



**PUBLIC PROCUREMENT AND DISPOSAL OF
PUBLIC ASSETS AUTHORITY**

**PROCUREMENT AND DISPOSAL COMPLIANCE
CHECK REPORT OF
NATIONAL HOUSING AND CONSTRUCTION
COMPANY LTD**

AUGUST 2007

TABLE OF CONTENTS

ACRONYMS	3
1.0 INTRODUCTION	4
1.1 OVERVIEW OF THE PROCURING AND DISPOSING ENTITY	4
1.2 BACKGROUND	5
1.3 COMPLIANCE CHECK OBJECTIVES	5
1.4 SCOPE OF COMPLIANCE CHECK	5
1.5 COMPLIANCE METHODOLOGY	6
2.0 FINDINGS AND RECOMMENDATIONS	6
2.1 FINDINGS AND RECOMMENDATIONS ON GENERAL IMPLEMENTATION OF THE LAW	6
2.2 GENERAL RECOMMENDATIONS	13

ACRONYMS

CC	Contracts Committee
CEO	Chief Executive Officer
NHCC	National Housing and Construction Company Ltd
PDE	Procuring and Disposing Entity
PDU	Procurement and Disposal Unit
PPDA Act	Public Procurement and Disposal of Public Assets Act, 2003
PPDA Regulations	Public Procurement and Disposal of Public Assets Regulations, 2003
PPDA	Public Procurement and Disposal of Public Assets Authority
PS/ST	Permanent Secretary / Secretary to the Treasury
TC	Tender Committee
UD	User Departments

1.0 INTRODUCTION

1.1 OVERVIEW OF THE PROCURING AND DISPOSING ENTITY

The name of the entity is National Housing and Construction Company Ltd.

Legal Status and Mandate:

The entity was initially a Statutory Corporation and was known as National Housing and Construction Corporation. In July 2002, the entity was incorporated as a limited liability company under the Company's Act, CAP 110 after a debt swap of US\$ 20.3 million with the Libyan Government. The Libyan Government has a holding company called Libyan Arab African Investment Company (LAAICO). The Government of Uganda and the Libyan Government have 51% and 49% shareholding respectively.

The governing body of National Housing and Construction Company Ltd is the Board of Directors. It is comprised of 6 (six) directors, 3 (three) of whom are Ugandans and three (three) are Libyans and these are:

- | | | |
|-----------------------------------|---|----------|
| 1. Mr. Keith Muhakanizi | - | Chairman |
| 2. Mr. Michael Opagi | - | Director |
| 3. Mr. Keith Kalyegira | - | Director |
| 4. Mr. Abdulhakim M. El. Misurati | - | Director |
| 5. Mr. Ahmed Amaer | - | Director |
| 6. Mr. Mohamed Mabruk | - | Director |

Number of Staff:

The entity was restructured in 2005 from 160 to 85 members of staff. The Chief Executive Officer (CEO) is the Accounting Officer.

Source of Funds:

The entity has a self generating income from housing projects undertaken. It does not have government of Uganda contribution. There are other sources of funds available to the entity from Banks in form of Bank overdrafts and loans.

Volume of expenditure on procurements:

The estimated percentage of procurement expenditure is about Ug. Shs. 60bn, 80% of which is on procurement of materials for construction of projects undertaken by the entity.

Brief from the Chief Executive Officer

The CEO informed the compliance team that the entity, which is a commercial entity,

was facing challenges complying with the provisions of the PPDA Act since there were inconsistencies between the PPDA Act and the Company's Act. He further advised the team that the entity had undergone restructuring of both the staff and systems within the past two years thereby leading to new systems in strategy, finance, human resource management, information technology, procurement and operations.

The CEO further advised that the Board had developed a procurement and disposal manual which was being piloted.

1.2 BACKGROUND

The Public Procurement and Disposal of Public Assets Authority is the regulatory and oversight agency that advises Government on matters relating to public procurement and disposal. Under Section 6 (d) and 7 (r) of the Public Procurement and Disposal of Public Assets Act and Regulation 6 (e) (iii) of the Public Procurement and Disposal of Public Assets Regulations, the Authority is mandated to monitor compliance of procuring and disposing entities, administer and enforce compliance with all the provisions of the Act, Regulations, Guidelines, solicitation documents and specification standards issued by the Authority. To this end, the Authority embarked on a compliance check on National Housing and Construction Company Ltd. on **10th - 12th July 2007**.

1.3 COMPLIANCE CHECK OBJECTIVES

1. To establish whether National Housing and Construction Company Ltd conducts procurement and disposal in a competitive, transparent, fair and non-discriminatory manner in accordance with the PPDA Act and Regulations.
2. To establish whether National Housing and Construction Company Ltd uses the Standard Bidding Documents and Guidelines issued by the Authority.
3. To ascertain the level of compliance with the PPDA Act and Regulations.
4. To report on the performance of the key players in the procurement cycle in the entity.

1.4 SCOPE OF COMPLIANCE CHECK

The assignment covered procurements and disposals conducted in the period July 2006 to May 2007. Specifically the exercise entailed:

- i. Reviewing the whole procurement process of sampled activities from requisition to contract management.
- ii. Reviewing the internal control system as regards the procurement and disposal processes.

- iii. Ascertaining the use of standard bidding documents and observance of the bidding thresholds and periods.
- iv. Assessing whether procurements and disposals are conducted in a transparent, fair and non-discriminatory manner.

1.5 COMPLIANCE METHODOLOGY

The compliance check team reviewed the following documents:

- 1. Minutes of the Contracts Committee for the period July 2006 to May 2007
- 2. Procurement and disposal reports for the period July 2006 to May 2007
- 3. Records of contract management for the period July 2006 to May 2007
- 4. List of pre-qualified providers for the financial year 2007
- 5. Sample contract documents

The compliance team met the following members of the entity:

- 1. Mr. Joseph Kitamirike - Chief Executive Officer
- 2. Ms. Margaret Sakwa - Secretary, Contracts Committee/Tender committee
- 3. Mr. Patrick O. Wafula - Procurement Manager

2.0 FINDINGS AND RECOMMENDATIONS

2.1 FINDINGS AND RECOMMENDATIONS ON GENERAL IMPLEMENTATION OF THE LAW

NO.	ISSUE	FINDINGS AND OBSERVATIONS	RECOMMENDATIONS & ENTITY'S RESPONSE
1.	Procurement Structures	<ul style="list-style-type: none"> • Accounting Officer: The Chief Executive Officer, Mr. Joseph Kitamirike is the Accounting Officer. • Contracts Committee: The entity established a Contracts Committee early 2006 however, PS/ST's approval was not on file. • The Contracts Committee was in force until the end of January 2007. The Contracts Committee was disbanded illegally by the entity in February 2007. The following 	<ul style="list-style-type: none"> • PS/ST's approval should be obtained. • In its response the entity stated that PS/ST's approval was never received.

		<p>comprised the Contracts Committee members:</p> <ul style="list-style-type: none"> i. Caleb Kakuyo - Chairman ii. Eseza C. Byakika - Member iii. Francis Nteza - Member iv. Margaret Sakwa - Secretary v. Jane B. Langoya - Member <ul style="list-style-type: none"> • The CC used to meet regularly and prepared detailed minutes. • In February 2007, the Board of Directors of NHCC appointed a Tender Committee (TC) under the NHCC Procurement and Disposal of Assets Policies and Procedures Manual, 2006. • The Tender Committee started operations without prior approval of the PPDA. (The Board acted within the provisions of the Companies Act.) • The TC comprises the following members: <ul style="list-style-type: none"> i. Mohamed Ali Elabani - Chairman ii. Caleb Kakuyo - Member iii. Jimmy B. Ogwal - Member iv. Robert Twesigye - Member v. Margaret Sakwa - Secretary vi. Francis Nteza - Member • The Procurement and Disposal Manual provides for 7 members of the TC. • The TC meets every Thursday at 9:30 a.m. and has detailed minutes. The first TC meeting was held on 8th February 2007. • Procurement and Disposal Unit: The PDU comprises one Procurement Manager, two Procurement Officers and two Assistant officers. <ul style="list-style-type: none"> i. Mr. Patrick O. Wafula - Procurement Manager (Commerce) and is completing 	<ul style="list-style-type: none"> • The entity should have obtained PPDA's approval in accordance with Regulation 342 of the PPDA Regulations prior to the use of the new procurement manual/system. • In its response, the entity stated that the Board approved the procurement and disposal manual and authorised Management to implement the manual as they sought PPDA's approval.
--	--	---	--

		<p>CIPS.</p> <p>ii. Mr. Denis Kakube - Procurement Officer (Civil Engineer)</p> <p>iii. Mr. Umar Matovu - Procurement Officer (Architect)</p> <p>iv. Ms. Christine Anyume - Procurement Assistant/Intern (Bachelors in Procurement)</p> <p>v. Ms. Susan Twijukemukama - Procurement Assistant/ Intern (Bachelors in Procurement)</p> <ul style="list-style-type: none"> • User Departments: There are six user departments namely: <ul style="list-style-type: none"> i. Commercial: <ul style="list-style-type: none"> • Sales and Marketing Unit • Procurement and Disposal Unit ii. Legal: <ul style="list-style-type: none"> • Customer Service Unit iii. Operations : <ul style="list-style-type: none"> • Project Development Unit • Construction Unit • Estates Management Unit iv. Finance v. Human Resource and Administration; and vi. Chief Executive Office <ul style="list-style-type: none"> • Information Technology Unit • The Procurement and Disposal Unit falls under the Commercial department. 	
2.	Procurement Reporting	<ul style="list-style-type: none"> • By the time of the compliance check, the entity had submitted monthly reports up to October 2006. • Monthly reports for the period November 2006 to June 2007 were submitted to the 	

		<p>Authority at a later date.</p> <ul style="list-style-type: none"> • By the time of the compliance check, the entity had not submitted the report on Contracts in excess of US \$ 200,000 for the period January to December 2006. This report was however submitted at a later date. • Invoice numbers not indicated for micro procurements. Micro procurements are handled using the LPO system. • Some procurements such as fuel and lubricants, newspapers, staff welfare items, workshops and conferences are not reported. 	<ul style="list-style-type: none"> • In its response, the entity indicated that Micro procurements are handled using the LPO system. • LPO numbers should be included when reporting micro procurements. • All procurements conducted by an entity should be included in the monthly reports submitted to the Authority.
3.	Procurement Planning	<ul style="list-style-type: none"> • The entity's financial year begins in January and ends in December. • The entity had a procurement plan for the 2006 financial year. • The entity had no procurement plan for the 2007 financial year. 	<ul style="list-style-type: none"> • In its response, the entity stated that the procurement plan for 2007 would be submitted to the Authority by end of September 2007. This has not been done yet.

4.	Pre-qualification of Providers	<ul style="list-style-type: none"> • The pre-qualified list of providers for the three financial years was in place. • The list is used and there was evidence of rotation of providers. • Only two suppliers were invited to bid in the procurement of fencing materials for head office visitors parking area. 	<ul style="list-style-type: none"> • At least three bids should be obtained in future procurements in accordance with PPDA Regulation 117 (3).
5.	Use of PP Forms, Bidding Documents and Guidelines	<ul style="list-style-type: none"> • The entity was using PPDA Forms. • PP Form 20 (<i>initiation of procurement</i>) is used. • PPDA solicitation documents are used e.g. procurement of Architectural Designs. • The entity uses PPDA evaluation report formats. 	
6.	Procurement methods	<ul style="list-style-type: none"> • The entity used to adhere to the procurement methods under the PPDA law, however since the beginning of February 2007, the entity uses a new procurement system, approved by the Board which is contrary to the PPDA law and not approved by the Authority. The new system provides for higher thresholds for the various methods. For example the entity used the restricted bidding in the procurement of electrical fittings for the Lubowa Project from M/s Electro Maxx Ltd at Ugs. 121,460,000/=, Request For Proposals method in the procurement of block boards from M/s Nile Ply Woods Ltd at Ugs. 40, 319, 999/=, e.t.c. • The entity conducts negotiations on prices contrary to Regulation 219 (3) (c) of the PPDA Regulations. Examples of the above procurements include: <ul style="list-style-type: none"> i. Consultancy to review standby generators by M/s Multi Konsults Ltd from Ugs. 29,292,320/= to Ugs. 29,951,325/=. 	<ul style="list-style-type: none"> • The entity urgently should have its new procurement system accredited by PPDA to avoid operating and illegal procurement and disposal unit. • In its response, the entity stated that they are awaiting PPDA's response to the application for accreditation. • In its response, the entity stated that it operates as a commercial entity and finds it necessary to negotiate on price in order to operate

		<ul style="list-style-type: none"> ii. Supply of Aluminium doors and windows by M/s Deluxe Aluminium from Ugs. 129,019,366/= to Ugs. 150,000,000/=. iii. Market research by M/s UMACIS Consulting from Ugs. 52,545,000/= to Ugs. 45,000,000/=. 	profitably.
7.	Procedure for award of contracts	<ul style="list-style-type: none"> • Local Purchase Orders issued were noted and are managed by the PDU. • Motor vehicle service and repairs are managed by the PDU. • Contract documents issued were noted e.g. for Aluminium Windows at Ugs. 181,367,866/= • The entity does not seek Solicitor General's approval for contracts above Ug. Shs. 50m. 	<ul style="list-style-type: none"> • The entity should always seek Solicitor General's approval of Contracts above Ug. Shs. 50m. • In its response, the entity stated that it has a fully fledged legal department which approves contracts and also has access to six outsourced legal firms.
8.	Display of Statutory Notices on Notice Board	<ul style="list-style-type: none"> • The compliance team noted that the entity had a procurement notice board specifically dedicated to procurement issues. 	
9.	Ethical Code by Contracts Committee	<ul style="list-style-type: none"> • All members of the entity's Contracts Committee used to sign the Ethical Code of Conduct for each meeting. 	
10.	Contract Management	<ul style="list-style-type: none"> • Contract management is done by the Project engineers however, contract management records were not seen by the compliance team. 	<ul style="list-style-type: none"> • Contract management records should be kept in accordance with Regulation 258 (3). The Procurement and Disposal Unit should get

		<ul style="list-style-type: none"> The entity uses frame work contracts for some procurements such as stationery, timber, sand, cement, plumbing materials e.t.c. 	involved in contract management.
11.	Record Keeping	<ul style="list-style-type: none"> The entity keeps procurement records and has separate files for the different procurements. The entity has indicative market prices for common user items. 	
12.	Complaints	<ul style="list-style-type: none"> The entity has not handled any complaints from providers on procurement or disposal. 	
13.	Suspension of Providers	<ul style="list-style-type: none"> The entity has not handled a suspension case. The entity has terminated contracts with providers on several occasions due to failure to deliver supplies in time. 	<ul style="list-style-type: none"> The entity should in accordance with Regulation 263 (4) inform the Authority of the provider involved, the reasons for the termination and make a recommendation on the provider's registration status (suspension) where appropriate.
14.	Disposal	<ul style="list-style-type: none"> The entity conducted two disposals in 2006 and 2007 in accordance with the PPDA law. 	<ul style="list-style-type: none"> The disposal of the items should be reflected in the procurement and disposal plan and should be submitted to the Authority in the monthly report.

2.2 GENERAL RECOMMENDATIONS

- 2.2.1 The Procurement and Disposal of Assets Policies and Procedures Manual 2006 submitted for accreditation to the Authority was lacking in many areas. The entity should urgently submit an application for accreditation of an alternative public procurement and disposal system in accordance with Regulation 342 of the PPDA Regulations.
- 2.2.2 The entity should prepare a procurement plan for the Financial Year 2007 and submit it to the Authority.
- 2.2.3 The entity should obtain Solicitor General's approval for contracts above Ug. Shs. 50,000,000.
- 2.2.4 The entity should submit monthly procurement reports from October 2006 to June 2007.
- 2.2.5 The entity should submit the report on Contracts in excess of US \$ 200,000 for the period January to December 2006.
- 2.2.6 A follow-up will be made on the progress of implementing the Authority's recommendations including a tour of the entity's projects in the next quarter.