



**PUBLIC PROCUREMENT AND DISPOSAL
OF PUBLIC ASSETS AUTHORITY**
"Procurement That Delivers"

**INSPECTION REPORT ON THE PROCUREMENT OF CURTAINS AND
FURNITURE**

ENTITY: ELECTORAL COMMISSION

BIDDER: KIMWA (UGANDA) LIMITED

COMPLAINANT: INSPECTORATE OF GOVERNMENT

JANUARY 2025

TABLE OF CONTENTS

ACRONYMS..... ii

LIST OF TABLES..... iii

1.0 EXECUTIVE SUMMARY 1

2.0 SUMMARY OF FACTS 2

3.0 OBJECTIVE OF THE COMPLIANCE INSPECTION 3

4.0 LAW APPLICABLE 3

5.0 METHODOLOGY..... 4

6.0 FINDINGS BY THE AUTHORITY 4

7.0 CONCLUSION & RECOMMENDATIONS..... 9

ACRONYMS

AO	Accounting Officer
EC	Electoral Commission
FY	Financial Year
Ltd	Limited
PDE	Procuring and Disposing Entity
PPDA	Public Procurement and Disposal of Public Assets Authority
SUPLS	Supplies
UGX	Uganda Shillings

LIST OF TABLES

Table 1: Furniture for Regional Offices..... 3
Table 2: Distribution of Curtains per Regional Election Office 3
Table 3: Persons Interviewed..... 4
Table 4: Specifications for Curtains 5
Table 5: Delivery of Curtains 8
Table 6: Furniture For Regional Offices..... 8

1.0 EXECUTIVE SUMMARY

On 6th December 2024, the Authority received your letter dated 25th November 2024 in which you requested for an investigation into the alleged irregular procurement of curtains and furniture for Regional Offices by the Electoral Commission during Financial Year 2020/2021. The Inspectorate of Government had received a complaint alleging misappropriation of public funds at the Electoral Commission under this procurement.

In accordance with Section 8 (1) (i) of PPDA Act, Cap. 205, the Authority conducted a compliance inspection into the procurement of curtains and furniture.

The objective of the compliance inspection was to establish whether the procurement for curtains and furniture was conducted in accordance with the provisions of the PPDA Act, Cap 205 and Regulations 2014.

The Authority interviewed Electoral Commission staff and found merit in the allegation of irregular procurement of curtains and furniture at the Electoral Commission. The procurement of curtains and furniture was undertaken without following the PPDA Act, Cap 205 and PPDA Regulations, 2014 as indicated below:

1. Section 60 (2) (d) of the PPDA Act, Cap. 205 states that an Entity shall plan its procurement and disposal in a rational manner and in particular shall integrate its procurement budget with its expenditure programme. The procurement of curtains and furniture for the Electoral Commission Regional Offices was not budgeted for and as such was not in the Entity's procurement plan for the Financial Year 2020/2021, contrary to Section 60 (10) of the PPDA Act, Cap. 205, implying that funds were misappropriated from other planned activities to undertake this procurement.
2. Section 61 (1) of the PPDA Act, Cap. 205 states that all procurement or disposal requirements shall be documented prior to commencement of any procurement or disposal proceedings. The Authority observed that there was no documentation on the initiation process for this procurement. Failure to initiate the process meant the quantities to be procured were not known nor approved.
3. Section 33 (g) of the PPDA Act, Cap. 205 mandates the Procurement and Disposal Unit to recommend procurement and disposal procedures including recommending an appropriate procurement method. The selection of Kimwa (Uganda) Ltd was irregular as the provider was chosen by the User Department (Ms. Pamela Okudi, RIP) with no involvement of the Procurement and Disposal Unit.
4. Section 85 (2) of the PPDA Act, Cap. 205 requires that the choice of a procurement or disposal method be first approved by the Contracts Committee. The Authority established that there was no approval obtained from the Entity's Contracts Committee to single source Kimwa (Uganda) Ltd. The Authority further noted that given the contract amounts for this procurement, the open domestic bidding method should have been used in order to maximise competition.

5. There was no bidding process and as such the process lacked competition, transparency and fairness, contrary to Regulation 41 of the PPDA (Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services) Regulations, 2014.
6. Section 76 (2) of the PPDA Act, Cap. 205 provides that all solicitation documents shall fully and comprehensively detail the evaluation methodology and criteria which shall apply. The Authority observed that there was no solicitation document issued and as such no documented evaluation criteria to apply, therefore no justification for the selection of Kimwa (Uganda) Ltd.
7. Regulation 3 (1) of the PPDA (Contracts) Regulation, 2014 requires that after evaluation and any negotiation process, a Procurement and Disposal Unit shall submit to the Contracts Committee a recommendation to award a contract. The Authority observed that there was no formal contracting process and therefore no binding contract which implies that the Entity would have no recourse against the supplier in the event of failure to deliver as expected.
8. Section 48 of the PPDA Act, Cap. 205 requires procurements to be conducted in a manner that upholds transparency, accountability and fairness. The Authority was not availed any records in regards to the procurement process for furniture, right from initiation of the procurement up to delivery and payment. The procurement of curtains and furniture was therefore conducted in a non-transparent manner and hence no accountability for the funds spent.
9. Section 40 of the PPDA Act, Cap. 205 provides that subject to the provisions of this Act, the Accounting Officer, the Contracts Committee, the Procurement and Disposal Unit, the User Department and the Evaluation Committee shall act independently in relation to their respective functions and powers. The lack of records on this procurement was a reflection of the lack of involvement of these structures. The Authority observed that the Principal Election Officer in the Department of Administration, Ms. Pamela Okudi (RIP) singlehandedly selected the supplier and thereby usurped the roles of all the players in the process.

In light of the above findings, the Authority found **merit** in the allegation that the procurement of curtains and furniture was irregular and undertaken without following the PPDA Act, 2003 and PPDA Regulations, 2014.

The Authority recommends that the Accounting Officer who has the overall responsibility for the execution of the procurement and disposal process takes responsibility for the breaches and should show cause as to why disciplinary action should not be taken against him for not following the PPDA Act, 2003 and PPDA Regulations, 2014.

2.0 SUMMARY OF FACTS

1. The Principal Election Officer, Ms. Pamela Okudi (RIP) prepared and sent the specifications for curtains for the Electoral Commission Offices to the provider. The document did not

indicate the date when this was forwarded to Kimwa (Uganda) Ltd, who later supplied the curtains.

2. Furniture procured for the four Regional Offices was indicated as listed in Table 1 below though with no source documents. The Authority obtained these figures from interviews with staff of the Commission:

Table 1: Furniture for Regional Offices

No.	Electoral Commission	Amount (UGX)
1.	Kampala Region	175,000,000
2.	Western Region	276,200,000
3.	West Nile Regions	222,950,000
4.	Elgon Region	269,350,000
	Total	943,500,000

3. On 22nd July 2021, the Electoral Commission's Internal Audit Department received instructions from the Ag. Secretary, Electoral Commission to carry out verification of the curtains that were delivered to the Regional Election offices to guide payment. The exercise was carried out by Internal Audit and stores staff from 17th to 25th August 2021. A report was prepared dated August 2021 confirming the deliveries.
4. The delivery of curtains was made to the four Regions from 8th June 2021 to 29th June 2021. The total value of the curtains as per the delivery notes and invoices was UGX 295,200,000. The deliveries were made as per Table 2:

Table 2: Distribution of Curtains per Regional Election Office

No.	Regional Office	Amount (UGX)
1.	Central Region	77,400,000
2.	Western Region	86,400,000
3.	West Nile Region	59,400,000
4.	Elgon Region	72,000,000
	Total	295,200,000

5. On 24th November 2024, the Inspectorate of Government requested the Authority to review the process of procurement of curtains and furniture by the Electoral Commission.
6. The Authority commenced the review of the process on 13th December 2024.

3.0 OBJECTIVE OF THE COMPLAINT INSPECTION

The objective of the inspection was to establish whether the procurement for curtains and furniture was conducted in accordance with the provisions of the PPDA Act, 2003 and Regulations 2014.

4.0 LAW APPLICABLE

- i. The Public Procurement and Disposal of Public Assets Act, Cap. 205; and
- ii. The Public Procurement and Disposal of Public Assets Regulations of 2014.

5.0 METHODOLOGY

In reviewing the request, the Authority adopted the following methodology:

- a) The records reviewed included the following:
 - i. Electoral Commission's Internal Audit Report on the verification of curtains delivered to the Regional Election Offices;
 - ii. Written statements by staff of Electoral Commission;
 - iii. Delivery Notes for curtains; and
 - iv. Invoices from Kimwa (Uganda) Ltd for curtains.
- b) Interviews were held with the individuals indicated in Table 3:

Table 3: Persons Interviewed

S/No	Name	Position
Electoral Commission		
1.	Mr. Richard Kamugisha	Ag. Secretary to the Commission
2.	Ms. Faith Atim Okema	Ag. Head Internal Audit
3.	Mr. Martin Twinomugisha	Senior Procurement Officer
4.	Ms. Sarah Kalyowa	Senior Election Officer/Administration
5.	Ms. Grace Musinguzi	Senior Election Officer/Finance
6.	Mr. Peter Male	Ag. Principal Election Officer/Finance
7.	Mr. Cypriano Ogwang	Ag. Director Finance and Administration
Kimwa (Uganda) Ltd		
1.	Ms. Sarah Najjemba	Director, Kimwa (U) Ltd

- c) Limitations to the Inspection:
 - i. There was no procurement action file for this procurement and the Authority mainly relied on the Internal Audit report and witness statements to make its conclusion as to how this process transpired.
 - ii. Unavailability of some key substantive Electoral Commission staff such as the Accounting Officer and Director Finance and Administration as they were out of office on interdiction.

6.0 FINDINGS BY THE AUTHORITY

6.1 *Whether the procurement for curtains and furniture was conducted in accordance with the provisions of the PPDA Act, cap. 205 and Regulations 2014*

6.1.1 Procurement not budgeted for

The Authority was informed by the Senior Election Officer/Administration who represented the User Department that the procurement had not been budgeted for in Financial Year 2020/2021. The Principal Election Officer, Ms. Pamela Okudi (RIP) made a requisition to the Accounting Officer, to authorise the purchase of curtains and furniture. The Authority was informed that the Accounting Officer authorised the requisition and funds were disbursed to the Regional Accounts who handled the entire process. The Authority did not get evidence on the authorisation to commence this procurement.

Conclusion

The procurement of curtains and furniture for Regional Offices was not budgeted for implying that the curtains were not needed and as such, this was a nugatory expenditure.

6.1.2 Undertaking a procurement outside the procurement plan

Section 60 (10) of the PPDA Act, Cap 205 states that a procurement shall not be carried out outside the procurement plan except in cases of emergency situations. The Authority reviewed the Entity's procurement plan for the Financial Year 2020/2021 and noted that the procurement for curtains and furniture was not in the procurement plan.

Conclusion

The procurement for curtains and furniture had not been planned for in the Entity's procurement plan for the Financial Year 2020/2021.

6.1.3 No formal initiation process

Section 61 (1) of the PPDA Act, Cap. 205 states that all procurement or disposal requirements shall be documented prior to commencement of any procurement or disposal proceedings. The Authority observed that there was no record of initiation of this procurement by the User Department. As a result of this omission, the Authority could not establish what the estimated amount for this procurement was or what quantities were needed.

Section 34 (b) of the PPDA Act, 2003 requires a User Department to initiate procurement and disposal requirements and forward them to the Procurement and Disposal Unit. The Authority established from the Internal Audit report on the procurement of curtains and also during interviews with staff of the Commission that the department of Administration in particular the Principal Election Officer, Ms. Pamela Okudi (RIP) issued Kimwa Uganda Ltd the specifications for the curtains. The specifications for the curtains given to the Kimwa (Uganda) Ltd were indicated in Table 4 below:

Table 4: Specifications for Curtains

S/n	Specifications
1.	Colour- Charcoal grey
2.	Dimensions of each window curtain: 2 meters length and 3 meters height standard
3.	EC logo and labelling of logo in screen print at the helm of the curtain-well branded
4.	Good quality material to be long lasting and not a see through
5.	2 meters length for the curtain rods and accessories to help hung up the curtains
6.	Confirm with a sample before full manufacturing and delivery
7.	To be handled within 3 weeks of receipt of local purchase order

The Authority did not obtain any record in regards to the specifications for the furniture.

Conclusion

The procurement for curtains and furniture was not formally initiated and hence the quantities were not known and approved, the Accounting Officer did not confirm availability of funding for this procurement.

6.1.4 Irregular selection of a Provider

Section 33 (g) of the PPDA Act, Cap. 205 mandates the Procurement and Disposal Unit to recommend procurement and disposal procedures, which includes recommending an appropriate procurement method.

Section 85 (2) of the PPDA Act, Cap. 205 states that the choice of a procurement or disposal method shall first be approved by the Contracts Committee.

The Authority established from the report on the verification of curtains which was prepared by the EC Internal Audit Department dated 2021 and also through interviews with the staff of the Commission that Kimwa Uganda Ltd was the supplier of the curtains.

The Authority observed that Kimwa Uganda Ltd was selected by the User Department with no justification provided and was not approved by the Entity's Contracts Committee.

Conclusion

The selection of Kimwa (Uganda) Ltd was irregular as no approvals were obtained and no competition was applied in this process.

6.1.5 No bidding process

The Authority established that there was no formal bidding process which would have been characterised by the following activities:

- a) Issuance of a bidding document to potential bidders;
- b) Approval by the Contracts Committee of the bidding document to be issued to the potential bidders;
- c) Invitation to bid by way of issuing an approved bidding document to potential bidders in accordance with Regulation 41 of the PPDA (Rules and Methods for procurement of Supplies, Works and Non-Consultancy Services) Regulations, 2014; and
- d) Formal receipt of bids as prescribed under Regulation 58 of the PPDA (Rules and Methods for procurement of Supplies, Works and Non-Consultancy Services) Regulations, 2014. There was no record of a bid submitted by Kimwa (Uganda) Ltd.

Conclusion

There was no bidding process and as such the process lacked competition, transparency and fairness.

6.1.6 No evaluation undertaken

Section 76 (2) of the PPDA Act, Cap. 205 states that all solicitation documents shall fully and comprehensively detail the evaluation methodology and criteria which shall apply. There was no bidding document issued and therefore there was no evaluation criteria set for this procurement process.

Consequently there was no constituted Evaluation Committee contrary to Section 39 (1) of the PPDA Act, Cap. 205 which states that all evaluations shall be conducted by an Evaluation Committee which shall report to the Procurement and Disposal Unit.

Since there was no bid submitted by Kimwa (Uganda) Ltd, the supplier was selected without any evaluation and hence their selection was unjustified and irregular contrary to Regulation 19 (3) (c) of the PPDA (Evaluation) Regulations, 2014 which provided that the detailed evaluation shall for a bid for supplies; determine whether the bid complies with the minimum technical specification stated in the bidding document.

Conclusion

There was no evaluation undertaken in the selection of the provider contrary to Section 71 (2) of the PPDA Act, 2003 which provided that all solicitation documents shall fully and comprehensively detail the evaluation methodology and criteria which shall apply. The Authority established that no solicitation document was issued for this procurement and as such the selection of Kimwa (Uganda) Ltd lacked objectivity.

6.1.7 Irregular Contracting

Regulation 3 (1) of the PPDA (Contracts) Regulations, 2014 required that after evaluation and any negotiation process, a Procurement and Disposal Unit shall submit to the Contracts Committee a recommendation to award a contract. The Authority observed that there was no award made as there was no evaluation carried out.

Regulation 7 (1) (a) of the PPDA (Contracts) Regulations, 2014 stated that a Procuring and Disposing Entity (PDE) shall not issue a contract document, purchase order or other communication in any form, conveying acceptance of a bid that binds a PDE to a contract with a provider, until the Contracts Committee makes a decision to award the contract. The Authority observed that the Contracts Committee did not award the contract to Kimwa (U) Ltd, yet the User Department engaged to the supplier.

Regulation 7 (1) (b) of the PPDA (Contracts) Regulations, 2014 stated that an Entity shall not issue a contract document, purchase order or other communication in any form, conveying acceptance of a bid that binds an Entity to a contract with a provider, until the Accounting Officer confirms that the contract price is not higher than the market price established prior to the commencement of the procurement process. The Authority observed that there was no evidence that the Accounting Officer confirmed that the contract price was not higher than the market price.

Conclusion

There was no formal contracting of the provider contrary to Regulation 3 (1) of the PPDA (Contracts) Regulation, 2014 which required that after evaluation and any negotiation process, a Procurement and Disposal Unit shall submit to the Contracts Committee a recommendation to award a contract. There was no formal contracting process and therefore no binding contract which implies that the Entity would be in a weak position and may not be able to enforce the supplier to meet their obligations to supply.

6.1.8 Contract Management

The Authority established from the Internal Audit report on the procurement of curtains dated August 2021 that deliveries were made as shown in Table 5:

Table 5: Delivery of Curtains

No.	Items/Particulars	Electoral Commission Region	Date on delivery Note	Date on Invoice	Amount (UGX)
1.	258 pairs of curtains for 43 offices 86 pairs of curtain rods and accessories for each rod	Kampala Region	8 th June 2021	8 th June 2021	77,400,000
2.	288 pairs of curtains to cater for 48 offices 288 pairs of curtain rods and accessories	Western Region	25 th June 2021	21 st June 2021	86,400,000
3.	198 pairs of curtains for 33 offices 198 pairs of curtain rods and accessories	West Nile Regions	25 th June 2021	25 th June 2021	59,400,000
4.	240 pairs of curtains 240 pairs of curtain rods and accessories	Elgon Region	29 th June 2021	29 th June 2021	72,000,000

The Authority established from the Senior Election Officer/Administration, Ms. Sarah Kalyowa's handwritten notes that the deliveries made for the furniture was as listed in Table 6 below. She informed the Authority that she had picked the information on what was delivered from previous departmental discussion on the subject of procurement:

Table 6: Furniture For Regional Offices

No.	Regional Office	Amount (UGX)
1.	Kampala Region	175,000,000
2.	Western Region	276,200,000
3.	West Nile Region	222,950,000
4.	Elgon Region	269,350,000
	Total	943,500,000

The Authority was not able to obtain information on the quantities of furniture delivered as the delivery notes and invoices were not accessed.

Section 76 (3) of the PPDA, Act, 2003 stated that an award shall be confirmed by a written contract signed by both the provider and the Entity only after the conditions set out in subsection (2) have been fully satisfied. The Authority noted that there were no /Local Purchase orders issued for any of the above deliveries.

Conclusion

The Authority could not establish the quantities that were initially required since there was no requisition. The Authority therefore could not confirm whether the supplier provided all that had been required.

6.1.9 Failure to involve procurement structures

Section 30 (a) of the PPDA Act, Cap. 205 states that a Contracts Committee shall be responsible for adjudication of recommendations from the Procurement and Disposal Unit and making award decisions.

Section 33 (g) of the PPDA Act, 2003 stated that a Procurement and Disposal Unit shall manage all procurement or disposal activities of the Procuring and Disposing Entity except the award of contracts.

The Authority established during interviews with the Senior Procurement Officer that the Procurement and Disposal Unit was not involved at any one point in this procurement and as a result, no submissions were made to the Contracts Committee seeking approval.

Conclusion

There was failure to involve procurement structures in the process. The Principal Election Officer in the Department of Administration, Ms. Pamela Okudi (RIP) singlehandedly selected the supplier and thereby usurped the roles of all the players in the process contrary to Section 38 of the PPDA Act, 2003 which provided that subject to the provisions of this Act, the Accounting Officer, the Contracts Committee, the Procurement and Disposal Unit, the User Department and the Evaluation Committee shall act independently in relation to their respective functions and powers. The lack of records on this procurement was a reflection of the lack of involvement of the different procurement structures such as the Procurement and Disposal Unit, Contracts Committee and Evaluation Committee.

7.0 CONCLUSION & RECOMMENDATION

In light of the above findings, the Authority found merit in the allegation that the procurement of curtains and furniture was irregular and undertaken without following the PPDA Act, Cap. 205 and PPDA Regulations, 2014. The procurement for curtains and furniture breached the PPDA Law as indicated below:

- i. Undertaking a procurement that was not budgeted for nor planned for contrary to Section 60 (10) of the PPDA Act, Cap. 205 which states that an Entity shall plan its procurement and disposal in a rational manner and in particular shall integrate its procurement budget with its expenditure programme;
- ii. The procurement was not requisitioned for contrary to Section 61 (1) of the PPDA Act, Cap. 205;

- iii. No bidding process was carried out contrary to Regulation 41 of the PPDA (Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services) Regulations, 2014;
- iv. Lack of competition in the process contrary to Section 49 of the PPDA Act, cap. 205;
- v. The evaluation process was not carried out contrary to Section 76 (2) of the PPDA Act, Cap. 205;
- vi. There was no involvement of the procurement structures such as Procurement and Disposal Unit, Contracts Committee and Evaluation committee contrary to Section 40 of the PPDA Act, Cap. 205;
- vii. Failure to document the process using the PPDA forms; and
- viii. Irregular contracting contrary to Regulation 3 (1) of the PPDA (Contracts) Regulation, 2014.

The Authority was therefore not able to establish accountability for the funds UGX 295,200,000 and UGX 1,104,800,000 meant for curtains and furniture respectively. The Inspectorate of Government should further investigate how these funds were expended.

The Authority recommends that the Accounting Officer who has the overall responsibility for the execution of the procurement and disposal process takes responsibility for the breaches and should show cause as to why disciplinary action should not be taken against him for not following the PPDA Act, Cap. 205 and PPDA Regulations, 2014.