PUBLIC PROCUREMENT REFORMS: Issues and Challenges: The case of Uganda

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Over view of the presentation

- Background to the reforms in public procurement and disposal in Uganda
- The procurement and disposal reform process in Uganda
- Procurement Professionalism
- The mandate of PPDA
- PPDA Achievements in enhancing professional procurement
- Challenges
- Way forward
Objectives of the Public Procurement Reforms in Uganda

- To promote economy and efficiency in procurement
- To ensure public procurement is conducted in a fair, transparent and non-discriminatory manner to obtain Value for money
- To contribute towards the creation of a sound business climate in Uganda
Background to the Reforms

• 1964: Procurement was centralised and carried out by Crown Agents on behalf of government;
• 1977: Central Tender Board Regulations were introduced;
• 1997: Public procurement reforms were initiated;
• 2001: Introduction of the 2000 Regulations that decentralised public procurement;
• 2003: Introduction of the Public Procurement and Disposal of Public Assets Act and Regulations;
• 2003: Creation of the Public Procurement and Disposal of Public Assets Authority (PPDA);
Background to the reforms...

- 2006: Amendment of the LG Act and introduction of the LG (PPDA) Regulations;
- 2008: The Institute of Procurement Professionals of Uganda was formed;
- 2012: The PPDA Act was amended;
- Reforms have made procurement a strategic function that has had a positive impact on the development of Uganda and created professionalism in the procurement sector;
- Public Procurement contributes about 70% of Uganda’s total budget.
The Procurement Reform process in Uganda

The procurement reform process in Uganda started in 1997 and went through a series of steps that included:

i. The recognition of the need for reform

ii. A study of possible procurement models and identification of blueprint for reform

iii. The Enactment of the procurement law

iv. The Establishment of a Regulatory Institution

v. The Publication of Regulations, Guidelines and Standard Bidding Documentation
1-Recognition of the need for reform

There were mainly two drivers for reforms in public procurement in Uganda:

• The public sector had grown large and the existing centralised procurement system could not deliver value for money.

• It was part of the requirements set by the World Bank and other donor organizations as conditions for providing development aid but principally because the inefficiencies of the unreformed system had become self-evident (Agaba and Shipman, 2006).
A study was done by a taskforce, set up by the Ministry of Finance.

It recommended the replacement of the Public Finance (Tender Board) Regulations of 1977, by a legal framework that decentralized procurement to the various procuring and disposing entities while defining procedures giving preference to competitive methods.

The recommendations of the taskforce had to be discussed, approved and enacted into law before implementation.
3-Enactment of the procurement law

• The Public Procurement and Disposal of Public Assets Act, and its attendant Regulations, was passed into law in 2003;

• The Act requires all public procurement and disposal to be conducted in accordance with the principles of Transparency, Accountability and Fairness (non discrimination) and in a manner that maximizes Competition and achieves Value For Money;

• It applies to all central and local government entities.
The procurement law...

• The law provides for each entity to have structures that perform separate roles and responsibilities in the procurement and disposal process.

• The entity structures are:

I. The Accounting Officer
II. The Contracts Committee
III. The Procurement and disposal Unit
IV. The user department
V. The evaluation Committee (adhoc)
VI. Negotiation committee (adhoc)
4. Establishment of a Regulatory Institution

- The Public Procurement and Disposal of Public Assets Authority (PPDA) was established in 2003.
- PPDA departments are:
  - Training and Capacity Building;
  - Corporate Affairs
  - Legal and Advisory Services;
  - Procurement Audits and investigations;
  - Finance & Administration
- The regulatory institution is under the ministry of Finance, which is in charge of policy formulation
The Mandate of PPDA

The objectives of the PPDA are derived from section 6 of the PPDA Act, 2003 and they are to:

• Ensure the application of fair, competitive, transparent, non-discriminatory and value for money procurement and disposal standards and practices;

• Harmonize the procurement and disposal policies, systems and practices of the central government, local governments and statutory bodies;

• Set standards for the public procurement and disposal system in Uganda;

• Monitor compliance of procuring and disposing entities;

• Build procurement and disposal capacity in Uganda
Institutional Framework
5-Publication of Regulations, Guidelines and SBDs

• The law is complemented by Regulations, Guidelines, Forms, Codes of Conduct, Standard Bidding Documentation and Circulars.

• These serve to guide all stakeholders (PPDA, entities, providers and civil society) to effectively carry out their functions as required by the law and good practice.
Some key changes introduced

• Increased autonomy of the entities and wider participation of all stakeholders in the decision-making process;
• independence and segregation of roles among the various stakeholders;
• streamlined implementation of procurement decisions;
• Recognition of procurement planning as crucial to the success of the procurement function;
• A set of rules to govern procurement practices
• Promotion of Ethics and Integrity in procurement
Professionalism in Public procurement

• Following the reforms, there was need to have professionals in public procurement to manage the function.

• However, in 2003, there were less than 50 qualified procurement professionals in Uganda, most of them holders of certificates from the Chartered Institute of Purchasing and Supplies (CIPS) UK.
• Steps taken:

I. Recognition of procurement as a profession by government;

II. Introduction of the procurement cadre in the public service;

III. Training/sensitising of stakeholders involved in public procurement, by Crown Agents (500);

IV. Support of 2 universities to start procurement programs and train people in procurement, both academically and professionally, by the Royal Netherlands Government, thru the Nuffic/NPT project.
V. Outputs under the Nuffic/NPT project:

- 6 staff trained for Masters;
- 4 staff trained for PhD;
- 28 staff trained in a professional course, NEVI (A) equivalent to CIPS;
- 6 research teams funded to do professional research;
- 20 staff undertook short-term courses in training of trainers;
- 8 procurement course materials revised and redesigned at degree and diploma levels;
Professionalism...

- 3 masters programs developed;
- 1 PhD program started;
- 2 Resource centres started with 76 computers, connected internet and furnishing, 3,000 textbooks, etc

VIII. The two universities and others have so far trained about 800 people in procurement courses, per year;

IX. The GOU supported over 200 procurement officers to professionalise by studying CIPS.
Achievements made by PPDA in enhancing professional procurement

• Audits and Investigations

• Under section 7 of the PDDA Act, the Authority is mandated to carry out procurement and disposal audits;

• Under section 8(c) of the PPDA Act, the Authority is mandated to carry out investigations.

• The audits and investigations have helped highlight the weaknesses in the application of the PPDA law and how to improve
Audits.....

• Where fraudulent practices have been detected, recommendations for disciplinary action have been made to Competent Authorities such as the Office of the Auditor General, the Head of Public Service, CIID, the Inspectorate of Government and the Secretary to the Treasury.

• Proc Audits have, to a great extend, had a great impact in enhancing compliance and professionalism in public procurement;

• Below is a summary of proc. audits conducted by PPDA since inception:
## Audits conducted by PPDA

<table>
<thead>
<tr>
<th>Financial year</th>
<th>Audits conducted</th>
<th>Investigations conducted</th>
<th>Administrative Reviews</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003/2004</td>
<td>2</td>
<td>9</td>
<td>-</td>
</tr>
<tr>
<td>2004/2005</td>
<td>4</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>2005/2006</td>
<td>4</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>2006/2007</td>
<td>16</td>
<td>19</td>
<td>3</td>
</tr>
<tr>
<td>2007/2008</td>
<td>34</td>
<td>11</td>
<td>21</td>
</tr>
<tr>
<td>2008/2009</td>
<td>54</td>
<td>28</td>
<td>17</td>
</tr>
<tr>
<td>2009/2010</td>
<td>57</td>
<td>46</td>
<td>33</td>
</tr>
<tr>
<td>2010/2011</td>
<td>84</td>
<td>43</td>
<td>34</td>
</tr>
<tr>
<td>2011/2012</td>
<td>91</td>
<td>53</td>
<td>26</td>
</tr>
<tr>
<td>2012/2013</td>
<td>91</td>
<td>44</td>
<td>18</td>
</tr>
</tbody>
</table>
PPDA has facilitated professional procurement through training of the different stakeholders involved in public procurement. These include:

- Accounting Officers,
- procurement officers,
- Members of the user departments
- Members of the Contracts committee
- Political leaders
- Civil society
- Providers

24,091 stakeholders have been trained, as shown in the table below:
# Stakeholders Trained

<table>
<thead>
<tr>
<th>Financial year</th>
<th>Number of stakeholders trained</th>
</tr>
</thead>
<tbody>
<tr>
<td>2003/2004</td>
<td>2,704</td>
</tr>
<tr>
<td>2005/2006</td>
<td>7,620</td>
</tr>
<tr>
<td>2006/2007</td>
<td>2,347</td>
</tr>
<tr>
<td>2007/2008</td>
<td>1,780</td>
</tr>
<tr>
<td>2008/2009</td>
<td>1,626</td>
</tr>
<tr>
<td>2009/2010</td>
<td>1,674</td>
</tr>
<tr>
<td>2010/2011</td>
<td>1,815</td>
</tr>
<tr>
<td>2011/2012</td>
<td>2,572</td>
</tr>
<tr>
<td>2012/2013</td>
<td>1,953</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>24,091</strong></td>
</tr>
</tbody>
</table>
Compliance checks

• The Authority carries out periodic Compliance Checks, which assess 8 areas:

I. Procurement structures,
II. Procurement planning,
III. Solicitation and bidding procedures,
IV. Evaluation procedures,
V. Contracts award and management,
VI. Reporting,
VII. Performance of Contracts Committees
VIII. Record keeping
Procurement Performance Measurement System (PPMS)

• The Authority developed a PPMS in response to the increasing demand amongst stakeholders, for the Authority to holistically assess the performance of the public procurement reforms in Uganda.

• The Authority, in consultation with key stakeholders, developed key performance indicators under the PPMS to measure five overall objectives/principles as highlighted below:
PPMS...

Under the PPMS, PDEs are required to enter data into the system and reports are then generated on the performance of entities under specific parameters.

• The PPMS seeks to ensure the following principles are adhered to:
   Transparency, Fairness, Competition, Efficiency, Accountability, Economy and efficiency, Value for money.

• There are currently one hundred and twelve (112) PDEs on the PPMS
PPMS....

• PPDA Indicators are on:
• Contracts subject to open competition;
• Procurements done in the procurement plan according to the planned money value;
• Compliance with evaluation criteria, Average lead time, etc;
• Contracts with complete records;
• contracts completed within the original contract time
Establishment of a Tender Portal

• PPDA has established a tender portal on which all tender information is posted and accessed freely;
• The information includes tender opportunities, contract awards, pre-qualified lists, etc;
• PDEs have been trained on how to use the portal;
• Out of the 165 PDEs trained, 127 of them are compliant representing 77%;
• This number is to grow as the training is rolled out to the other PDEs.
• This will enhance transparency, accountability, competitiveness and value for money in the public procurement process.
Established a Register of Providers

• In 2009, PPDA developed a Register of Providers to offer a reliable and up to date database on the available providers in the country.

• Since 2009, the number of subscribers has increased from 907 in 2009 to 1,117 in 2011/2012, accounting for 123% increase as shown below:
# No. of Providers on the ROP

<table>
<thead>
<tr>
<th>S.no.</th>
<th>Financial year</th>
<th>New Providers</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Dec 2009 - June 2010</td>
<td>907</td>
</tr>
<tr>
<td>2</td>
<td>July 2010 - June 2011</td>
<td>1387</td>
</tr>
<tr>
<td>3</td>
<td>July 2011 - June 2012</td>
<td>1117</td>
</tr>
<tr>
<td>4</td>
<td>July 2012 - April 2013</td>
<td>616</td>
</tr>
<tr>
<td></td>
<td><strong>Grand Total</strong></td>
<td><strong>4027</strong></td>
</tr>
</tbody>
</table>
Setting procurement training standards and competence levels

• In September 2008, the National Council for Higher Education, in collaboration with PPDA, issued the Basic requirements and minimum standards for Procurement Education and Training Regulations;

• The Regulations guide the training institutions on the areas to consider in developing curricula and minimum requirements for procurement courses;

• It was gazetted and disseminated to all institutions of higher learning in Uganda;

• All institutions of higher learning, offering procurement courses, are guided on the procurement curricula geared towards grooming competent professionals
Development of new SBDs

• There are old SBDs for Works, Services and Supplies
• PPDA has developed new SBDs due to changes in the social economic environment, with a need to meet different user expectations.
• The following new SBDs have been developed subject to approval:
  - procurement of textbooks
  - procurement of health sector items & services
  - procurement of revenue collection services
  - procurement of IT equipments and accessories
Professionalism Challenges

• **Professionalism**: Some professionals are not doing a professional job and cannot be disciplined. PPDA does not have the mandate to discipline these professionals other than recommending for disciplinary action by the appointing Authorities;

• Inappropriate procurement practices causing delays at PDE level and attributed to the procurement law and Regulations;

• Malpractices and unethical conduct: There are high incidences of vested interests, from the different stakeholders and insider dealings
Capacity challenges

• Too many procuring and disposing entities to oversee (i.e. over 300);
• Failure to achieve social policies on the public procurement practices (such as ensuring proportions of government contracts go to women, SMEs, or economically disadvantaged people or regions);
• Inadequate capacity of local providers where they cannot compete favourably and also do Shoddy and substandard work.
• Lack of adequate funds to cater for all budgeted activities i.e. Unpredictable cash releases;
Institutional challenges

• Resistance to adhere to the procurement reforms by some stakeholders;
• Uncertain economic changes that affect the implementation of some legal provisions (e.g. escalating price changes);
• Conflict between the Authority and other oversight agencies, such as the Auditor General;
• Delays in approval of members of the contracts committees by the Secretary to the Treasury;
• Delays in the approval of contracts above UGX. 50m by the Solicitor General
Efficiency - Challenges

• Delays caused by –
  ➢ Late commencement of procurements
  ➢ Capacity gaps e.g. Failure to consolidate submissions for approval
  ➢ Pro-longed evaluation processes
  ➢ Complaints by bidders

• Failure to complete procurement process for large and complex projects e.g. Karuma Dam worth USD $202m & Pension Tower worth USD $88.8m.
## Efficiency - Challenges

### Average time taken to complete procurement cycle (calendar days)

<table>
<thead>
<tr>
<th></th>
<th>Target</th>
<th>FY 08/09</th>
<th>FY 09/10</th>
<th>FY 10/11</th>
<th>FY 11/12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Open International Bidding</td>
<td>155</td>
<td>206</td>
<td>414</td>
<td>366.2</td>
<td>341</td>
</tr>
<tr>
<td>Open Domestic Bidding</td>
<td>132</td>
<td>162</td>
<td>251</td>
<td>248.5</td>
<td>334</td>
</tr>
</tbody>
</table>
Future innovations

- E-procurement will soon be introduced in public procurement
- Procurement of common user items will soon be made by use of framework agreements done by one entity on behalf of others
- In the long term, large and complex procurements will be procured under a special procurement and disposal unit. Government to agree location of this unit.
Way forward

- Act amendments to improve Efficiency have targeted the reduction of the Process Cycle Time by:
  - Shortening time frames – bidding period and removal of advertising period;
  - Increasing thresholds;
  - Regulation of the evaluation period;
  - Standardization of specifications; and
  - Capacity building
Way forward

• The public procurement sector should have the following features:

• free of political interference;
• Versatile and ability to exercise powers;
• Financial independence with an autonomous body deriving funding from both the consolidated fund and through levies and service charges;
• Professionalism in both Practice and conduct;
• Good working relationship with all oversight agencies;
• Service delivery
Way forward...

• Implement provisions in the amendments of the Act and regulations
• Strengthen the Institute of Procurement Professionals of Uganda to enhance professionalism among the procurement cadre and inculcate discipline in the profession