacity in responding appropriately to bidding documents. Most firms are also small in nature and lack capacity to meet the requirements for large contracts.

Indicator 8. Existence of contract administration and dispute resolution provisions

This indicator's objective is to assess the quality of contract administration practices which begin after contract award and continue to acceptance and final payments. This is an area that many procurement systems fail to consider. It is also a period where many issues arise that can affect the performance of the contract and impact on service delivery. This indicator covers three sub- indicators (a-c) to be scored.

Sub-indicator 8(a) – Procedures are clearly defined for undertaking contract administration responsibilities that include inspection and acceptance procedures, quality control procedures, and methods to review and issue contract amendments in a timely manner.

All of the following procedures are important aspects of contract administration. These procedures will help ensure quality performance of the contract requirements and will facilitate prompt payment of invoices including final acceptance and final payments.

- a. Procedures for acceptance of final products and for issuance of contract amendments are part of the legal/regulatory framework or are incorporated as standard clauses in contracts.*
- b. Clauses are generally consistent with internationally accepted practices (see IFI standard contracts for good practice examples).*

- c. *Quality control (QC) procedures for goods are well defined in the model contracts/documents or in the regulations. QC is carried out by competent officers, inspection firms or specialized testing facilities.*
- d. *Supervision of civil works is carried out by independent engineering firms or qualified government supervisors and inspectors.*
- e. *Final payments are processed promptly as stipulated in the contract.*

Scoring Criteria	Range of scores	Uganda's score
Contract administration procedures provide for (a) to (e) above.	3	
Contract administration procedures provide for (a) plus three of the remaining requirements.	2	2
Contract administration procedures provide for (a) plus two of the remaining requirements.	1	
Contract administration procedures do not meet the requirements of (a) to (e) above.	0	

Regulation 277 specifies the procedure for acceptance of final products, with particular reference to inspections, testing and other aspects of quality control. Regulations 261 and 262 deal with contract variations (change orders) and contract amendments respectively. It is the practice to appoint independent engineering consultants to supervise civil works projects. However, the system does not meet the criterion at e, since in many cases final payment is not processed promptly as stipulated in the contract. The PPDA is trying to improve the situation by enforcing the requirement for Entities to have procurement plans and not to start procurements before availability of funds is confirmed.

Sub-indicator 8(b) – Contracts include dispute resolution procedures that provide for an efficient and fair process to resolve disputes arising during the performance of the contract.

Disputes during the performance of a contract are a common occurrence. In order to avoid long delays while resolving disputes, a good resolution process should be defined in the contract that provides for fair and timely resolution. The following describes current good practice with regard to dispute resolution.

- (a) *There is an Arbitration law in the country.*
- (b) *The law is consistent with generally accepted practices for neutrality of arbitrators, due process, expediency and enforceability.*
- (c) *The country accepts as a matter of course international arbitration for international competitive bidding.*
- (d) *Provisions for Alternative Dispute Resolution (ADR) are standard in contracts.*

(e) ADR provisions conform to the international standard wording (may refer to IFI standard bidding documents for sample of good international practice).

Scoring Criteria	Range of scores	Uganda's score
The system meets all the good practice standards (a) to (e) above	3	
The system meets (a) plus three of the remaining good practice standards.	2	2
The system meets (a) plus two of the remaining good practice standards.	1	
The system does not use ADR as a normal dispute resolution mechanism in public contracts.	0	

The Arbitration and Conciliation Act 2000 (CAP 4) provides for domestic arbitration, international commercial arbitration and enforcement of foreign arbitral awards. Section 36 provides for enforcement of an arbitration award in the same manner as if it were a decree of the court. Provisions for Alternative Dispute Resolution are included in the standard contracts. While Section 20 of the Arbitration and Conciliation Act provides for parties to agree on the place of arbitration, there is no provision for international arbitration to be used as a matter of course for contracts under international bidding.

Sub-indicator 8(c) – Procedures exist to enforce the outcome of the dispute resolution process.

In order to be effective, the contract not only must provide for fair and efficient dispute resolution procedures, it must also provide for enforcement of the outcome of the dispute resolution process. The following are some basic conditions.

- (a) The country is a member of the New York Convention on enforcement of international arbitration awards.*
- (b) The country has procedures to enable the winner in a dispute to seek enforcement of the outcome by going to the courts.*
- (c) The country has a process to monitor this area of contract administration and to address performance issues.*

Scoring Criteria	Range of scores	Uganda's score
The procurement system in the country meets the requirements of a-c above	3	
The country meets two of the three conditions above.	2	2
The country meets condition a).	1	
The country does not meet any of the requirements.	0	

Uganda has been a signatory to the New York Convention on Enforcement of Foreign Arbitral Awards since 1992. Part III of the Arbitration and Conciliation Act 2000 (CAP 4) contains provisions for enforcement of New York Convention awards. Arbitration decisions may be enforced through the courts. However, the resolution of contract disputes is not specifically dealt with under the PPDA Act or Regulations.

Pillar IV. Integrity and Transparency of the Public Procurement System

Pillar IV covers four indicators that are considered necessary to provide for a system that operates with integrity, has appropriate controls that support the implementation of the system in accordance with the legal and regulatory framework and has appropriate measures in place to address the potential for corruption in the system. It also covers important aspects of the procurement system that include stakeholders as part of the control system. This Pillar takes aspects of the procurement system and governance environment and seeks to ensure that they are defined and structured to contribute to integrity and transparency.

Indicator 9. The country has effective control and audit systems

The objective of this indicator is to determine the quality, reliability and timeliness of the internal and external controls preferably based on risk assessment and mitigation. Equally, the effectiveness of controls needs to be reviewed in terms of expediency and thoroughness of the implementation of auditors' recommendations. The assessor should rely, in addition to their own findings, on the most current Country Financial Accountability Assessment (CFAA) or other analysis including PEFA/PFM assessment that may be available. This indicator has five sub indicators (a-e) to be rated.

Sub-indicator 9(a) – A legal framework, organization, policy, and procedures for internal and external control and audit of public procurement operations are in place to provide a functioning control framework.

National legislation normally establishes which agencies are responsible for oversight of the procurement function. Control and oversight normally start with the legislative

bodies that must review and act on the findings of the national auditing agency and legal watch dog agencies (e.g. the comptroller general reports, attorney general reports, etc.).

There should also be provisions for the establishment of internal controls such as internal audit organizations that periodically produce recommendations to the authorities of the individual agencies based on their findings. Internal audit should be complemented by internal control and management procedures that provide for checks and balances within an agency for processing of procurement actions. Internal audit and internal control procedures can assist external auditors and enable performance audit techniques to be used that look at the effectiveness and application of internal control procedures instead of looking at individual procurement actions.

Even though no single model exists, it is important that the basic principles of oversight and control exist in the legal and regulatory framework of the country and that they are of universal application.

Scoring Criteria	Range of scores	Uganda's score
The system in the country provides for: (a) Adequate independent control and audit mechanisms and institutions to oversee the procurement function. (b) Implementation of internal control mechanisms in individual agencies with clearly defined procedures. (c) Proper balance between timely and efficient decision making and adequate risk mitigation. (d) Specific periodic risk assessment and controls tailored to risk management.	3	
The system in the country meets a) plus two of the above.	2	
The system meets a) but controls are unduly burdensome and time-consuming hindering efficient decision making.	1	1
Controls are imprecise or lax and inadequate to the point that there is weak enforcement of the laws and regulations and ample risk for fraud and corruption.	0	

The Ugandan system meets the condition at (a) through the role of the PPDA including its specified procurement audit function, together with the broader audit role of the Office of the Auditor General. Government autonomous bodies by statutes have their own internal audit arrangements and defined reporting structures and procedures that would meet the condition at (a) and (b). Entities under the central government have their internal audit arrangement managed by the Commissioner of Internal Audit who is responsible to Accountant General that do not adequately meet the conditions in (b). However, the concept of risk management as a broad control function is not well developed in Uganda, nor are periodic risk assessments carried out as a matter of course.

Sub-indicator 9(b) – Enforcement and follow-up on findings and recommendations of the control framework provide an environment that fosters compliance.

The purpose of this indicator is to review the extent to which internal and external audit recommendations are implemented within a reasonable time. This may be expressed as percentage of recommendations implemented within six months, a year, over a year or never implemented.

Scoring Criteria	Range of scores	Uganda's score
Internal or external audits are carried at least annually and recommendations are responded to or implemented within six months of the submission of the auditors' report.	3	
Audits are carried out annually but response to or implementation of the auditors' recommendations takes up to a year.	2	2
Audits are performed annually but recommendations are rarely responded to or implemented.	1	
Audits are performed erratically and recommendations are not normally implemented.	0	

While the reports of the procurement audits undertaken by the PPDA contain an action plan with a timetable for implementing the recommendations and measures are in place for follow-up visits to check on the progress made, the processing of audit reports is slow and follow-up action is frequently delayed. Also the PPDA has limited powers to enforce an Entity to implement its recommendations. Likewise, even though the Office of the Auditor General carries out audits in all government entities annually and submits reports to Parliament, the process of tabling the reports before the Public Accounts Committee of Parliament to respond to and implement the Auditor General's reports is often delayed beyond one year.

Sub-indicator 9(c) – The internal control system provides timely information on compliance to enable management action.

The following key provisions should be provided:

- (a) There are written standards for the internal control unit to convey issues to management depending on the urgency of the matter.*
- (b) There is established regular periodic reporting to management throughout the year.*
- (c) The established periodicity and written standards are complied with.*

Scoring Criteria	Range of scores	Uganda's score
All requirements (a) through (c) listed above are met.	3	
Requirement (a) plus one of the above are met.	2	2
Only requirement (a) is met.	1	
There is no functioning internal control system	0	

There is an internal audit system within most government ministries and agencies under the general supervision of a Commissioner for Internal Audit, who reports to the Accountant General. Many ministries and agencies have written guidelines for internal control, including an internal audit manual; the one for PPDA was prepared in 2004. There is no single audit manual to direct the internal audit system for central government entities. Audit committees have been proposed but are yet to be established. In PPDA, there is quarterly reporting to management and the Board and the reporting standards are complied with. However, looking at the overall internal control system in government, standards may vary considerably between ministries and autonomous government agencies.

Sub-indicator 9(d) – The internal control systems are sufficiently defined to allow performance audits to be conducted.

There are written internal control routines and procedures. Ideally there would an internal audit and control manual. Finally, there is sufficient information retained to enable auditors to verify that the written internal control procedures are adhered to.

Scoring criteria	Range of scores	Uganda's score
There are internal control procedures including a manual that state the requirements for this activity which is widely available to all staff.	3	
There are internal control procedures but there are omissions or practices that need some improvement.	2	2
There are procedures but adherence to them is uneven.	1	
The internal control system is poorly defined or non-existent.	0	

The PPDA's internal audit manual was produced in 2004 and needs to be updated to reflect changes that have taken place since then, such as the automation of the accounting system. Looking at the system across government, in most ministries and agencies, internal controls are sufficiently established to enable performance audits to take place but written procedures may need updating and improvement.

Sub-indicator 9(e) – Auditors are sufficiently informed about procurement requirements and control systems to conduct quality audits that contribute to compliance.

The objective of this indicator is to confirm that there is a system in place to ensure that auditors working on procurement audits receive adequate training or are selected following criteria that explicitly requires that they demonstrate sufficient knowledge of the subject. Auditors should normally receive formal training on procurement requirements, principles operations, laws and regulations and processes. Alternatively, they should have extensive experience in public procurement or be supported by procurement specialists or consultants.

Scoring Criteria	Range of scores	Uganda's score
There is an established program to train internal and external auditors to ensure that they are well versed in procurement principles, operations, laws, and regulations and the selection of auditors requires that they have adequate knowledge of the subject as a condition for carrying out procurement audits.	3	
If auditors lack procurement knowledge, they are routinely supported by procurement specialists or consultants.	2	2
There is a requirement that the auditors have general knowledge of procurement principles, operations, laws, and regulations but they are not supported generally by specialists in procurement.	1	
There is no requirement for the auditors to have knowledge of procurement and there is no formal training program and no technical support is provided to the auditors.	0	

Procurement audits of Procuring and Disposing Entities (PDE) are carried out both by staff of the department of Procurement Audit and Investigations of the PPDA and by external auditing firms. The department's staff may not be qualified auditors but they receive periodical training to ensure that they understand good procurement practice and proper auditing procedures. The external firms that undertake procurement audits are pre-qualified based on their demonstrated capability to perform the function satisfactorily but their have been found to be weaknesses in respect of the qualifications and experience of some of the staff employed. However, procurement specialists are available to provide support. The Institute of Certified Public Accountants (ICPAU) organises professional development programs for its members where PPDA is occasionally invited to make presentations on procurement audits. The PPDA has also arranged to conduct training for internal auditors on procurement audits in June 2007.

Indicator 10. Efficiency of appeals mechanism

The appeals mechanism was covered under Pillar I with regard to its creation and coverage by the legal regulatory framework. It is further assessed under this indicator for

a range of specific issues regarding efficiency in contributing to the compliance environment in the country and the integrity of the public procurement system. There are five sub indicators (a-e) to be scored.

Sub-indicator 10(a) – Decisions are deliberated on the basis of available information, and the final decision can be reviewed and ruled upon by a body (or authority) with enforcement capacity under the law.

This sub indicator looks at the process that is defined for dealing with complaints or appeals and sets out some specific conditions that provide for fairness and due process.

- (a) Decisions are rendered on the basis of available evidence submitted by the parties to a specified body that has the authority to issue a final decision that is binding unless referred to an appeals body.*
- (b) An appeals body exists which has the authority to review decisions of the specified complaints body and issue final enforceable decisions.*
- (c) There are times specified for the submission and review of complaints and issuing of decisions that do not unduly delay the procurement process.*

Scoring Criteria	Range of scores	Uganda's score
The country has a system that meets the requirements of (a) through (c) above	3	
The country has a system that meets (a) and (b) above, but the process is not controlled with regard to (c).	2	
The system only provides for (a) above with any appeals having to go through the judicial system requiring a lengthy process.	1	1
The system does not meet the conditions of (a) –(c) above, leaving only the courts.	0	

The PPDA, as well as being the regulator of the procurement system in Uganda, also serves as the appeals body for administrative reviews when the complainant is not satisfied with decisions of the Accounting Officer. The Authority has established a Complaints Review Committee comprising members of its staff to conduct administrative review hearings but decisions must be referred to the Board for endorsement. The Authority's decision on an administrative review is not legally binding on the PDE but is normally put into effect unless an appeal is made to the Court. The Ugandan system also meets the condition at (c) as the time for submission and review of complaints and issuing decisions is specified in Part IX of the Regulations.

Sub-indicator 10(b) – The complaint review system has the capacity to handle complaints efficiently and a means to enforce the remedy imposed.

This indicator deals specifically with the question of the efficiency and capacity of a complaints review system and its ability to enforce the remedy imposed. It is closely related to sub indicator 10(a) which also refers to enforcement. This indicator will focus primarily on the capacity and efficiency issues.

Scoring Criteria	Range of scores	Uganda's score
The complaint review system has precise and reasonable conditions and timeframes for decision by the complaint review system and clear enforcement authority and mechanisms.	3	
There are terms and timeframes established for resolution of complaints but mechanisms and authority for enforcement are unclear or cumbersome.	2	2
Terms and timeframes for resolution of complaints or enforcement mechanisms and responsibilities are vague.	1	
There are no stipulated terms and timeframes for resolution of complaints and responsibility for enforcement is not clear.	0	

The conditions and timeframes for the resolution of complaints are prescribed in the Regulations but there is no clear enforcement mechanism.

Sub-indicator 10 (c) – The system operates in a fair manner, with outcomes of decisions balanced and justified on the basis of available information.

The system needs to be seen as operating in a fair manner. The complaint review system must require that decisions be rendered only on relevant and verifiable information presented and that such decisions be unbiased, reflecting the consideration of the evidence presented and the applicable requirements in the legal/regulatory framework.

It is also important that the remedy imposed in the decision be consistent with the findings of the case and with the available remedies provided for in the legal/regulatory framework. Decisions of a complaints body should deal specifically with process issues and the remedies should focus on corrective actions needed to comply with process.

Scoring Criteria	Range of scores	Uganda's score
Procedures governing the decision making process of the review body provide that decisions are: <ul style="list-style-type: none"> a) based on information relevant to the case. b) balanced and unbiased in consideration of the relevant information c) can be subject to higher level review d) result in remedies that are relevant to correcting the implementation of the process or procedures 	3	3
Procedures comply with (a) plus two of the remaining conditions above.	2	
Procedures comply with (a) above.	1	
The system does not comply with any of the above	0	

The Complaints Review Committee manual meets all the conditions mentioned above.

Sub-indicator 10(d) – Decisions are published and made available to all interested parties and to the public

Decisions are public by law and posted in easily accessible places (preferably posted at a dedicated government procurement website in the Internet). Publication of decisions enables interested parties to be better informed as to the consistency and fairness of the process.

Scoring Criteria	Range of scores	Uganda's score
All decisions are publicly posted in a government web site or another easily accessible place	3	3
All decisions are posted in a somewhat restricted access media (e.g. the official gazette of limited circulation).	2	
Publication is not mandatory and publication is left to the discretion of the review bodies making access difficult.	1	
Decisions are not published and access is restricted.	0	

All decisions of the Authority on administrative reviews are posted on the PPDA website and can easily be accessed by members of the public. They are also communicated to all bidders.

Sub-indicator 10(e) – The system ensures that the complaint review body has full authority and independence for resolution of complaints.

This indicator assesses the degree of autonomy that the complaint decision body has from the rest of the system to ensure that its decisions are free from interference or conflict of interest. . Due to the nature of this sub indicator it is scored as either a 3 or a 0.

Scoring Criteria	Range of scores	Uganda's score
The complaint review body is independent and autonomous with regard to resolving complaints.	3	
NA		
NA		
The complaint review body is not independent and autonomous with regard to resolving complaints.	0	0

The Complaints Review Committee is made up of staff from the PPDA who are public officers. As the regulating body for public procurement, the Authority is not free from the rest of the system.

Indicator 11. Degree of access to information

This indicator deals with the quality, relevance, ease of access and comprehensiveness of information on the public procurement system.

Sub-indicator 11(a) – Information is published and distributed through available media with support from information technology when feasible.

Public access to procurement information is essential to transparency and creates a basis for social audit by interested stakeholders. Public information should be easy to find, comprehensive and user friendly providing information of relevance. The assessor should be able to verify easy access and the content of information made available to the public.

The system should also include provisions to protect the disclosure of proprietary, commercial, personal or financial information of a confidential or sensitive nature.

Information should be consolidated into a single place and when the technology is available in the country, a dedicated website should be created for this purpose. Commitment, backed by requirements in the legal/regulatory framework should ensure that agencies duly post the information required on a timely basis.

Scoring Criteria	Range of scores	Uganda's score
Information on procurement is easily accessible in media of wide circulation and availability. The information provided is centralized at a common place. Information is relevant and complete. Information is helpful to interested parties to understand the procurement processes and requirements and to monitor outcomes, results and performance.	3	
Information is posted in media not readily and widely accessible or not user friendly for the public at large OR is difficult to understand to the average user OR essential information is lacking.	2	2
Information is difficult to get and very limited in content and availability.	1	
There is no public information system as such and it is generally up the procuring entity to publish information.	0	

Regulation 88 of the PPDA Regulations provides that the Act Regulations, Guidelines, standard bidding documents and decisions of the Authority shall be made available to the public. Much information on public procurement is easily accessible on the PPDA website, there are still some gaps, for example not all notices of bid opportunities, of best evaluated bidder and of contract award are put on the PPDA website or otherwise displayed in an easily accessible location.

Indicator 12. The country has ethics and anticorruption measures in place

This indicator assesses the nature and scope of the anticorruption provisions in the procurement system. There are seven sub indicators (a-g) contributing to this indicator.

Sub-indicator 12(a) – The legal and regulatory framework for procurement, including tender and contract documents, includes provisions addressing corruption, fraud, conflict of interest, and unethical behavior and sets out (either directly or by reference to other laws) the actions that can be taken with regard to such behavior.

This sub indicator assesses the extent to which the law and the regulations compel procuring agencies to include fraud and corruption, conflict of interest and unethical behavior references in the tendering documentation. This sub indicator is related to sub indicator 2 b) on content for model documents but is not directly addressed in that sub indicator.

The assessment should verify the existence of the provisions and enforceability of such provision through the legal/regulatory framework. The provisions should include the definitions of what is considered fraud and corruption and the consequences of committing such acts.

Scoring Criteria	Range of scores	Uganda's score
The procurement law or the regulations specify this mandatory requirement and give precise instructions on how to incorporate the matter in tendering documents. Tender documents include adequate provisions on fraud and corruption.	3	3
The procurement law or the regulations specify this mandatory requirement but leaves no precise instruction on how to incorporate the matter in tendering documents leaving this up to the procuring agencies. Tender documents generally cover this but without consistency.	2	
The legal/regulatory framework does not establish a clear requirement to include language in documents but makes fraud and corruption punishable acts under the law. Few tendering documents include appropriate language dealing with fraud and corruption.	1	
The legal framework does not directly address fraud, corruption or unethical behavior and its consequences. Tender documents generally do not cover the matter.	0	

Part IV of the PPDA Act describes the principles and ethical conduct expected of procurement practitioners and providers in carrying out public procurement. The First Schedule contains a Code of Ethical Conduct in Business. Regulation 87 of the Act

elaborates on the ethical behaviour expected of public procurement practitioners. Provisions on fraud and corruption are included in standard bidding documents.

Sub-indicator 12(b) – The legal system defines responsibilities, accountabilities, and penalties for individuals and firms found to have engaged in fraudulent or corrupt practices.

This indicator assesses the existence of legal provisions that define fraudulent and corrupt practices and set out the responsibilities and sanctions for individuals or firms indulging in such practices. These provisions should address issues concerning conflict of interest and incompatibility situations. The law should prohibit the intervention of active public officials and former public officials for a reasonable period of time after leaving office in procurement matters in ways that benefit them, their relatives, and business or political associates financially or otherwise. There may be cases where there is a separate anticorruption law (e.g. anticorruption legislation) that contains the provisions. This arrangement is appropriate as far as the effects of the anticorruption law are the same as if they were in the procurement law.

Scoring Criteria	Range of scores	Uganda's score
The legal/regulatory framework explicitly deals with the matter. It defines fraud and corruption in procurement and spells out the individual responsibilities and consequences for government employees and private firms or individuals found guilty of fraud or corruption in procurement, without prejudice of other provisions in the criminal law.	3	
The legal/regulatory framework includes reference to other laws that specifically deal with the matter (e.g. anti corruption legislation in general). The same treatment is given to the consequences.	2	2
The legal/regulatory framework has general anti corruption and fraud provisions but does not detail the individual responsibilities and consequences which are left to the general relevant legislation of the country.	1	
The legal/regulatory framework does not deal with the matter.	0	

Although the PPDA Act contains an Ethical Code of Conduct, fraud and corruption are not defined. However, fraud and corruption are defined in the Prevention of Corruption Act, together with penalties.

Sub-indicator 12 (c) – Evidence of enforcement of rulings and penalties exists.

This indicator is about the enforcement of the law and the ability to demonstrate this by actions taken. Evidence of enforcement is necessary to demonstrate to the citizens and

other stakeholders that the country is serious about fighting corruption. This is not an easy indicator to score, but assessor should be able to obtain at least some evidence of prosecution and punishment for corrupt practices. The assessor should get figures on the number of cases of corruption reported through the system, and number of cases prosecuted. If the ratio of cases prosecuted to cases reported is low, the narrative should explain the possible reasons.

Scoring criteria	Range of scores	Uganda's score
There is ample evidence that the laws on corrupt practices are being enforced in the country by application of stated penalties.	3	
There is evidence available on a few cases where laws on corrupt practices have been enforced.	2	2
Laws exist, but evidence of enforcement is weak.	1	
There is no evidence of enforcement.	0	

There are mechanisms for enforcement through the Inspectorate of Government (IGG), an agency specifically empowered to investigate and prosecute corruption cases, and the Criminal Investigations Directorate of the Police. However, there is a backlog both in respect of investigating reports of corruption and in prosecuting offenders. It was reported in the Anti-corruption Threshold Country Report of 2006 that the IGG had completed investigations of only 30% of the complaints that it had received since 2001-02 and that only 1% of complaints directed to the IGG have led to prosecutions.

Sub-indicator 12(d) – Special measures exist to prevent and detect fraud and corruption in public procurement.

This sub indicator looks to verify the existence of an anticorruption program and its extent and nature or other special measures which can help prevent and/or detect fraud and corruption specifically associated with public procurement.

A comprehensive anticorruption program normally includes all the stakeholders in the procurement system, assigns clear responsibilities to all of them, and assigns a high-level body or organization with sufficient standing and authority to be responsible for coordinating and monitoring the program. The procurement authorities are responsible for running and monitoring a transparent and efficient system and for providing public information to promote accountability and transparency. The control organizations (supreme audit authority) and the legislative oversight bodies (e.g. the parliament or congress), are responsible for detecting and denouncing irregularities or corruption. The civil society organizations are responsible for social audits and for monitoring of procurement to protect the public interest. These may include NGOs, the academia, the unions, the chambers of commerce and professional associations and the press. The judiciary also participates, often in the form of special anticorruption courts and dedicated investigative bodies that are responsible for investigating and prosecuting

cases of corruption. There are normally government public education and awareness campaigns as part of efforts to change social behavior in respect to corrupt practices and tolerance. Anticorruption strategies usually include as well the use of modern technology to promote e-procurement and e-government services to minimize the risk of facilitation payments.

The assessor should assess the extent to which all or some of this actions are organized as a coordinated effort with sufficient resources and commitment by the government and the public or the extent to which they are mostly isolated and left to the initiative of individual agencies or organizations

Scoring Criteria	Range of scores	Uganda's score
The government has in place a comprehensive anticorruption program to prevent, detect and penalize 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. Special measures are in place for detection and prevention of corruption associated with procurement,	3	
The government has in place an anticorruption program but it requires better coordination or authority at a higher level to be effective. No special measures exist for public procurement.	2	2
The government has isolated anticorruption activities not properly coordinated to be an effective integrated program.	1	
The government does not have an anticorruption program	0	

The Government published in July 2004 a National Strategy to Fight Corruption and Rebuild Ethics and Integrity in Public Office 2004-07. The National Strategy is in the process of being revised and rolled forward for a further period. The activities of the various agencies that have been set up to fight corruption, including the Public Procurement and Disposal of Public Assets Authority, the Office of the Auditor General, Inspectorate of Government, Criminal Investigations Directorate and the Directorate of Public Prosecutions, are coordinated by the Directorate of Ethics and Integrity in the President's Office. The Minister for Ethics chairs regular meetings of an Inter-Agency Forum to coordinate all Government anti corruption activities. However, many of the anti-corruption agencies need strengthening and there is still room for improvement in the coordination of their activities. There are no special measures for public procurement.

Sub-indicator 12(e) – Stakeholders (private sector, civil society, and ultimate beneficiaries of procurement/end-users) support the creation of a procurement market known for its integrity and ethical behaviors.

This indicator assesses the strength of the public in maintaining a sound procurement environment. This may manifest in the existence of respected and credible civil society groups that provide oversight and can exercise social control. The welcoming and respectful attitude of the government and the quality of the debate and the contributions

of all interested stakeholders are an important part of creating an environment where integrity and ethical behavior is expected and deviations are not tolerated.

Scoring Criteria	Range of scores	Uganda's score
<p>(a) There are strong and credible civil society organizations that exercise social audit and control.</p> <p>(b) Organizations have government guarantees to function and cooperation for their operation and are generally promoted and respected by the public.</p> <p>(c) There is evidence that civil society contributes to shape and improve integrity of public procurement.</p>	3	
<p>There are several civil society organizations working on the matter and the dialogue with the government is frequent but it has limited impact on improving the system.</p>	2	2
<p>There are only a few organizations involved in the matter, the dialogue with the government is difficult and the contributions from the public to promote improvements are taken in an insignificant way.</p>	1	
<p>There is no evidence of public involvement in the system OR the government does not want to engage the public organizations in the matter.</p>	0	

Though there are several Civil Society Organizations (CSOs) that exercise social audit and control, such as the Uganda Debt Network, the Inter-faith Coalition against Corruption and the Anti Corruption Coalition of Uganda, there is insufficient evidence that they have had much impact on improving the system. The Government through the Directorate of Ethics and Integrity is trying to improve dialogue between Civil Society Organizations and Government agencies and has established a committee with representatives from CSOs and Government that meets regularly to coordinate activities. The capacity of the Civil Society Organizations to lobby and play an advocacy role needs to be strengthened.

Sub-criteria 12(f) – The country should have in place a secure mechanism for reporting fraudulent, corrupt, or unethical behavior.

The country provides a system for reporting fraudulent, corrupt or unethical behavior that provides for confidentiality. The system must be seen to react to reports as verified by subsequent actions taken to address the issues reported.

Scoring Criteria	Range of scores	Uganda's score
There is a secure, accessible and confidential system for the public reporting of cases of fraud, unethical behavior and corruption.	3	
There is a mechanism in place but accessibility and reliability of the system undermine and limit its use by the public.	2	
There is a mechanism in place but security or confidentiality cannot be guaranteed	1	1
There is no secure mechanism for reporting fraud, unethical behavior and corruption cases	0	

Although there is a system for reporting fraudulent, corrupt or unethical behaviour, there are no guarantees of security and confidentiality for those reporting. The Government is considering enacting a Whistleblowers Act which improve protection for those reporting corruption and encourage more reports to be made.

Sub-criteria 12(g) – Existence of Codes of Conduct/Codes of Ethics for participants that are involved in aspects of the public financial management systems that also provide for disclosure for those in decision making positions.

The country should have in place a Code of Conduct/Ethics that applies to all public officials. In addition, special provisions should be in place for those involved in public procurement. In particular, financial disclosure requirements have proven to be very useful in helping to prevent unethical or corrupt practices.

Scoring Criteria	Range of scores	Uganda's score
<p>(a) There is a code of conduct or ethics for government officials with particular provisions for those involved in public financial management, including procurement.</p> <p>(b) The code defines accountabilities for decision making and subjects decision makers to specific financial disclosure requirements.</p> <p>(c) The code is of obligatory compliance and consequences are administrative or criminal</p>	3	
The system meets requirements (a) and (b) but is only a recommended good practice code with no consequences for violations unless covered by criminal codes.	2	2
There is a code of conduct but determination of accountabilities is unclear.	1	
There is no code of conduct.	0	

There is a statutory Leadership Code, upheld by the Constitution, which requires ministers and senior officials to make periodic financial disclosures. The Inspector General of Government is empowered to enforce the Leadership Code. Penalties are prescribed for a failure to disclose or where conflicts of interest arise. In addition, there is a Code of Conduct and Ethics for the Uganda Public Service that was published in 2004. A Code of Ethical Conduct in Business forms the Fifth Schedule to the PPDA Act and must be signed by public officers engaged in procurement. Unlike the Leadership Code, a breach of the Code of Conduct and Ethics for the Uganda Public Service or the Code of Ethical Conduct in Business does not represent a criminal offence, though it could constitute grounds for discipline.

Conclusion

The scores under each pillar are noted in the table below:

Pillar	Maximum score	Actual score	Number of Indicators	Average score
I: Legislative and Regulatory Framework	42	41	14	2.9
II. Institutional Framework and Management Capacity	36	24	12	2.0
III. Procurement Operations and Market Practices	30	22	10	2.2
IV. Integrity and Transparency of the Public Procurement System	54	34	18	1.9
Total	162	121	54	2.25

This indicates that the Ugandan public procurement system scores highly in respect of the legislative and regulatory framework but has weaknesses in respect of the other three pillars, particularly in respect of the integrity and transparency of the public procurement system. However, an average score of 2.25 indicates that Uganda has a well designed public procurement system that is working effectively in most aspects.

The overall score of 121 represents 74.7% of the maximum score. This is comparable with the overall score of 76.5% when a similar exercise was done in 2005, although the two exercises are not strictly comparable as the present one uses a much more refined tool.

em/ns
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