



**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC
ASSETS AUTHORITY (PPDA)**

**PROCUREMENT AND DISPOSAL AUDIT REPORT
FOR
UGANDA LAW REFORM COMMISSION
FOR THE FINANCIAL YEARS 2003/2004 AND 2004/05**

EXECUTIVE SUMMARY

TABLE OF CONTENTS

ACRONYMS / ABBREVIATIONS.....3

EXECUTIVE SUMMARY..... 4

1.1 BACKGROUND..... 4

1.2 THE OBJECTIVES AND FUNCTIONS OF PPDA 4

1.3 OBJECTIVES OF THE AUDIT 5

1.4 SCOPE OF THE AUDIT 5

1.5 LIMITATION OF SCOPE 6

1.6 AUDIT METHODOLOGY 6

1.7 REPORTING 6

1.7 SUMMARY OF PERFORMANCE FOR THE UGANDA LAW REFORM COMMISSION 7

2.1 SUMMARY OF KEY FINDINGS 9

3.0 HIGH RISK CASES..... 11

4.0 ACTION PLAN FOR UGANDA LAW REFORM COMMISSION..... 17

ACRONYMS / ABBREVIATIONS

AO -	Accounting Officer
PAS	Principal Assistant Secretary
CC -	Contracts Committee
GOU -	Government of Uganda
IPC-	International Procurement Consultants
LPO	Local Purchase Order
PEM-	Public Expenditure Management
PDU -	Procurement and Disposal Unit
PO -	Procurement Officer
PDE -	Procuring and Disposing Entity
PPDA -	Public Procurement and Disposal of Public Assets Authority
RFQ-	Request for Quotation
ULRC -	Uganda Law Reform Commission

EXECUTIVE SUMMARY

1.1 Background

The Public Procurement and Disposal of Public Assets Authority (PPDA) carried out the audit of the Uganda Law Reform Commission (ULRC). The audit covered the whole procurement process activities carried out, right from planning, through initiation, execution, contract award, signing, delivery and payments for sampled procurements for the financial years 2003/2004 and 2004/2005 respectively. It also involved carrying out the review of the entire procurement practices in the years under review. The procurements were conducted following the Procurement and Disposal of Public Assets Act and Regulations, 2003.

1.2 The objectives and functions of PPDA

The objectives of PPDA are contained in section six (6) of the PPDA Act 2003 and they include the following:

- Ensure the application of fair, competitive, transparent, and non-discriminatory and value for money procurement and disposal standards and practices
- Harmonize the procurement and disposal policies, systems and practices of central government, local government and statutory bodies
- Set standards for the public procurement and disposal systems in Uganda
- Monitor compliance of procuring and disposing entities; and
- Build procurement and disposal capacity in Uganda

The functions of the PPDA are contained in section seven (7) of the PPDA Act 2003. These include:

- Advise Central government, local governments and statutory bodies on all public procurement and disposal policies, principles and practices
- Monitor and report on the performance of the public procurement and disposal systems in Uganda and advise on desirable charges
- Set training standards, competence levels, certification requirements and professional development paths in consultation with competent authorities
- Conduct periodic inspection of the records and proceedings of the procuring and disposing entities to ensure full and correct application of this act
- **Institute:**
 - i). Procurement or disposal audits during the bid preparatory process
 - ii). Contract audits in the course of the execution of an awarded bid
 - iii). Performance audit after the completion of the contract in respect of any procurement or disposal, as may be required etc,

The creation of the PPDA was to foster more transparency, no-discrimination, fairness, competition, accountability, economy and efficiency in procurement and disposal processes and to strengthen the public sector management aspects. It was expected that government ministries and departments would play an increased role in the procurement and disposal process while the Authority provides the policy, regulations, co-ordination, monitoring, supervision and control so as to achieve value for money in procurement and disposal process in Uganda.

1.3 Objectives of the Audit

Specifically this assignment aimed at achieving the following objectives:

- To audit the whole procurement and disposal process of all the sampled procurement and disposal activities carried out, right from the point of procurement planning to the end of the contract and determine whether the procurement and disposal process was in line with the PPDA Act and Regulations;
- To determine whether the awarding of the contracts was fair, competitive, equitable and cost effective; and whether they were properly authorised and approved;
- To assess the documentation of the procurement process and the entity's records management system;
- Review reporting system at the PDE as compared to the requirements of the Authority;
- To assess the procurement and disposal operational systems and structures of the PDE; and
- To make recommendations to improve procurement and disposal practices at the Uganda Law Reform Commission.

1.4 Scope of the Audit

The audit covered fifty-six (56) procurements and no disposals, and these were distributed through restricted/selective competitive bidding, RFQ/RFP, direct procurement and micro procurement, based on the list submitted to PPDA and files reviewed at the entity's offices.

- The selection of the samples audited was based on the following:
Size of procurement i.e. to ensure there was coverage of large, medium and small procurements;
- Coverage in terms of method of procurements to ensure that all methods were selected;
- Coverage in terms of type of procurement; ie supplies, services and works;
- Having a fair distribution among the procuring departments in the Uganda Law Reform Commission;
- Selection of contracts where there is frequent selection of specific contractors/suppliers;
- Procurements that were awarded to none pre-qualified providers outside open domestic bidding.

The samples were selected on a case-by-case basis using the above criteria from the list provided by ULRC and agreed by the PPDA management as below:

Procurement method	Number	Value
Open bid process	0	-
Restricted /selective tender process	2	91,159,266
Direct Procurement	5	19,600,960
Request for Quotation/proposals process	19	200,611,214
Micro Procurements	30	33,424,736
Disposal	0	-
Total	56	344,799,176

1.5 Limitation of scope

There was no procurement conducted under open competitive bidding method. There were no disposals carried out by the Uganda Law Reform in the two financial years, therefore, the audit covered only procurements. The audit scope was limited by lack of some documents on some of the procurement action files.

1.6 Audit Methodology

The consultant held meetings with the Uganda Law Commission’s Accounting Officer, the Senior Accountant, and the head of the PDU, who was the contact person during the audit process, to discuss the audit scope, implementation of the audit, types of documents to be provided, and provision of working space for the Audit Team.

Documents were also reviewed to examine and evaluate the authenticity of the procurement information. The procurements were reviewed on a case-by-case basis. All key documents were reviewed at the entity’s premises. The review covered: Procurement planning, institutional procurement environment, monitoring systems, procurement processes, reporting, contracting, and compliance with regulations.

1.7 Reporting

The procurements have been rated according to the weaknesses identified as follows:

Weakness	Description
High Risk	These are procurements with serious weaknesses, which could cause material, financial, regulatory or reputational risks warranting immediate attention by senior management. Significant deviations from established policies and principles and /or generally accepted industry standards will normally be rated “high”.
Medium Risk	These are procurements with weaknesses which, although less likely to lead to material, financial, regulatory or reputational risk, warrant timely management action using the existing management framework to ensure a formal and effective system of management controls exists in the Commission. The absence of key controls in an area of the Commission would normally be graded “medium” provided there is sufficient evidence of “hands on management control and oversight” at an appropriate level of seniority.
Low Risk	Procurements with weaknesses where resolution within the normal management framework is considered desirable to improve efficiency or ensure that the business matches current market best practice. Deviations from the laid down procedures would normally be graded “low” provided there is sufficient evidence of management action to put in place and monitor compliance with detailed procedures.
Satisfactory	Procurement for which, based on the records/information availed to us and the evidence collected, there were no weaknesses that came to our notice.

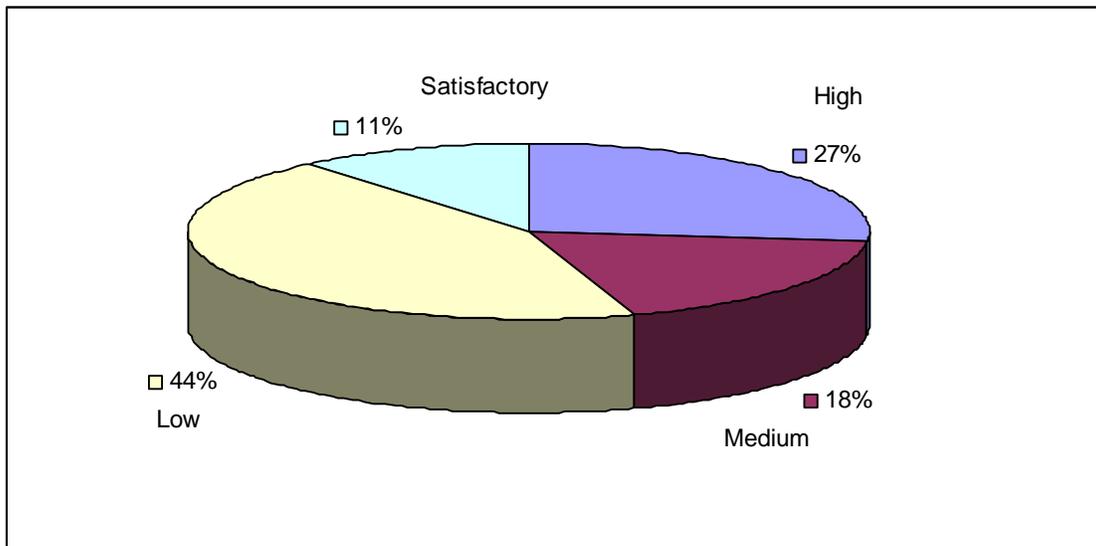
1.7 Summary of Performance for the Uganda Law Reform Commission

We have classified the 56 cases with the reporting matrix as follows

Contract Rating	Number of Contracts	%	Comments
High risk	15	27	We have recommended specific action for each case as detailed below.
Medium risk	10	18	The PDU should take the recommendations as action point and implement them going forward.
Low risk	25	44	The control environment should be strengthened to ensure that the risks identified are mitigated.
Satisfactory	6	11	The entity should be encouraged to have more satisfactory audits.
Total	56	100	

A graphical representation of the summary is illustrated below:

Performance Rating



2.0 Overview of Uganda Law reform Commission (ULRC)

The main stakeholders in the procurement process in ULRC, during the period under review, are detailed below:

a) Accounting Officer:

The Accounting Officer is Ms Joviah Kamateka (on secondment)

b) Contracts Committee:

The Contracts Committee is composed of staff from different departments and is detailed in the table below:

Name	Role on CC	Designation
S.H.Kisukiro	Chairman	Principal Assistant Secretary
Barbra Irakiza	Secretary	Office Superintendent
Rachael Odoi Musoke	Member	Principal Legal Officer
Alice Akoo	Member	Senior Accountant
Francis Katende	Member	Internal Auditor

c) Procurement and Disposal Unit:

The Procurement and Disposal Unit is composed of only one person as indicated below:

Name	Designation
Magera Paul Nathan	Procurement Officer

d) User departments;

The user departments comprise three departments headed by:

- i) Commissioner Law Reform;
- ii) Commissioner Law Revision;
- iii) Under Secretary (AO).

2.1 Summary of key Findings

Below is the summary of key findings for which the Entity did not give a response.

Area	<i>Findings</i>	PPDA Recommendations
Planning and Bidding	<ul style="list-style-type: none"> There had been no procurement planning for the period under review 	<ul style="list-style-type: none"> A procurement plan which incorporates the User procurement requirements and consistent with the annual budget should be made in accordance with Regulation 96 of PPDA Regulations 2003 The PDU's should coordinate the preparation of the procurement plan.
Pre-qualification	<ul style="list-style-type: none"> Pre-qualification was done for all the envisaged activities for the period under review but certain providers were not picked from the prequalified list and no justification was seen 	<ul style="list-style-type: none"> The Head of PDU should ensure that where there is a prequalified list, potential bidders should be got from the list except where the conditions do not favour the prequalified providers in accordance with Regulation 120 of the PPDA Regulations 2003
Contracting and contract management	<ul style="list-style-type: none"> Contract management is non-existent. This is attributed to lack of planning which allows for the low scale procurements characteristic of the commission. This can also be attributed to lack of knowledge regarding project and contract management. 	<ul style="list-style-type: none"> The User departments should always appoint a contract manager in accordance with Regulation 258 of the PPDA Regulations 2003
Records Keeping	<ul style="list-style-type: none"> Records keeping was poor during the period under review. There were seven (7) missing files and in some files seen some documentations were 	<ul style="list-style-type: none"> The Accounting officer should be held responsible for the missing files. The PDUs should maintain procurement records as per Section 31(o) of the PPDA Act 2003.

Area	<i>Findings</i>	PPDA Recommendations
	missing	
Reporting	<ul style="list-style-type: none"> Monthly reports have been submitted as required. 	<ul style="list-style-type: none"> This is recommended.
The role of the Accounting Officer	<ul style="list-style-type: none"> The AO approves all initial procurement requirements from all departments; Approves payments ; Communicates award of contracts 	<ul style="list-style-type: none"> The Accounting officer should ensure that his/ her functions as mandated by the Section 26 of the PPDA act are adhered to.
Capacity of the Contracts Committee	<ul style="list-style-type: none"> From records under review the CC did quite some good job, although in some instances they seem not to be sure of their role basing on the decisions they take and serious omissions observed during their execution of duty. The composition of the CC needs to be revised to avoid conflict of interest. It is irregular for the Senior accountant to be a member of the CC 	<ul style="list-style-type: none"> The AO should organise for training of the CCs, PDU, and User departments, to enable them understand and appreciate their roles and obligations within the PDE. The Senior Accountant and Internal Auditor should not be members of the CC, as stipulated in PPDA Guideline No. 5 of 2004.
Compliance with the PPDA Regulations 2003	<ul style="list-style-type: none"> The PPDA Act and Regulations are not adequately complied with eg the use of proper PP forms at each stage of procurement, approval levels and separations of powers by different players in the PDE and records keeping management. Some of these methods were wrongly applied eg Procurement of IT Equipment, where RFQ was used instead of restricted bidding method 	<ul style="list-style-type: none"> The Accounting officer must organise training for officials involved in procurement to get sensitised in the PPDA Act and Regulations 2003. The AO should ensure that there is independence of functions of procurement organs in accordance with section 38 of the PPDA Act 2003. Appropriate methods of procurement must be used in requirements as specified in the fourth schedule of the PPDA Act 2003.

3.0 HIGH RISK CASES

There were two categories of high risk cases: Procurements without action files and procurements whose action files were reviewed but rated as high risk.

3.1 Procurements without action files

No.	Subject of procurement	Procurement Reference No.	Supplier	Amount
1	Supply of office stationery	No reference number	Gulf Africa Ltd	2,219,500
2	Supply of office stationery	No reference number	Abesi General Enterprises	2,840,000
3	Supply of office stationery	No reference number	Hemina Enterprises Ltd.	3,294,000
4	Advertisement	N0 reference number	The Monitor Newspaper	2,058,126
5	Supply of office stationery	No reference number	Gulf Africa Ltd.	1,572,000
6	Supply of toner for photocopier	No reference number	Xerodoc (U) Ltd.	1,681,623
7	Supply of office stationery	ULRC/SUPLS/04-05/00002	Prime General Supply Ltd.	1,350,400
	Supply of office stationery	ULRC/SUPLS/04-05/00002	Hemina Enterprises	1,350,400
			Total	16,366,049

The missing files are equivalent to a monetary percentage of 4.7 % of the total value of sampled procurements and equivalent to 12.5% of the total number of sampled procurements

3.2 Procurements whose documents were reviewed but rated as high risk

No.	Procurement	Audit Findings	Entity's response	Recommendations
3.2.1	<p>No Procurement Reference</p> <p>Supply of office stationery at shs 2,614,000</p> <p>Provider: Abesi General Enterprises</p>	<ul style="list-style-type: none"> There was procurement requisition (PP form 20) seen on file Provider was single sourced and no reason given. 	<ul style="list-style-type: none"> <i>Procurement plan for the year was not prepared</i> <i>Procurement was formally requested through accounting officer. At that time the procurement unit was not yet in place</i> 	<ul style="list-style-type: none"> The requisition of any procurement must be made on a PP form 20 in accordance with Regulation 104(1) of the PPDA Act 2003 Procurement methods must be approved by the contracts committee in accordance with Section 28 (d) of the PPDA Act 2003. The Head of PDU should be held responsible for this irregularity.
3.2.2	<p>ULRC/SPLS/03-04/29-02-01</p> <p>Supply of furniture in lots at Shs 12,608,285</p> <p>Providers: Prime Apex 2001 Limited & ULRC/SUPLS/03-04/29-02-02 Nina Interiors: Shs 2,862,749</p>	<ul style="list-style-type: none"> The providers were not on the pre-qualified list. The evaluation team did not sign the ethical code of conduct. The evaluation team was approved by the PO 	<ul style="list-style-type: none"> <i>The providers on the list were not adequate. Providers chosen on the basis of knowledge of the market</i> <i>The evaluation team true, did not sign the ethical code of conduct</i> <i>Record of bid opening is attached on file</i> 	<ul style="list-style-type: none"> The Evaluation team must always sign an ethical code of conduct as per Regulation 169(9) of the PPDA Regulations 2003. The Head of PDU is responsible for failing to advise on this. The Head of PDU should be held responsible for usurping the powers of the CC by approving the evaluation contrary to Regulation 170-172 of PPDA Regulations 2003

No.	Procurement	Audit Findings	Entity's response	Recommendations
3.2.3	<p>ULRC/WRKS/04-05/00001</p> <p>Partitioning of the Northern Wing, 8th floor Workers House at: US\$ 18,637 (Ug shs 31,999,729)</p> <p>Provider: Hwan Sung</p>	<ul style="list-style-type: none"> The procurement was conducted out side PDU. No signed contract agreement were provided There was no evidence of contract management process by the user department 	<ul style="list-style-type: none"> <i>The letter setting out conditions set by landlord for the works has been attached on file</i> <i>The process of partitioning began before procurement unit was set up</i> <i>No retrospective authority was given, work began after the Contracts Committee approved the Contractor</i> <i>Contract management was done by the office superintendent though not documented.</i> 	<ul style="list-style-type: none"> All the procurements must be managed by the PDU in accordance with Section 31 of the PPDA Act 2003. The AO should be held responsible for this irregularity. All contracts entered into must be sealed with a signed contract agreement. The AO should be held responsible. The entity should have appointed a contract manager to monitor the works as per Regulation 258 of PPDA Regulations 2003
3.2.4	<p>No Procurement Reference</p> <p>Supply of motor vehicle at Shs 59,159537</p> <p>Provider: Victoria Motors Ltd</p>	<ul style="list-style-type: none"> Only one firm of those invited to bid was on the pre-qualified list. No evidence of signing of the ethical code of conduct by evaluation team. No formal approval of evaluation team. No evidence to indicate that the draft contract was submitted to CC for approval. 	<ul style="list-style-type: none"> <i>Procurement was recorded on pp form 20 which is on file</i> <i>List of bidders was inadequate hence using knowledge of market to add more companies</i> <i>Formal request for approval of evaluation team was made though the CC's response was silent</i> <i>8 working days was given because of the risk of losing the</i> 	<ul style="list-style-type: none"> Every evaluation team must be approved by the CC in accordance with Section 28-29 of the PPDA Act 2003 It is a constitutional requirement that all contracts for procurements above 50 million should be approved by the Solicitor General. The accounting officer should account for this. User department should appoint

No.	Procurement	Audit Findings	Entity's response	Recommendations
		<ul style="list-style-type: none"> No approval of the contract from the Solicitor General No evidence of contract management programme. 	<p><i>money when the financial year was closing.</i></p> <ul style="list-style-type: none"> <i>Approval from the Solicitor General was an oversight</i> <p><i>Contract Management is by user acknowledging receipt of the vehicle in good condition which is attached and anything noted contrary to the contract is brought to the attention of the PDU though details of contract management were not spelt out.</i></p>	<p>a contracts manager in accordance with Regulation 258 of the PPDA Act 2003</p>
3.2.5	<p>ULRC/SUPLS/03-04/29-03</p> <p>Supply of Digital Photocopier at Ushs 22,300,000/-</p> <p>Provider: The Copy Cat (U) Ltd</p>	<ul style="list-style-type: none"> The Evaluation team did not sign the ethical code of conduct Two of the firms selected not on the pre-qualified list. There was no notice of best evaluated bidder seen on file 	<ul style="list-style-type: none"> <i>Evidence of initiation of procurement is on file though not on pp form 20</i> <i>True, the evaluation team did not sign the ethical code of conduct</i> <i>Firms on the list were not pre-qualified because during that financial year, photocopiers as an item were not pre-qualified hence causing a limited scope of supply.</i> <i>Approval of the evaluation report by the Contracts Committee is on file</i> 	<ul style="list-style-type: none"> Evaluation team should sign the ethical code of conduct to avoid any conflict of interest. The Head of PDU should be held responsible for failure to publish the best evaluated bidder notice in accordance with Regulation 224 of PPDA Regulation 2003 The Head of PDU is held responsible for failure to keep procurement records in accordance with Section 31(o) of the PPDA Act 2003

No.	Procurement	Audit Findings	Entity's response	Recommendations
			<ul style="list-style-type: none"> Notification of award is on file 	
3.2.6	ULRC/SUPLS/04-05/00082-01-01 Supply of Office Equipment at Ushs 37,767,760/- Provider: MTA Computers Limited.	<ul style="list-style-type: none"> The evaluation team did not sign ethical code of conduct. 	<ul style="list-style-type: none"> All the firms on the shortlist were pre-qualified Contracts Committee's response was on CTB form 9 because the Secretary, Contracts Committee had not acquired a computer and the new form 209. Record of bid opening is attached and duly signed by a member of the Contracts Committee. 	<ul style="list-style-type: none"> The Head of PDU should ensure that the evaluation team always signs ethical code of conduct in accordance with Regulation 169(9) of the PPDA Regulations 2003
3.2.7	ULRC/SUPLS/04-05/00082-02-01 Supply of Office Equipment- Furniture at Ushs 13,205,000/- Provider: Dezy Business Systems Limited	<ul style="list-style-type: none"> Two of the suppliers Hwang Sung (U) Limited and Multi Options Limited were not on the pre-qualified list LPO was not dated 	<ul style="list-style-type: none"> Contracts Committee's response was on CTB form 9 because the Secretary, Contracts Committee had not acquired a computer and the new form 209. 	<ul style="list-style-type: none"> The Entity should use appropriate procurement methods as specified in Schedule Four of the PPDA Act 2003 An appropriate action should be taken against the head procurement and Disposal Unit for failure to advise the CC on the appropriate procurement methods in contravention of Section 31 of the PPDA Act 2003

No.	Procurement	Audit Findings	Entity's response	Recommendations
3.2.8	ULRC/SUPLS/04-05/00037 Procurement of Furniture Providers: Nina Interiors shs 1,049,720/- and Prime Apex 2001 Ltd Shs 1,515,000	<ul style="list-style-type: none"> • The suppliers were not on the pre-qualified list • No Copy of the LPOs on file 	<ul style="list-style-type: none"> • <i>No response from the entity.</i> 	<ul style="list-style-type: none"> • The Entity should use appropriate procurement methods as specified in Schedule Four of the PPDA Act 2003 • The head of PDU is responsible for failure to keep procurement records in accordance with section 31(o) of the PPDA Act 2003

4.0 Action plan for Uganda Law Reform Commission

Area description	Recommendation	Action Party	Time Frame
Procurement Planning.	<p>The Accounting Officer should ensure that the Commission has an approved procurement plan for each financial year</p> <p>The PDU should prepare and coordinate the procurement plan and link it to the PDE's annual budget and work plan for each financial year.</p>	Accounting Officer/ PDU	Immediate, first quarter of each financial.
Roles of CC	<p>To avoid conflict of interest, CC and the PDU should stick to their functions and powers as stipulated in the PPDA Act Sections 28, 29, 31& 32 respectively.</p> <p>CC should not get involved in initiating procurements as was the case of the partitioning of Northern Wing.</p>	Chairman CC	Immediate
Record Keeping and Missing Documents	All procurements should have an action file and the PDU should keep all the records as outlined in regulation 90 & 91 of the PPDA Regulations, 2003.	PDU	Immediate
Preparation and issue of LPOs by the Accounts Department	The preparation and issuing of LPOs should be transferred to the PDU immediately in accordance with Regulation 59. This is to ensure that there are controls and checks in place.	AO	Immediate
User Departments making requisitions to AO	The AO should ensure that all requisitions go through the PDU using the correct PP Form 20. The AO should therefore make a formal communication to that effect to all	AO	Immediate

Area description	Recommendation	Action Party	Time Frame
	user departments.		
Contract and Contract Management	It is very important that the user departments get interested in the procurements they initiated, to make sure that providers deliver according to the intended goals. For this reason, therefore, the user departments should appoint contract managers, where applicable to see to the proper performance of those contracts in accordance with Regulation 259.	PDU/User departments	Continuous
Pre-qualification	The entity should use the list of pre-qualified suppliers on a rotation basis, and the list shall be updated periodically Reg. 126(4&6).	CC/PDU	Continuous
Use of PP Forms and Reporting	The PDU should ensure that designated forms be used at every stage of procurement. To emphasise this, the CC should never approve any procurement at any stage where designated forms are not used.	CC/PDU.	Immediate
Training of the PDU staff and other stakeholders in the entity	ULRC should organize through the Authority training for all the stakeholders to understand their roles and responsibilities in the procurement cycle.	AO/Head PDU/ PPDA	Three months after receipt of the report



UGANDA LAW REFORM COMMISSION

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Ref: ADM/85/200/01

Mr Ref:

18th October 2006

The Chief Executive Officer
International Procurement Consultants (IPC) Limited
P.O. BOX 321
Kampala

**Re: RESPONSE TO THE DRAFT REPORT FOR THE PROCUREMENT
AUDIT OF ULRC**

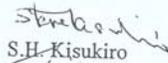
Refer to your letter dated 26th September 2006 and the subsequent meeting held at the Commission on the 6th October 2006.

In review of the draft document that you prepared, it was necessary for us to discuss audit gaps before the draft report would be prepared. This would have helped identify the missing documents before the draft report was prepared.

During the meeting held between you, PPDA officials and Commission officials, it was agreed to review the report and accommodate the missing files and other documentation.

These files were availed to you for further examination and we hope that they will address our concerns. The response is herewith attached to be incorporated in your final report.

We look forward to getting the final audit report.


S.H. Kisukiro

For: Executive Secretary

C.C. Executive Director, PPDA