



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

**REPORT ON THE PROCEEDINGS OF THE  
SECOND PROCUREMENT REVIEW  
MEETING HELD ON WEDNESDAY, 28<sup>TH</sup> MAY  
2003 AT THE SHERATON HOTEL, VICTORIA  
HALL, KAMPALA**

**November 2003**

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## **FORWARD**

**James Kahoza**  
***Chairman, Board of Directors, PPDA***

## ACKNOWLEDGEMENT

The Public Procurement and Disposal of Public Assets Authority wishes to thank all the participants in the second Public Procurement Review Meeting. Both the attendance and inputs contributed immeasurably to the high level of the exchanges between participants and, the constructive and workable nature of the recommendations put forward.

Notwithstanding the above, I must acknowledge the role of those individuals who played an important part in ensuring that the proceedings of the second Public Procurement Review Meeting were a success. They include:

(i) Opening Remarks at the Review Meeting:

Mr. James Kahoza, Chairman of the Public Procurement and Disposal of Public Assets Authority (PPDA).

(ii) Chairman of the Review Meeting:

Mr. James Kahoza, Chairman of the Public Procurement and Disposal of Public Assets Authority (PPDA).

(iii) Presenter from the Donor Community:

Mr. Harman Idema, First Secretary, The Royal Netherlands Embassy.

(iv) Presenters from Procuring and Disposing Entities:

(a) Mr. Kiiza Amooti, Head of Training, Decentralization Secretariat, Ministry of Local Government;

(b) Mrs. Adah Kabarokole-Muwanga, Commissioner, Human Resources Development, Ministry of Public Service;

(c) Eng. Samson Bagonza, Commissioner, Quality Assurance, Ministry of Works, Transport and Communication; and

(v) Presenter from the Oversight Agencies:

Mr. John Muwanga, Auditor General.

(vi) Presenter from the Statutory Bodies:

Mr. Terry Kahuma, Executive Director, Uganda National Bureau of Standards.

(vii) Presenter from the Non-Governmental Organizations:

Mr. G.N. Badagawa, Senior Policy Analyst, Private Sector Foundation.

(viii) Closing Remarks at the Review Meeting:

Mr. Jotham Tumwesigye, Inspector General of Government.

Without the informed contribution of our willing colleagues to whom I have referred above, the progress we have made in this Public Procurement Review Meeting would not have been possible.

I wish again to thank all the participants for their very professional conduct throughout the proceedings.

**By Mr. Edgar Agaba**  
***Ag. Executive Director, PPDA***

## ACRONYMS AND ABBREVIATIONS

AGF	Anti-Corruption Agency Forum
CAO	Chief Administrative Officer
CC	Contracts Committee
CIDB	Construction Industry Development Board
CPAR	Country Procurement Assessment Report
DANIDA	Danish Agency For International Development
DFID	Department for International Development (UK)
FIDIC	Federation Internationale Des Ingenieurs Consols
FUCO	Federation of Ugandan Consultants
GDP	Gross Domestic Product
ICB	International Competitive Bidding
IGG	Inspector General of Government
ITC	International Trade Centre
LCB	Local Competitive Bidding
MOES	Ministry of Education and Sports
MOFPED	Ministry of Finance, Planning and Economic Development
MOLG	Ministry of Local Government
MOPS	Ministry of Public Service
MOWHC	Ministry of Works, Housing and Communications
NCDC	National Curriculum Development Centre
NGO	Non-Government Organization
OAG	Office of the Auditor General
OHSE	Occupational Health, Safety and Environment
PDE	Procuring and Disposing Entity
PRIU	Procurement Reform Implementation Unit
PRSC	Poverty Reduction Support Credit
PS/ST	Permanent Secretary / Secretary to the Treasury
PU	Procurement Unit
RAFU	Road Agency Formation Unit
RCTB	Reformed Central Tender Board
RFQ	Request for Quotations
TPPA	Third Party Procurement Agency
SBP	Standard Bidding Package
SWIPCO	Swiss Procurement Company

UDN	Uganda Debt Network
UN	United Nations
UNABCEC	Uganda National Association of Building and Civil Engineering Contractors
UNEB	Uganda National Examinations Board
U/S	Under Secretary
VFM	Value-For-Money

**SECTION ONE: KEYNOTE SPEECHES**

## **1.1 Opening Remarks**

Mr. James Kahoza, Chairman, Board of Directors, PPDA

Members of the Diplomatic Corps,  
Members of the Board of Directors of the Authority,  
The Permanent Secretaries,  
Heads of Statutory Bodies,  
Distinguished Ladies and Gentlemen.

Since the First Procurement Sector Review meeting, which took place on 15<sup>th</sup> August 2002 in this very hall, a lot has happened. That Meeting brought together the same type of people that are here today, but the focus of the discussion was mainly on the proposed legal framework for the procurement reform and in particular, the substance of Procurement of Public Assets and Disposal Act.

Even though the Contracts Committees and Procurement Units existed at the time of the First Meeting, the Board of Directors did not have a full legal mandate under the Public Finance Act under which the Contracts Committees were created. The Public Finance (Procurement) Regulations 2000 therefore did not legally put the new procurement system in place.

This Meeting, which is the second of the Procurement Sector Review, is taking place at a time when the Public Procurement and Disposal of Public Assets Act is in force. This law has been adopted by Parliament and assented to by the President. The provisions of this law will be briefly referred to by the Acting Executive Director of the Authority. The Board of Directors expects all public bodies, that is to say, Ministries, Departments and Statutory Bodies to take those actions that the law requires and manage their procurement of goods and services in line with the law, the regulations and the operating guidelines issued by the Board of Directors of the Authority.

As for the providers of goods and services, many of who are present here, you need to study the Procurement Law and the regulations so that you are able to submit bids that are compliant with the law and also invoke those sections of the law, which are meant to protect you in case you are not treated fairly.

The new procurement system is fully decentralized mainly for three reasons:-

- (i) to reduce long delays which characterize any centralized system;
- (ii) to ensure that those making award decisions own them by signing to those decisions under their own hand;
- (iii) to reduce conflict of interest within public offices.

The law covers the entire public sector, including the Local Governments where abuses of office have caused concern in many quarters and where the Inspector General of Government (IGG) has had to intervene on so many occasions.

Even though the law is in force, a lot of work remains to be done as follows:-

- (i) the Authority has yet to recruit staff to monitor and regulate the procurement system. This includes recruitment of the Executive Director of the authority to replace the one who had to leave for reasons that could not be avoided;
- (ii) Local Governments' capacity to handle the procurement system as required by law needs to be assessed. This study is now going on with the assistance of the United States Agency for International Development (USAID). Equally important is the harmonization of the new procurement system with the Local Governments Tender Board structures;
- (iii) the Authority still has to pre-qualify firms to assist procurement units in training and professional support where necessary and firms to conduct audits on behalf of the Authority when required; and
- (iv) the Ministry of Public Service has yet to recruit procurement staff for posting in Ministries and departments. Without a separate procurement cadre to man Contract Committees and Procurement Units, the purposes of the law may not be fully realized.

We now have a law and regulations to guide the new procurement system in the public sector. This Meeting should comment on any problems the Contract Committees and the providers may have noticed. The providers should also raise matters of concern to them as they interact with government Ministries. Architects for instance, have addressed the Authority on certain professional matters that need to be addressed when evaluating bids that relate to their profession. The Board will forward the Architects' submission to the Procurement and Disposing Entities in those Ministries, Departments and Statutory Bodies which operationally require the services of architects so that matters raised can be discussed and hopefully resolved.

It is the intention of the Board to make this Review Meeting a regular one to take place once or twice a year so that problems that arise can be discussed by all stakeholders and resolved. We have agreed with the Inspector General of Government on a working arrangement whereby all appeals or complaints by the providers of goods and services will be entertained by the IGG only, when the Board of the Authority has failed to resolve them to the satisfaction of all concerned.

I will not end my remarks without thanking government and International Institutions that have made the creation of this Authority easy. The World Bank helped in financing the procurement reform process. UNDP is helping in financing of training officers handling procurement over a period of two years. USAID is financing a study of existing procurement capacity in Local governments and may later help in training of local

government staff in procurement. We have had preliminary discussion with DANIDA, on the possibility of the Danish assistance within the framework of promotion of good governance.

Special tribute should go to Royal Netherlands Government (RNG) for the financial and material support to the then Reformed Central Tender Board and to the Authority right now. The Authority currently finances recurrent and capital expenses using resources offered to the Government of Uganda by the Royal Netherlands Government including the cost of financing this review meeting. Thank you very much.

## **1.2 Progress on the Implementation of the Procurement Reforms**

Mr. Edgar Agaba, Ag. Executive Director, PPDA

My humble duty today is to brief the stakeholders on the progress of the law that is, the reforms since August last year. In August 2002, we had the first review meeting. The meeting was aimed at looking at the progress of the reforms. Since then, the public procurement law was passed by Parliament in November 2002 and subsequently came into force on 21<sup>st</sup> February 2003. The Authority has been set up, the Board of Directors are in place, part of the staff who were previously in the Reformed Central Tender Board are still with the Authority and the Management of the Authority has been partly set u.

Since August 2002, we have worked on the Regulations attendant to the Public Procurement Act. The Regulations have been signed by the Minister and are ready for promulgation. They are currently at Uganda Printing and Publishing Corporation in Entebbe for publication. We have procedural forms in these Regulations, which are part and parcel of the Regulations. The Authority is going ahead to develop Standard Bidding Documents for works, services and supplies. We are currently issuing drafts of these documents to our stakeholders for consultation. We expect these to be finalized by the end of June 2003. We also have drafted the first set of guidelines, which are before the Board for approval. That is the progress regarding the legal framework. The way forward on the legal framework will be, the issuing of Regulations by the first week of June 2003, approval and issuing of guidelines by the first week of June 2003 and the issuing of standard bidding documents by the end of June 2003. All these documents will be issued electronically. We shall further collect comments and recommendations on the legal framework for future revision when appropriate. So, the exercise to review the law will be ongoing. We expect that in our review and progress meeting, we shall be able to have views and comments on how the law is working through periodical reviews.

As regards the Authority, the Act has spelt out clear functions and offices to be established under the Authority. The Authority is to create four divisions or departments to run the functions of the Authority. Some of these departments have already been staffed at director level. The Board is in the process of recruiting staff for the Authority and has planned for training of the team once they are in place. We have advertised for an Executive Director and the Board is to have a Technical Advisor with wide experience in the procurement reforms to guide it and the Management of the Authority on the way forward.

Regarding the way forward, we expect to recruit staff by the beginning of August 2003 and we shall subsequently build capacity progressively. The Authority is to develop a website and appropriate database linkages for compliance purposes with all procuring and disposing entities. In that respect, the Authority is also to establish a providers registration system. This system is aimed at creating an easy reference point for all procuring and disposing entities so that they can know which provider is on the market. The system will also classify and categorize providers, we shall know the providers and their categories, those who are Ugandans and those who are not and what kind of capacities they have. This system should be able to show financial capacities and

categories of goods, works or services they supply. We expect this exercise to be part of our programme for the next financial year.

**Introduction of the new system to the procuring and disposing entities.** The Authority has instructed all central government procuring and disposing entities, which number close to 100 to establish contracts committees by the end of May 2003. The new system of establishing these committees in procuring and disposing entities that are directly under the central government system is by having the Accounting Officers nominating members and forwarding them to the Permanent Secretary/Secretary to the Treasury for approval. We expect all contracts committees to be in place by the end of this month. We have received several submissions giving us the names of the contracts committee members for those that have been approved. We have also advised the procuring and disposing entities to create slots for the procurement staff in the procurement units by end of June 2003,

The Public Service Commission two months ago advertised nearly 80 positions for procurement professionals and by the end of June, the officers should be able ready for deployment in their respective entities. We have also informed the procuring and disposing entities about our proposed training of the new cadre to initiate them into the system.

The Authority has issued two tenders, one for compliance assessment and the other for procurement audits. The Authority is going to carry out compliance assessments in all the 100 central government entities. We are going to look at whether the entities know about the new law and if they have implemented its provisions, have set up contracts committees and procurement units and if they have had training, who is doing the procurement, e.t.c., this is the first step in compliance assessment. For procurement audits, the Authority has identified two key ministries where it is going to carry out audits of all the procurement activities between March 2002 and March 2003.

Under the Authority, the Government of Uganda in partnership with the UNDP has instituted the capacity building programme. This programme was commenced in February 2003. It will run for two and a half years and the staff of the project have been recruited. Between February and April 2003, the project was drawing up training modules. We have four training modules starting with the introduction. Courses have commenced with Module 1: Introduction and so far 134 public officials have been trained. We expect to start running the Module 2 at the beginning of July. We are also developing a National Capacity Building Strategy so as to incorporate the capacity building programme into that strategy.

The Ministry of Public Service has issued a circular professionalizing procurement in government and making it a professional. In line with this, the Authority is in the process of pre-qualifying third party procurement providers to offer line support to procuring and disposing entities and auditing services to the Authority. This should be completed by the end of July 2003.

The UNDP and Government of Uganda Partnership Project will be in force for two and a half years, and we shall train both public and private officials. We shall offer on-the-job

support under the project and shall also strengthen training institutions (public and private) engaged in procurement training through training of trainers. We shall also develop a certification system for the procurement staff, for career development.

We have also requested all procuring and disposing entities to advise us on procurements in excess of US dollars 200,000. This is a requirement under the Poverty Reduction Support Credit to publish all government contracts in excess of US\$ 200,000. We have received many submissions and the exercise shall be completed in the first week of June. By mid June, we shall be publishing this list in newspapers, giving those that have responded and those that have not responded to our request.

### **Local Government:**

The Procurement Act governs and regulates procurement practices in the local government sector, our role is to set standards and monitor compliance in the local government sector. The Authority with the assistance of USAID is carrying out a capacity assessment study in selected districts, in categories of big, small, medium and new to look at their procurement capacities. This study is to be completed by the end of June. We expect to have a local government stakeholders' workshop at the beginning of the next financial year to look at the findings of the study and the progress of the reforms in the local government sector.

On, the way forward, we expect to develop and issue local government regulations and other documentation in the next financial year. We shall support capacity building, monitor compliance, ensure enforcement and audit the procurement process.

### **The Private Sector**

We have included the private sector in all our consultations on the progress of these reforms. Currently, we have issued out draft standard bidding documents and have asked private sector stakeholders to comment on the use of these drafts. We expect to build capacity in the private sector by identifying stakeholders and training them in the public procurement programmes. We expect to develop preference and reservation schemes. We have already had initial discussions with the Ministry of Tourism, Trade and Industry on the policy guidelines which will be developed to fulfill the provisions of the law spelling out preference and reservation schemes for certain providers. We need to know the views of the private sector on the administrative review procedures provided in the law to handle complaints.

The Authority is developing a code of conduct for providers; the one for public officers is already in the Act, establish a joint-working committee with the Inspectorate of Government and the Auditor General on handling complaints, develop working procedures for administrative review and suspension of providers and initiate discussions with the Auditor General on procurement audits for defence and national security organs.

As regards the programmes of the Authority, in the last financial year, we were able to fulfill forty percent of our programmes. The major problem we faced was finances, the Authority only managed to work within the finances that were available. We expect the

government in the next financial year to fully fund the activities of the Authority and our development partners to continue assisting us to fund particular activities.

Programmes for the next financial year include the harmonization process of the central government and local government systems, the development of the database so as to link the procurement and disposing entities with the Authority, compliance assessment, auditing, among others.

In summary, the Act and the Authority are in force and the functions and the powers under the Act are being implemented. The way forward includes the recruitment of the Authority staff, compliance assessment, auditing two key ministries, capacity building.

We expect cooperation from the stakeholders both public and private. I would like to thank our development partners and the Government of Uganda for the assistance they have given to the Reformed Central Tender Board and subsequently now the Authority to implement our programmes.

Thank you very much.

### 1.3 Donors' Views on the Progress of the Procurement Reforms

Mr. Harman Idema, First Secretary, The Royal Netherlands Embassy

On behalf of the development partners I would like to thank you for the opportunity to present our views on the progress made so far in the implementation of the procurement reforms. In this presentation I would like to pose six questions and provide you with our views on these questions.

*Question #1: Why are development partners involved in the procurement reforms?*

For two important reasons. The first reason is of a developmental nature. As development partners to the Government of Uganda, we are keen to support the government in its fight against corruption, in obtaining best value for money and in increasing its capacity in the area of accountability. For some development partners, the possibilities to increase funding to Uganda partly depend on its performance in combating corruption.

The second reason has to do with development partners' own accountability. With the ongoing shift from projects to budget support, development partners rely more and more on the procurement systems of the government. Development partners will want to assure themselves, for the sake of their own accountability to their share holders and their governments back home, that tax payers' money is being spent in a transparent and accountable manner. Adherence to sound procurement procedures is an important element of accountability.

*Question #2: What has been the most important achievement since August?*

When reviewing progress, we have to start with the biggest achievement: the passing of the Procurement Bill. Whilst it took a long time to prepare the law and get it to Parliament, the bill was passed by Parliament in a very short time. All players involved, but especially the Procurement Authority, the Ministry of Finance, Planning and Development and the relevant chairmen of the Parliamentary Committees, must be commended for their successful efforts to accomplish this major step towards the implementation of the procurement reforms.

*Question #3: Why are we having a review so soon after the enactment of the law?*

This seems a legitimate question, since the law has only very recently come into existence. Why not give the law a chance and review its implementation in a year or so? There is a good reason not to wait, because it is not just a case of sitting back and wait for the law to implement itself. To have a successful implementation of the law, institutions need to be strengthened and instruments need to be developed and implemented. Many actions have actually been set in motion a long time ago, in anticipation of the new law. The current review serves to see the progress made on these actions, share experiences and agree on adjustments and priorities to support the implementation of the law. So that we can hopefully have a successful review of its implementation in a year or so.

*Question #4: Has enough progress been made?*

That would depend on the yardstick you use. We think it is important that we develop a yardstick for these reviews – I will come back to that later. For now, we could use the list

of actions from the previous review. We could also use the benchmarks of the PRSC policy matrix. There is actually a lot of overlap between these two yardsticks. If we were to use the common denominator, the conclusion would be that the most important benchmark (the enactment of the Procurement Law) has been met, but that most other benchmarks - which need to be in place to have a successful implementation of the law - have not been met and are still work in progress. Let's just quickly go through the most important ones that should have been met by April 1<sup>st</sup>.

- *Enactment of the Procurement Bill*  
This benchmark has been met.
- *Preparation of regulations, guidelines and reporting forms*  
This benchmark has been met.
- *Procurement secretariats created and operational in all central government procuring entities*  
In most cases created, but at the same time, in most cases not yet operational. The Ministry of Public Service is finalizing the selection of officers to be employed at these procurement secretariats. Even though not finalized yet, the Ministry of Public Service needs to be commended on their very constructive cooperation with the Procurement Authority.
- *Institutional Assessment of Local Government Procurement*  
The report is expected by June 20<sup>th</sup>. This Assessment is taking place with project support from USAID.
- *Establishment of Third Party Procurement Agents*  
The contract with SWIPCO was terminated by the end of 2002; the process of prequalifying Third Party Procurement Agents started later than planned. They are now expected to be in place by July 2003.
- *Independent Procurement Audits*  
Twenty percent of the value of procurement in Health and Education are expected to be audited by the end of June 2003. MAAIF and MOWLE will follow by end of September 2003. These audits form a major aspect of the overseeing and monitoring function of the Procurement Authority.
- *Publication of contracts above \$200,000*  
The intention is to publish a report on contracts above \$200,000 for the first quarter of 2003 by the end of this month. The report will be published in at least one national newspaper with wide circulation.
- *Incorporation of procurement plans in sector expenditure programs*  
MoH and MoES have incorporated procurement plans in their expenditure programs, but MAAIF and MoWLE are yet to meet this requirement. MoFPED will work with these two ministries to ensure that the plans are incorporated.

- *Preparation of Capacity Building and Training Strategy*  
Last December, the Government signed a contract for capacity building with UNDP. UNDP, through IAPSO, is working with the Procurement Authority to build training capacity in the country and provide training to procurement staff at the Procurement Authority. IAPSO has further agreed to work with the Procurement Authority to prepare a capacity building strategy, of which the training strategy will be a component. It is expected to be ready by June 30.
- *Establishment of an Appeals Mechanism to handle complaints*  
On this issue, there is some divergence of views. Some feel that the current arrangements are sufficient, other think that more needs to be done. During the last PRSC-mission it was agreed that at the least a comprehensive description is needed of how the appeal mechanism works under the current regulations and institutions. It would be good to evaluate the effectiveness of this mechanism after one or two years.

During the last PRSC-mission, strong concerns were raised about the lack of progress on these benchmarks. In agreement with the Procurement Authority, new dates were set for completion of most of these benchmarks, progress on which will be verified before the World Bank will go to the Board for approval of the PRSC-loan.

We have to acknowledge that there are ‘softening circumstances’ for not meeting some of the benchmarks. The former RCTB went through some management turmoil and came close to a standstill from December to March. The executive director has since resigned. Despite this slight disarray, at this moment in time we are happy to see that even though the Procurement Authority is still in the process of recruiting a new Executive Director, many actions have been set in motion and there seems to be ‘new energy’ at the Procurement Authority – this is, of course, also due to the enactment of the law.

In conclusion: dryly looking at the facts, there has not been enough progress. However, considering the circumstances and looking at the current dynamics and efforts to realize the new deadlines, hopefully in a few months we can say that there has only been a short delay.

*Question #5: What has been the impact of the procurement reforms so far?*

We don’t really know. One of the actions from the last review was to do a short study to design indicators to measure results and impact from the reforms. This study was carried out and came up with interesting results. We strongly recommend that these results be picked up and further developed into a set of relevant indicators (to be translated into undertakings), both on the ‘process/output’ level and on the ‘results/impact’ level.

In addition, reviews could be made more fruitful if they were preceded by the compilation of a semi-annual progress report, which would address the progress on these agreed undertakings and other main issues. This does not have to be an extra reporting requirement, as they are actually in line with the reporting obligations for existing budget support. In short, there is need for a more structured approach to measuring progress and communication with all players involved.

At this moment in time we cannot do more than make an estimated guess of the impact of the reforms. Considering that there has been a gap between the dismissal of the old centralized system and the adequate implementation of the new decentralized system, the opportunities for corruption have probably been increased. Unexperienced procurement secretariats and contract committees, lack of appropriate forms, lack of training facilities, lack of third party procurement agents, etc., all contributed to this increased potential for corruption.

However, within the next year there should be a noticeable change, when procurement secretariats will be adequately staffed, training courses will have been provided to many procurement officers and user departments, third party procurement agent arrangements will have been set up, and line support is provided by the Procurement Authority.

By that time, there should also be some indications about the length of the procurement process. One of the major problems with the old system was the considerable amount of time it took to complete the procurement process. In this respect, we would be very interested to hear some of the experiences with the new system from participants here today.

*Question #6: What are the five main issues for the next half year?*

#### *1. Realizing PRSC-benchmarks*

This is on the one hand a short-term priority, since for most of the benchmarks that were not met in April, new deadlines have been set for end of June. This includes compliance assessments, Local Government Procurement Capacity Assessment, Publication of Contracts and the formulation of a Training and Capacity Building Strategy.

On the other hand, the PRSC-policy matrix sets benchmarks for every year, and it is important that these benchmarks are part and parcel of the working plans of the Procurement Authority. Until the recent PRSC-mission, the Board of the Procurement Authority was not aware of the existing benchmarks.

#### *2. Funding the reforms*

One major issue that needs to be an agenda item on every review (but so far hasn't), concerns the financial aspects of the reforms. Issues such as realized expenditures in light of original budget allocations, main findings of auditors, budget requirements for next financial years should be discussed and recommendations on the way forward should be agreed upon.

Looking at the current budgets for procurement, we understand that the Procurement Authority has been allocated UGS 5.5 bn for the next FY. This is almost UGS 3 bn less than requested: the implications from this much lower allocation are not clear to us and we would request the Procurement Authority to clarify the consequences (a.o. in terms of realizing PRSC-benchmarks). Besides this budget support, as mentioned before

there is currently also project support from UNDP and USAID. Furthermore, within the capacity building component of LGDP-II there will be procurement-related interventions on the local levels.

### *3. Implement actions to secure Defence adherence to new Procurement Law*

The new Procurement Law is applicable to all expenditures, including those made by the Ministry of Defence. The law provides for a dual list of Defence items, covering items subject to the regular procurement procedures and items subject to a restricted procurement procedure. The law provides for procurement audits for items procured under this restricted procedure and that the findings are laid before Parliament.

In light of the recent concerns in connection with the increases in Defence expenditures, development partners stress the importance of adherence by the Ministry of Defence to the new Procurement Law. We recommend that in the next review, it is reported which actions have been taken to secure the adherence to the new Procurement Law of Defence expenditures.

### *4. Institutions need to be strengthened*

This is on the one hand a short-term action in terms of adequately staffing the procurement secretariats. As mentioned before, it is a worrying situation that since the decentralization of the procurement system, many procurement secretariats have not been operational.

Furthermore, the capacity of the Procurement Authority itself. Recruitment of staff is ongoing, and needs to be fully realized shortly. The Procurement Authority has – understandably – spent much of its time and efforts on the legal and regulatory part of its mandate, but it now needs to invest much more in its monitoring and auditing responsibilities. The Procurement Authority needs full staffing to be able to realize its several mandates.

On the other hand strengthening institutions is a long-term activity in terms of real capacity building. The Training and Capacity Building Strategy, which will be formulated by the end of June, should incorporate elements such as improving training capacity of local institutions (including train-the-trainers programs), develop a certification program (or link up with existing international professional certification programs), improve the line support function and on the job training for procuring entities, develop workshops for procurement officers to share experiences from the workforce, develop specialized training courses and a tailor made capacity building exercise for individual staff of the Procurement Authority itself.

### *5. Focus on local government*

Recent studies indicate that corruption at the local level is mostly seen in connection with procurement and it also perceived to be on the increase. The harmonization of local and central regulations and structures is therefore urgent. The scope of activities of the Procurement Authority should rapidly include local government; not only in terms

of harmonization of rules and regulations, but also with regards to training, monitoring and auditing. The ongoing study on the procurement capacity at the local levels is an important input for the harmonization of the local and central regulations and structures and for the design of training. Also, the capacity building component within the new LGDP-II program will enhance the necessary procurement interventions on local level. We hope that the Procurement Authority has fully taken into account the extent of this wide mandate, both in terms of activities and in terms of budget.

In conclusion, we recommend that an Aide Memoire be drawn up at the conclusion of this review, stating main conclusions, issues, recommendations and benchmarks for the next review.

Thank you for your attention.

## **SECTION TWO: PRESENTATIONS**

## **2.1 Progress on the Harmonization of the Local and Central Government Procurement Practices**

Mr. Kiiza Amooti, Head of Training, Decentralization Secretariat, Ministry of Local Government

Distinguished Participants,

Ladies and Gentlemen.

### **Introduction**

The Local Government's Act and the Local Government Financial and Accounting Regulations provide a legal framework within which Local Governments in Uganda manage the procurement of goods, services and works.

Each District has a District Tender Board, which provides services to the District Council and lower Local Government Councils and administrative units within the District. However, an Urban Authority can opt to establish its own Tender Board at its own cost.

In the performance of its functions a District Tender Board:

- Is supposed to be independent and not be subjected to directives or control of any person of authority.
- Confirm to standards established by the Central Tender Authority and has to be guided by the Local Government Financial and Accounting Regulations.
- Act only upon request by the Local Council seeking the procurement of goods, services or works.
- Publish a quarterly summary of all tenders awarded and give copies to all the relevant Councils in a District, the Minister of Local Government, the IGG and the Central Tender Authority.

### **Procurement Practices in the Local Governments**

There has been improved in the area of procurement in the Local Governments during the past years. The required bodies like the Tender Boards and the Technical Evaluations Committee are up and running in all Local Governments. Most Local Governments have elaborate procurement plans and the respective Tender Boards convene regular meetings to tackle the procurement, of goods and services that fall within the prescribed threshold. Most districts have a list of pre-qualified contractors, which are up-dates every year and evaluation criteria for bid assessment announced for the contractors as part of the tender material. The Ministry agrees that some of the complainants suggest instituting tough regulations to guide the Local Governments on

this matter. I wish to specifically mention the following weaknesses in the Local Governments procurement practices that have to be addressed.

### **The draft Local Government Tender Regulations**

In 1999, the Ministry of Local Government commissioned “a comparative study between the use of direct labor force account procedures and contracting under Local Government Tender Procedures”. The study report was produced in March 2000 and provided the basis for the drafting of the Local Government Tender Regulations (2001). The Regulations had to be in line with the new laws that have come on board and address the shortcomings identified in the Local Governments procurement system. However, the Regulations were not issued because at that time Government was carrying out a major reform at the national level in the area of public procurement.

### **Proposals for inclusion in the draft Local Governments Tender Regulations**

I wish to point out some silent issues that have been proposed for inclusion in the draft Local Governments Tender Regulations that will perfect the Procurement practices in Local Government.

- (i) Members of the Tender Board shall be appointed by the District/Urban Council on the recommendation of the Executive Committee.
- (ii) The District Tender Board shall consist of five members including the Chairperson.
- (iii) Local Governments shall procure goods, works and services through competitive bidding and the results of the bidding shall be made public by conspicuously posting the same in a public place.
- (iv) In consultation with the Minister, the Public Procurement and Disposal of Public Assets Authority shall every financial year establish and issue thresholds prescribing the size or amount of procurements which can be made by:
  - The District or Urban Tender Board;
  - The Chief Administrative Officer or Town Clerk;
  - The District or Urban Tender Board in consultation with the Public Procurement and Disposal of Public Assets Authority;
  - The Public Procurement and Disposal of Public Assets Authority on behalf of a District or Urban Council;
  - Any procurement committee established to serve lower Local Government Councils.

- (v) It shall be unlawful for any Councilor, employee or a member of a Tender Board to enter into a contract or have a pecuniary interest in any contract in the Council.
- (vi) A Councillor, employee of Council or member of the Tender Board shall be liable for any violation of the procurement procedures and regulations and violation shall be ground for suspension or removal from office.
- (vii) Where the Minister is convinced that a Local Government Tender Board did not follow the tender procedures and regulations, she/he may cancel the tender or bid and shall take necessary action against the members of the Board and Evaluation Committee including dismissal of members and recovery of losses suffered by the Council.
- (viii) In accordance with the Local Governments Act, the Authority should inspect the Local Governments Tender Boards.

### **Steps taken to harmonize the Local and Central Government Procurement Practices.**

One of the major outcomes of the procurement reforms is the Public Procurement and Disposal of Public Assets Act, 2003. The Act requires that the Public procurement policies and practices of the Local Governments system be harmonized with those of the Central Government.

The Ministry has identified some issues in the new law in broad terms that affect operations in Local Governments, which should be handled with care during the process of harmonization. Some of the issues are:

- The Interpretations
- Objective of the Authority
- Responsibilities of the Accounting Officer of an entity
- Establishment of procurement units
- Penalties (like the Authority to transfer the procurement function to a third party)

The Ministry of Local Government in close collaboration with the Public Procurement and Disposal of Public Assets Authority has undertaken a study through a consultancy with the support of USAID. First, the study will assess the capacities at the Local Government level to comply with the requirements of the Act and PPDA. Second, it will determine, if necessary what remedial action may be required to put in place the requisite capacities for the Local Governments system to comply with the requirements of the new law. The results of the study will form a basis of harmonizing the Local Government Tender Regulations with the Act.

## **Progress of the Consultancy**

Two weeks ago, the Consultant completed the fieldwork and reported the initial findings to the Committee. The Consultant is currently analyzing the findings and will soon give us the first final draft report. As you might be aware, the study is aimed at harmonizing central and local government procurement systems and practices. The Consultant is expected to finalize the study by the end of June 2003.

## **Conclusion**

One of the major challenges Local Governments face today is inadequate human technical capacity to effectively and efficiently undertake their functions especially in the area of procurement. I therefore urge Government and all stakeholders to join the Ministry in its efforts to build the requisite capacities in the Local Governments. I specifically remind the sector Ministries which have programmes in the Local Governments to intensify their statutory roles of monitoring, inspection and provision of technical advise to the Local Governments.

## **2.2 Progress of Human Resource Development in the Procurement Reforms** Mrs. Addah Kabarokole-Muwanga, Commissioner, Human Resource Development, Ministry of Public Service

Mr. Chairman, distinguished guests, all protocols observed, ladies and gentlemen. I have highlighted nine issues that came up concerning human resource development in procurement reform, and I hereby give the update.

The first issue concerns the filling of posts in procurement units. This has already been discussed here this morning by the Acting Executive Director, but maybe to be more specific, the interviews have been conducted by Public Service Commission for the posts of Principle Procurement Officer, Senior Procurement Officer and Procurement Officer. I was assured yesterday that the results would be released in the very near future. So, we are not likely to go to up to July as the Executive Director mentioned in terms of these three posts. However, the interviews for the post of Assistant Procurement Officer are slated for 4<sup>th</sup> and 6<sup>th</sup> June. So, these ones may be the placement is likely to take place in July, but for the other posts, the placement will be before July.

The second issue that came up Mr. Chairman, was the abolition of the supplies cadre. When the cadre of procurement was established in the Public Service and during the last review, we got complaints that there are people in the supplies cadre and they are doing some useful work. In our circular we had indicated that this cadre would be abolished. Since the last review we have got some complaints especially from Ministry of Works, Housing and Communication and Ministry of Health who are actually using these supplies officers and the position of the Ministry is that this will be reviewed and the supplies officer cadre will be maintained in the Public Service; but this cadre will only handle stores and supplies management functions. They will not handle procurement. So, what the Ministry of Public Service is doing right now is to review the job descriptions for supplies officer and the staff establishments for these officers and will be in position to advise the service in the near future.

The other issue that came up, Mr. Chairman, was on the inadequacy of the sitting allowance that was set up in the circular standing Instruction No.1. 2003. In that circular, Shs.25,000= is proposed for the chairperson of the contracts committee and Shs.20,000= for the members per sitting. During the last review, I think one or two Ministries complained about this amount that it is inadequate in view of the fact that they handle big procurements.

After the review, we undertook some consultations with ministries and what we found out is that the majority of ministries expressed inability to pay more than the sitting allowance that is stipulated in the circular because of budget constraints. So, for us we are interested in maintaining standards, we did not want to go with the minority and I think the position of the ministry is that this sitting allowance be maintained. But as you all know that there are provisions for review - if there is any ministry that strongly feels that there is a strong case in a particular procurement exercise, they can bring it up to the Ministry of P/S, Public Service, who may waive depending on the matter at hand.

Otherwise the standard sitting allowance remains Shs.25,000 for the chairperson and Shs.20,000 for the members.

The fourth issue was on staff numbers. Mr. Chairman, during the last review, there were complaints again from about two ministries that the staff numbers that were set up in the procurement units were inadequate. But the Ministry of Public Service is of the view that as a matter of urgency, let us start by filling the structures that have been approved for the procurement units and then if difficulties arise after experience, then such cases can be presented to Ministry of Public Service for a review. But as a matter of urgency, we thought the established structures must be filled first.

The fifth issue was the professionalization of the procurement cadre. During the last review there were concerns that the professional qualification for the procurement cadre should be opened up to include various professions. Mr. Chairman, the Ministry of Public Service really wants to make procurement a profession in the Public Service. So, it is still not convinced to open up the procurement for any professional qualifications. There was a point here about having for example engineers in Ministry of Works, Housing and Communication as members of the procurement unit. The view of the Ministry of Public Service is that if there is an engineer who should be on the procurement unit, then he or she in addition to his engineering qualification should have a qualification in procurement in order to qualify to be in the procurement unit. Otherwise the ministry has no objection to ministries co-opting members of other professions while handling a particular procurement which is technical. Otherwise we shall find all ministries are staffed with all professions within the procurement unit because every ministry at one time or another will handle procurements of different nature. That is the position of the Ministry of Public Service.

There was the issue of compliance of autonomous and semi-autonomous bodies, commissions, referral hospitals and tertiary institutions to the new procurement provisions. I am glad to report that referral hospitals have been cleared to adapt the structure for the small procurement entity. I hope you have received that communication in the Authority.

The restructuring of tertiary institutions is ongoing and I have already talked to the team that is handling the restructuring to consider procurement as a function and also to propose on how procurement in tertiary institutions will be handled. During the last review, I think this was brought up by Ministry of Education and Sports, which thought that the procurement secretariat at the ministry headquarters cannot handle procurement in these tertiary institutions. That one is being considered.

In case of semi-autonomous and autonomous bodies. Last time I was in the Authority, I was given a list of about 80 of these organizations; but when we went back to the Ministry, we looked at them and we thought many of these bodies have their own Acts that got them into existence and they can determine their structures. So, the most important thing is to have the law in place, they should know what their obligations are in terms of procurement and then they determine their own structures, of course in consultation with the Authority; and if they need any assistance from the Ministry of Public Service, we are there to assist.

The other issue that came up during the last review was the availability of persons with required procurement qualifications. Actually people were worried that we may not get people with the stipulated qualifications in the circular that came from Ministry of Public Service. But the recent applications to the Public Service Commission have proved that there are a good number of persons with procurement qualifications. However, that is maybe for the Public Service because I asked the Public Service Commission on the number of applications, they said it was overwhelming. It was more than double the numbers of vacancies. But anyway, if all procuring and disposing entities are going to need this caliber of staff, then the issue of capacity building is still a big issue. So that we have a good number of people with procurement qualifications to follow, because it is not only the Public Service that will require these procurement experts, and of course when other bodies open up, advertise, the Public Service is likely to be disadvantaged because we are likely to lose even those who have been recruited because of the obvious reason of pay. So the issue of building capacity in procurement is still a big issue.

There was the point of procurement units reporting directly to Permanent Secretaries. Somebody brought up this concern that why should the procurement units report directly to the Permanent Secretaries and yet there is an administration department, which is headed by the Under Secretary. The view of the Ministry of Public Service is that the importance attached to procurement as of now still necessitates that the Accounting Officer is directly involved especially at this stage of reform, and this is not the first unit to report to the Accounting Officer. I think you know that the planning unit for example in ministries also reports directly to the Accounting Officer. But anyway, we are not saying this cannot be changed. What we are saying is that at this material time of reform Accounting Officers must be directly involved and may be this position can be reviewed later.

The last issue that came up, Mr. Chairman, was how to select persons of integrity for procurement functions. We are saying that integrity is a cross cutting issue in service delivery not only in procurement, and within the Public Service, appointing authorities are continuously improving the selection method to ensure that the best persons are selected. The issue of integrity needs to be integrated into the training and sensitization programmes for procurement officers much as it is integrated in other training programmes. Really we cannot be completely sure that the persons that are selected are people of integrity because it is very difficult to test, and if there is anybody who can advise us on that we shall be very grateful.

In conclusion, Mr. Chairman, the Ministry of Public Service is committed to continue in collaboration with the Authority and all the procuring and disposing entities.

## **2.3 Development of a Provider's Registration System.**

Eng. Samson Bagonza, Commissioner Quality Assurance & Vice-Chairman,  
Contracts Committee, MOWHC

### **Introduction**

A provider is an individual or a firm licensed by a competent authority to undertake business activities. A provider is therefore either a contractor, consultant or supplier and could be a national, foreigner or resident.

The following is a typical list of providers to a Public Procuring and Disposal Entity:

- Suppliers of various Goods;
- Contractors for services such as cleaning, security, clearing and handling etc;
- Contractors for building and civil engineering works;
- Contractors for electro-mechanical engineering works;
- Consultants for professional services; and
- Dealers in repairs of vehicles, plants and construction equipment.

Part 1, Division III of the Public Procurement and Disposal of Public Assets Regulations, 2003 stipulates the procedures and guidelines for registration and listing of providers by both the Authority and Procuring and Disposal Entities. The main points to note here are:

- The Authority shall maintain a register of providers, which will be accessible to the Procuring and Disposal Entities;
- Procuring and Disposal Entities may also maintain a list of providers through the Procurement and Disposal Units; and
- The register and lists of providers shall be reviewed and updated annually by advertising the scheme publically.

To ensure that a Providers' Registration scheme is successful, standard registration documents should be used and the criteria for registration should be objective. In addition, the registration exercise should be held periodically and handled in a fair and transparent manner.

### **Registration of Providers**

#### **Benefits**

Registration of Providers is essential in a Public Procuring and Disposal Entity because it supports the objectives of the Public Procurement and Regulations of fairness, transparency, non-discrimination and creation of a sound business climate. Some of the specific benefits of a providers' registration scheme include:

- The register facilitates short listing for Requests for Quotations and Restricted Tendering;
- The register facilitates the selection of providers for direct procurement under emergency conditions;
- The register provides reliable and up-to-date information on the past performance and competencies of existing providers in the market;
- The register could be operated on a rota system to ensure that registered providers are afforded equal opportunities to compete for tenders;
- New firms are given a chance to register periodically and poor performers dropped as appropriate;
- Registration of providers reduces on the procurement time and the volume of procurement evaluation reports;
- Promotes better practices in the public procurement sector through encouragement of providers to perform well, so that they maintain their registration status;
- Promotes better practices in the public procurement sector through encouragement of providers to perform well, so that they maintain their registration status;
- The register provides a list of stakeholders for targeting e.g. for skills development and training, policy development and consultation; and
- The register forms customership for service delivery surveys, questionnaires, interviews and studies.

## **Application**

Procuring and Disposal Entities should register providers for commonly required goods, services and works in order to take advantage of the benefits highlighted in 2.1 above. For less frequently required goods, services and works, there may hardly be any benefits gained through provider registration. Procurements in this category could be handled using the appropriate procurement procedures stipulated by the Act. Careful judgement has to be exercised by the Procuring and Disposal Entity to determine where maximum benefits will be reaped from the registration of providers.

## **Responsibility for Registration**

The Public Procurement and Disposal of Public Assets Regulations, 2003 places the responsibility for registration of providers on the Authority. Individual Procuring and Disposal Entities are free to use the Authority's register or maintain their own providers' lists. The use of the Authority's register of providers shall however not relieve the Entity of the need to pre-qualify or post-qualify a provider, where it is required by the Regulations.

In order to ensure that listing of providers by Procuring and Disposal Entities is well and professionally handled, the Authority should issue the following:

- Provider listing forms;
- Provider listing evaluation criteria;

- Provider listing procedures; and
- Guidelines on provider listing utilization.

The above information will ensure uniformity and consistency in provider listing and also ensure that fair and transparent utilization of the providers' lists.

## **Old Registration System**

### **The System**

Registration of providers is not a new phenomenon. The old CTB used to register providers of commonly used goods and services such as stationary, foodstuffs, cleaning, auctioning etc. The Board also used to register and classify garages for use by all Government Ministries and Departments. Individuals Ministries/Departments used to apply for approval of providers' registers for their specific procurement needs. For example, Ministry of Works, Housing and Communications (MOWHC) used to maintain and still maintains the register of Road Maintenance Contractors. There were also few cases where the Board would approve rates (upper limits).

Registration opportunities used to be advertised at the beginning of a financial year but the registration exercise was left open through the year to ensure that interested firms could access the register any time, as long as they met the evaluation criteria. Registration of providers was not a requirement of the Tender Board Regulations but was used by the old CTB as a decision making tool to promote fairness, transparency and value for money in public procurements. The registration system was centralized and all Ministries/Departments had to comply with the approved registers and/or rates.

### **Strengths**

- Providers used to apply once and successful ones were eligible to conduct business with any Ministry/Department.
- The system was open which allowed new comers to join any time of the Financial Year.
- The system was respected by all Ministries/Departments, who ensured that they dealt with CTB approved providers, where applicable.
- The cost of providers' registration to Government was minimal since advertisements, evaluation and communicating the evaluation results were all centralized.

### **Weaknesses**

- Some briefcase providers used to penetrate the system due to the subjectivity in evaluation and weak verification methods.
- Delays used to be experienced in evaluating providers' submissions due to the big number of applications that were received.
- There were no guidelines issued by the old CTB with regard to registration of providers and utilization of approved providers' registers.

- Providers' registers were long and this made it difficult for some providers to access business.

## **Status of Registration of Providers in the Ministry**

### **General**

MOWHC currently has registers for Building Contractors, Building Consultants, Road Contractors and Garages. A register for clearing and handling firms is about to be finalized. Preparations to pre-qualify providers for other procurement needs of the Ministry during FY 2003/04 are underway, following the Authority's notification PPDA/4002 of 5<sup>th</sup> May, 2003. A Prequalification Notice of Providers of Goods and Services has been prepared. A Prequalification Document and Evaluation Criteria are under preparations, although the Ministry prefers that these two should have been provided by the Authority.

### **Building Contractors and Consultants**

The Ministry has a register, which was introduced in 1983 with a total of 260 contractors and 90 consultancy firms in the building sector, registered but not graded in classes. The register has however not been regularly updated and not put to gainful use.

The register of Building Contractors includes the following specialization:

- Civil Works Engineering Contractors;
- Plumbing/Sanitary Works Contractors; and
- Electrical-Mechanical Engineering Contractors.

The Ministry has all along intended to comprehensively register and classify consultants and contractors to avert the competition for contracts by emerging, active and inactive local and foreign consultants or contractors, all operating in the same pool.

The present register for Consultants also includes the following specialization groups:

- Architectural firms;
- Quantity Surveying firms;
- Electrical Mechanical Engineering firms;
- Valuers;
- Land Surveying firms; and
- Interior Designers.

Other professionals are picked as and when their services are required through selective or open tender. Currently, the Ministry relies on the old register where new emerging Contractors are allowed to register any time.

To ensure that only active firms have contracted jobs, most of the works are tendered out where post qualification exercises are carried out before award of contracts.

## Road Maintenance Contractors.

The Ministry started a registration system for road maintenance contractors in 1994. The main objectives of the registration system were:

- To enable speedy procurement of contractors for road maintenance works, especially of emergency nature;
- To build capacity of the construction industry through classroom and on-the-job training, increased availability of work and prompt payment for works executed; and
- To attract new firms to join the road construction industry.

The Contractors are registered in four grades, namely: A, B, C and D after a prequalification process which determines their evaluated capacity taking into account the following: legal status, office set-up, specific experience, personnel, equipment and financial capacity. Contractors selected from different classes are given work according to the following threshold:

<b>Class</b>	<b>Total Number of Firms</b>	<b>Threshold Ushs. Million (maximum contract value)</b>
A	21	Over 220
B	23	220
C	48	175
D	106	100
Total	198	-

The work contracted out could be of emergency nature or of ordinary scope in support of the capacity building initiative for local firms. Alternatively, work is advertised for particular classes of contractors and awards are made after competition. The contractors' register is updated with new entrants as and when there is need.

With the introduction of the Public Finance (Procurement) Regulations of 2000, the Reformed Central Tender Board directed the Ministry to review and update the register every financial year. Likewise the fixed unit rates for road maintenance were to be reviewed every Financial Year, based on market forces.

The current register was approved in February, 2002 and a prequalification notice for road maintenance contractors for FY 2003/04 was advertised in the press last week. The fixed unit rates for FY 2003/04 were approved in April 2003.

The registration system maintenance contractors has provided the following main benefits:

- It has been easy to provide affirmative action to contractors in their respective classes through workshops, bidding with equals i.e. within same class, short-listing from the same class etc;

- Fixed Unit Rate contracts have been offered using fixed unit rates from specific classes depending on the nature and complexity of the work for emergencies;
- Equipment ownership by the registered contractors has greatly increased through access to work;
- It has been easy to regulate the contractors;
- It has simplified the tendering processes and eased tender evaluations; and
- The road construction industry has on the whole grown since 1994 (from 5 road construction to 198 contractors now).

## **Garages**

During the colonial administration, vehicles for government use were standardized to a few makes i.e. Bedfords, LandRovers, Fords and Leylands.

There was a centralized system for maintaining, repairing and servicing of government vehicles. The repairs and servicing were done using in-house repair capability. This system remained in use even during the post independence period up to late 60's. The system was effective and efficient; the fleet has few makes and supply of spare parts was timely and optimum stock levels maintained.

The instability in the country in the 70's and 80's led to a major breakdown and dislocation of the centralized maintenance of government vehicles. During this period all Ministries/Departments become virtual autocrats in imports of vehicles. A wide variety of vehicles were acquired through bilateral aid, loans and grants. This resulted into a multiplicity of makes and models being purchased and very poor levels of spare parts inventory. This state of affairs was compounded by the effect of more industrialization in the world with countries such as Japan coming in the market with cheaper and wide array of vehicles.

In 1988/89 repairs of government vehicles were decentralized to parent Ministries. Subsequently, Ministries that lacked in-house capability to maintain, repair, service their fleet made adhoc arrangements, to procure services from the private sector. The skilled manpower to effectively assess the repair needs was the main bottleneck because most Ministries lacked technical personnel in this area. Later it was realized the procurement of garage services needed to be centrally coordinated. Consequently in 1994, the old CTB was directed by the Cabinet to take up this role and subsequently initiated the process to vet and provide a register for suitable garage services providers.

The process of registering garages was continuously done with no limitation to a specific period in the FY and covered only Kampala and its suburbs. The CTB regularly updated the register for approved garages and also advised Ministries accordingly. The benefit of sourcing services from the private sector is competition and better service delivery. However, delays in settlement of bills discouraged many service providers.

The current situation is that the Ministry has drawn comprehensive criteria for assessment of garages services that cover both franchised and non-dealer garages/workshops. These criteria are now used for selection of garages every Financial Year. The garages are categorized according to the level of structures, equipment and tools, manpower and managerial capacity among others.

## **Transitional Improvements**

### **Building Contractors and Consultants**

The Ministry is now in the process of developing a register for both building contractors and consultants to address the weaknesses in the previous register introduced in 1983. The main areas of improvement are:

- The registers will be classified according to the firms' specialization, experience and capability;
- The registers will form a database of building contractors and consultants, through which their competencies and performance can be tracked;
- The registers will be updated periodically to allow new firms to come on board and poor performers dropped or to reflect improvements like adding in new disciplines;
- The register will be developed using an objective evaluation criteria;
- Registration opportunities will be advertised publically; and
- Registers will be used for shortlisting and selection of providers for direct procurement in manner that ensures that registered providers are afforded equal opportunities to participate in public tenders.

### **Road Maintenance Contractors**

The Ministry is currently pursuing the following improvements on the Road Maintenance Contractors' Register:

- The register will be reviewed and updated annually.
- The evaluation criteria for registration has been reviewed to ensure that it is objective. The evaluation will be on a Pass/Fail basis other than the scoring system which is highly subjective.
- Firms will be required to apply for a specific class for which they meet the minimum registration requirements.
- The evaluation criteria for registration is being reviewed to include employment of registered professionals, compliance with Occupation Health, Safety and Environment requirements, membership of Business Associations etc.
- The evaluation process will have a verification system for the information submitted. The evaluation team shall be facilitated to inspect the applicants' offices, construction equipment, workshop facilities, records on past experience, personnel, financial statements etc.

- The register will limit foreign firms to one or two classes to avoid unnecessary competition with and crowding out local firms. The register shall have a clear definition of a local firm, which apparently has never been agreed upon in the construction industry.
- It is proposed to reduce the register from the present 198 members to about 150 to improve accessibility to work in support of the on-going capacity building initiatives.
- In the medium term, it is hoped that the registration of contractors and consultants shall become a statutory requirement. The Ministry's Draft Policy for the Construction Industry proposes that an autonomous registration body should be put in place to enforce the registration of contractors and consultants, among other functions.

## **Garages**

The registration system for garages is fairly simple and well developed. The main improvements being considered by the Ministry include:

- The register will be updated periodically to allow new garages or equipment dealers to come on board and poor performers to exit;
- Registration opportunities will be advertised publically as opposed to the old system where selected garages or dealers were invited to apply; and
- Registers will be utilized in a manner that ensures that garages or dealers are afforded equal opportunities to render services.

## **Goods and Services**

The Ministry is instituting Providers' Registers for commonly used Goods and Services where registers were non-existent. The registers will be reviewed and updated every Financial Year. The Providers' Registration process for FY 2003/04 has already commenced and will be completed by 31<sup>st</sup> July 2003.

## **Conclusions and Recommendations**

Registration of Providers is essential for promotion of the primary objectives of the Public Procurement Regulations i.e. fairness, transparency, non-discrimination and creating a sound business climate. Providers' registers are used for shortlisting and selection of providers for direct procurement. This greatly reduces the procurement time and the volume of paperwork in processing tenders. Providers registration also promotes better practices in the sector by encouraging providers to perform well and avoid debarment.

However, to ensure uniformity and consistency in the registration of providers and also ensure fair and transparent utilization of the registers, further guidance and support is still required from the Authority. It is proposed that, in addition to the Regulations already issued in this regard, the Authority should also issue the following:

- Provider listing forms;
- Provider listing evaluation criteria;
- Provider listing procedures; and
- Guidelines on providers' list utilization.

All the above additional information will ensure that providers' registration is well and professionally handled by all Procuring and Disposal Entities, thereby increasing their compliance rating with the Public Procurement and Disposal of Public Assets Act, 2003.

## **2.4 Challenges and Issues of Accountability in Public Procurement**

Mr. John Muwanga, Auditor General

I wish to express my gratitude to the Chairman and Directors of the Public Procurement and Disposal of Public Assets Authority for extending an invitation to me to participate in this progress meeting reviewing the public procurement management reforms. The background of the procurement reforms has been highlighted in earlier meetings particularly during the Procurement Sector review meeting in August 2002. One of the four main pillars on which the reform plan is hinged is to put in place the appropriate legal framework to govern all public procurements at both the Local and Central government levels. This has now been accomplished by the enactment of the Public Procurement and Disposal of Public Assets Act 2003, which was assented to on 19<sup>th</sup> December 2002. This development, although recently achieved, has already had some impact on the ground. The Authority has already been established and staffed and has proceeded with ensuring that Accounting Officers set up Contracts Committee in their establishments.

I have been requested to examine the challenges and issues of Accountability poised by the new Act. The Act establishes the Authority, which will be charged with the responsibility to formulate policies and regulate practices in respect of public procurement and disposal activities, and other connected matters. Those activities carried out by the Authority conform with those of promoting accountability, transparency and good ethical practice in government activities and in particular in the procurement process. Procurement reforms are one of the several activities currently underway in the Governance Sector. Parliament has just successfully passed on the 16<sup>th</sup> April 2003 the Public Finance and Accountability Act 2003. This law was assented to by the President on 17<sup>th</sup> May 2003.

The Public Procurement and Disposal of Public Assets Act requires the annual accounts of the Authority together with Annual Performance Evaluation Report to be audited by the Auditor General and the audited report be submitted to Parliament within four months from the date of receiving the accounts. Section 42 of the Act requires the Defence and National Security organs to comply with the provisions of this Act, subject to, the necessary need for those organizations to separate the open and restricted procurements. The Act requires the restricted items to be subjected to a classified audit and the report laid before Parliament in the Annual Performance Evaluation Report. The form and content of the Annual Performance Evaluation Report have not yet been finalized, however, in order for me to produce a meaningful report, I shall need to undertake a "performance audit" as opposed to my normal financial audit. A performance audit entails the appraisal of the economy, efficiency and effectiveness of the tractions, and it often referred to as a "value for money audit". The authority and mandate of the Auditor General to audit is set out in Article 163 of the Constitution Article 3 which states that the Auditor General shall (a) audit and report on the public accounts of Uganda and of all public offices including the courts, the central and local government administrations, universities and public institutions of like nature, and any public corporation or other bodies or organizations established by an Act of Parliament; and

(b) conduct financial value for money audits in respect of any project involving public funds.

The Public Procurement and Disposal of Public Assets Act 2003 (PPDPAA) defined “defence and national organs to mean Uganda People’s Defence Forces, Uganda Police Force, Uganda Prisons Service, Intelligence Services and National Security Council.” The PPDPAA does not provide guidance on how the accountability regarding the restricted items will be undertaken. It is therefore necessary to examine the provisions of Public Finance and Accountability Act 2003 (PFAA) to obtain the necessary guidance. It should be noted that the PFAA is an Act established to provide for the development of an economic and fiscal framework for Uganda; to regulate the financial management of the government; to prescribe the responsibilities of persons entrusted with financial management in government; to regulate the borrowing of money by government; to provide for the audit of government, state enterprises and other authorities of the State. The background to the PFAA arose out of the need for a comprehensive strategy to address the establishment of effective controls over the collection, handling, accounting and disbursement of all revenues and expenditures and the management of public resources. This strategy would identify the direction and ultimate objectives of the financial structure envisaged by the Constitution. In addition the Government sought a review of the management of public funds by semi-autonomous bodies and local governments which would concentrate on the interface between central and local government and which would identify and make recommendations for the accountability process between the different organizations and institutions involved. The PFAA under section 49 states the (quote) This Act (i.e. PFAA) shall take precedence over all other existing Acts related to public finance and any Act in contradiction with this Act is modified to conform with the provisions of this Act “(end quote).

The PFAA requires annual accounts submitted for audit by Accounting Officers to include those of all classified expenditures. It provides for the Minister responsible for Finance to provide regulations (by statutory instrument) subjecting classified expenditure to confidentiality and in particular limiting accessibility of information and reporting, handling and reporting by the Auditor General; and consideration by Parliament of the report of the Auditor General concerning classified expenditure. According to the draft regulations being prepared by the Ministry of Finance, Planning and Economic Development, classified expenditures generally relate to activities for the collection, processing and dissemination of information related to national security and other interests. The definition in these regulations is wider than that in the PPDPAA. Consequently users of the PPDPAA should be aware of the provisions of the PFAA and regulations and will need to ensure that Section 42 (4) of the PPDPAA is harmonized with the reports and/or reporting procedures under section 31 of the PFAA. In other words section 42(4) states that the restricted items shall be subject to classified audit and laid before Parliament in the Annual Performance Evaluation Report whilst section 31 of the PFAA provides that the Minister shall by statutory instrument provide regulations subjecting classified expenditure to confidentiality. This suggests that reports issued under Section 42(4) of the PPDPAA should take into consideration the confidentiality requirements under Section 31(2,3&4) of the PFAA.

Section 7(j) iii of the PPDPA states that the Authority shall institute performance audits after the completion of the contract in respect of any procurement or disposal, as may be required. This section will also need to be harmonized with section 36 PFAA and the Constitution since such authority rests with the Auditor General. Also worth noting is that the regulations which are currently being drafted by the Ministry of Finance provide for expenditure generally and do not focus on procurement procedures. There will also be a need for increased liaison between the Ministry and the Authority so as to ensure that lapses do not occur. Part V of the PFAA deals specifically with the control of the finances of State Enterprises and public organizations. Under Section 39(7) the Act defines those organizations to which that section applies as being:

- a) any state enterprise;
- b) any authority established by an Act, other than a local government council, which is in receipt of a contribution from, or the operations of which may under the Act establishing it or any Act relating to it, impose or create a liability upon the public fund of Uganda;
- c) any public body which has in any of its financial year received more than half its income from public funds; or
- d) any entity other than a local government council, which is audited by the Auditor General under any Act.

The PFAA defines a state enterprise as being (i) a body corporate established under any Act other than the Companies Act or a local government council (ii) a company registered under the companies Act in which the government or state enterprise is able to control the casting of more than fifty per cent of the maximum number of votes that might be cast at a general meeting of the company; and control more than fifty per cent of the issued share capital of the company, excluding any part of that issued share capital that carries no right to participate beyond a specified amount in distribution of either profits or capital.

The provisions of section 39 of the PFAA, therefore, will apply to the Authority. It is necessary to examine and review what those provisions are. Under sub-section 2 of section 39 it expounds upon the powers of the Auditor General which it states are the same as those conferred upon him by section 34 which are:

1. (a) permit him to require a public Officer, within three months, to give any explanation and information which the Auditor-General may require in order to enable him to discharge his duties;
- (b) authorize any person eligible to be appointed as an auditor of a company or any public officer, to conduct any inquiry, examination or audit on his behalf and that person or public officer shall report, from the date of appointment to the Auditor – General;

- (c) without payment of any fee, cause a search to be made in and extracts to be taken from any book, document or record in any public office;
- (d) request for the opinion of the Attorney General in writing as any question regarding the interpretation of any Act or regulation concerning the powers of the Auditor-General, or the discharge of his duties and the Attorney General shall give his or her written opinion within seven days from the date of receiving the request.

2. Where the Auditor General becomes aware of:

- a) any payment made without due authority; or
- b) any deficiency or loss occasioned by negligence or misconduct; or
- c) any failure to observe a policy of economy; or
- d) any sum which ought to have been but was not brought to account;
- e) he shall, in the case of expenditure, disallow the same as a charge on public funds and in other cases call in question the sum concerned and make a report thereon to the Speaker of Parliament or, if the Speaker is, for any reason unable to perform the functions of his or her office, to the Deputy Speaker who shall refer the report to the appropriate Committee of Parliament.

The appropriate Committee shall consider;

- (a) every report referred to it and give advice to the Minister whether in its opinion, it is appropriate for any public officer to be surcharged in accordance with section 43 in respect of payment, deficiency, loss or sum concerned; or
- (b) whether disciplinary proceedings should be instituted against the public officer; or
- (c) whether a surcharge in accordance with section 43 should be made and disciplinary proceedings instituted against the public officer.

The Auditor-General may for the purposes of:

- a) minimizing the unproductive expenditure of public moneys;
- b) maximizing the collection of public revenues;
- c) averting loss, by negligence, carelessness, theft, dishonesty or otherwise of public moneys;
- d) from time to time, make such recommendations and submit such proposals to the Minister, as he considers necessary for the better management of public

finance, including any revision of any Regulations or Instructions issued under the Public Finance and Accountability Act.

3. The provisions of section 39 PFAA further require the Auditor General to prepare a report, which should go the Minister and public organization concerned.
4. The public organization is required to within 21 days submit to the Minister its observations on the report send a certified copy of such observations to the Auditor General.
5. The Minister will in turn within 42 days cause the report and any observations of the Minister, to be laid before Parliament.

Furthermore, it should be noted that under Section 38 of the PFAA, the Authority will be required to submit to the Minister, responsible for finance, audited financial statements prepared in accordance with generally accepted accounting practice (as defined in the PFAA).

You should also be aware that Sections 42 and 43 of the PFAA provide for offences and penalties and surcharge respectively and these are applicable to the Authority.

In conclusion, I have tried to summarize during this brief presentation the accountability issues which are going to affect the PPDPA and the impact which the PPDPA will have on its operationalisation (if such a word exists). Section 39 of the PFAA is a wide and far reaching legal provision which brings under the control of the Minister and indeed the Auditor General the relevant financial management concerns which are necessary to enhance accountability and good governance in the management of public finances. It is necessary for all state enterprises and authorities, which will inevitably fall within its definition, to re-examine the implications so that they can conform to the provisions of the law.

I thank you for listening to me.

## **2.5 The Need for the Use of National Standards in Public Procurement**

Mr. Terry Kahuma, Executive Director, Uganda National Bureau of Standards

### **Definitions**

#### **Public Procurement**

Is the governmental purchase of goods and services from the private sector, Public procurement means the process of acquiring goods, works and services for the public by procuring entities. The process includes purchasing, leasing or any other contractual means of engaging suppliers in the provision of public services to the public.

#### **Aims of Standards**

Is a technical document, established by consensus and approved by a recognised body, that provides, for common and repeated use, rules, guidelines or characteristics for activities or their results, aimed at the achievement of the optimum degree of order in a given context.

#### **Aims of Standards**

The foremost aims of standards are:

- (a) Promote the quality of products, processes and services in order to satisfy the given needs (customer needs)
- (b) To facilitate the exchange of goods and services through the elimination of technical barriers to trade.
- (c) Protection of customer health and safety (improve the quality of life).
- (a) Protection of environment.

Standards and technical regulations are applied to militate against health and environmental risks, to prevent deceptive practices, and to reduce transaction costs in business by providing common reference points for notions of 'quality', 'safety', 'authenticity', 'good practice' and 'sustainability'. In practice, however, standards and technical regulations may be used strategically to enhance the competitive position of countries or individual firms.

Standards can be broadly sub-divided into two categories, namely product and process standards.

Product standards refer to characteristics related to quality, safety and authenticity, that goods should possess. Examples include minimum nutrition content of a food item, maximum pesticide residues on an agricultural product, maximum current linkage in

electrical equipment, and minimum setting time for cement mortar. Product standards outline the features and characteristics of processes, products, services and materials.

Process standards refer to the conditions under which products are produced, packaged or delivered. Examples include the use (or absence of use) of particular inputs into crops or livestock production, the technical processes used for fishing, the sanitation practices for handling fresh fruits and vegetables. Process standards may also specify systems to ensure product quality is maintained.

### **How are standards established?**

Standards may be detailed in written specifications, or followed by custom in manufacturing processes.

There are different levels of standardization that can be carried out e.g. in a company or an institution, in a country with national scope or across borders with international scope (regional or global standard). The interplay between these is of great importance. The individual company requires a standard for certain materials, competent or product. Other firms use the same goods. This creates demand for a national standard that can be used by all companies. This process repeats itself at country level until a need for a global standard is established. This process occurs for products as well as for processes such as education, transportation and procurement. Organizations that establish standards at national or international level follow certain principles to ensure that the process is fair.

### **Principles of Standardization**

In successful standards development processes the following key principles are necessary:

**Consensus** – decisions are reached through consensus among all those affected. Consensus need not imply unanimity.

**Openness** – participation is open top all interested parties.

**Balance** – a balance is reached between conflicting interests.

**Transparency** – information on the process and the progress is directly and readily available.

**Technical coherence** – standards activities are coherent avoiding overlaps and conflicts.

**Due process** – means that the process assures that all views are considered and appeals are possible.

**Flexible** – standardization allows the use of different technologies to achieve the desired results

**Timely** – work is not slowed down by purely administrative matters

These are safeguarded through its development in technical committees representative of all interested parties, supported by a public comment stage.

### **Who establishes standards?**

For standards to be accepted and used to derive any benefits from having standards it is important that standards developed should be demand driven (wanted) and should be in position to provide a solution to a re-curring problem and must be issued by a recognised body e.g. company, national or international body.

### **Voluntary Standards**

Many standards are voluntary that is they are driven by market forces. Failure to comply with such standards may hurt you in the market place but should not provide a basis for stopping your product crossing a border or being made available in the domestic market.

### **Mandatory/Compulsory Standards**

Some standards are mandatory. That is, they are enshrined in international and/or national laws of government to meet health, safety, or environmental objectives. These are otherwise known technical regulations. Failure to comply with such regulations means that a product/service cannot be sold in a given market. In regulatory standards, products often also must be tested a certified to specific mandatory requirements.

Standards and technical regulations can potentially impede international trade, for example by imposing unnecessary costly and time consuming tests or by laying out unjustified different requirements in different markets.

### **Implementation of Standards**

Having a good standard in any field is a key enabler, but the real success is with their practical implementation in the products and services available on the market.

The existence of a standard does not indicate to final producers or consumers that a produce/service functions as indicated in the technical specifications in a standard. Produce/service evaluation and other procedures are conducted to determine if a product/process conforms to the specifications set forth in a standard. This is termed as conformity assessment.

The Conformity assessment usually involves several steps and is conducted by an authorised third party, which can certify to conformity of a product/service to specified standards.

## **Standards in Public Procurement**

A national Public Procurement Policy should aim to create competitive, non-discriminatory public procurement markets, which will enable procurement sensitive goods and services to move freely, thus ensuring value for money for taxpayers and consumers of public services and fostering the competitiveness of local suppliers in domestic, regional and international markets. Procurement contracts should be awarded in a competitive, transparent and non-discriminatory manner.

All public procurement of goods and services, including works should be based on value for money (VFM). Vfm is defined as “the optimum combination of whole life cost and quality (or fitness for purpose) to meet customers requirements”. The emphasis on whole life cost means that the purchasers are required take account of all aspects of the purchase price including running and disposal cost as well as the initial purchase price. The reference to quality to meet the customers’ requirements enables purchasers to specify what they need to meet own operational and policy objectives.

Worldwide public procurement has grown substantially following liberation of trade and industry. Public procurement legislation has also increased and major multinational trade arrangements like the World Trade Organisation’s Government Procurement Agreement, set legal obligations for national procurement systems and practices.

Countries must therefore, establish and maintain procurement systems that meet standards of transparency and of open and fair competition. Such standards are designed to create an economically efficient procurement system, promote international trade and attract national and foreign investment, thereby creating conditions that support economic development. Creating such systems is part of the process of forging an efficient, competitive market economy and is necessary for a country’s full integration into international trading community.

Building and implementing the system entails significant changes from the days of the command economy when procurement was part of the central planning system. In particular, countries must design a legal and administrative framework, employ trained personnel who understand the need for efficient procurement systems, provide adequate access to data and information to facilitate professional networking within the public sector and give suppliers access to training and information that promote their competitiveness, which in turn strengthens the market economy and provide a system to curb fraud, waste, abuse and corruption, which threaten public procurement systems in all countries and impede competition.

A legal and administrative framework must facilitate the integration of procuring entities throughout the public sector into a functional and coherent network with high professional standards and must be consistent with international obligations. Such a framework should be define the financial and legal responsibilities of all participants in the procurement process, including suppliers and procuring entities in central and local government.

The key and broadly accepted principle underlying a modern public procurement system is open competition – unrestricted, universal access to the procurement market. In addition, the procurement process – the selection of bidders, tendering procedures and the award of contracts – should be open to public examination and review, thus making it a transparent process.

An open and competitive public procurement contracting procedure begins with the government's description of its requirements and an invitation to suppliers to indicate their interest in the contract and their professional capacity to fulfil it. The government then identifies potential suppliers and invites them to submit bids. The process must also assure that suppliers can in fact, meet the specifications of product quality and delivery dates and in the case of very long-term contracts, can secure continuity of supplies. After the bidding phase, the procurement system should require a public declaration of competitors' names and their bid prices and ultimately, of the successful bidder.

### **Specifying requirements**

The procurement process will normally start with the definition of the business need by the end user. From this the user requirements or specification will be drawn.

A specification is defined as a document stating requirements.

A specification can be related to products e.g. product specification which states the characteristics of the products, such as dimensions and colour

Or

Performance specification, which states the required performance of the products such as shelf life and strength

Specifications can also be stated for activities e.g. procedure for submissions of applications for contract or procedure for testing a product i.e. test specification.

Once a specification has been drawn it is easier to evaluate a product or process for conformity to the specification.

Specifications are normally drawn from standards such as company, group, national or international standards. It is good practice to use national or international standards.

International (such as the WTO) Agreements on government procurement contains obligations on technical specifications in order to prevent entities from discriminating against and among foreign goods and supplies through the technical characteristics of products and services that they specify. Technical specifications shall be in terms of performance rather than design and be based on international standards, where they exist or otherwise on national technical regulations, recognised national standards or building codes.

In order to be able to draw good specifications it is essential to refer to national or international standards. This ensures that a single language can be used hence facilitate the process of awarding contracts or procurement. In order for international standards to be easily enforced locally these have to be domesticated. This is the role of the national standards bodies.

Government's requirements may vary from department to department but will normally include broad objectives such as national security interests, public morals, order or safety, human, animal or plant life or health or environmental objectives drawing specifications based on such criteria can contribute to significant achievement of government targets such as population health and environmental impact of activities. Although the aim must be to achieve value for money, not to further other policies it should not be overlooked that legitimate requirements laid down by government purchasers can have substantial influence in assisting government and the use of goods and services that are harmful to the economy as a whole.

Because public procurement is no longer part of the central planning system i.e. public procurement is now a part of the decentralised system into different local governments, departments, institutions etc, it is essential now more than ever before to have guidelines specifying all the relevant requirements for public procurement. These guidelines when issued centrally by a national authority constitute national standards.

Whereas national standards on procurement will specify certain processes and procedures to be followed by all parties, they will inevitably specify the use of national or international standards in dealing with all products and services concerned. This brings in an interplay of several types of standards into the process thereby integrating the issue of the quality of the product/service to the openness, transparency and non-discriminatory nature which is desirable to deliver value for money for taxpayers and protecting consumers of public services.

National and international standards, which cover public procured products, need to consider several factors that affect the value for money (whole life costs) such as:

- Running costs e.g. the energy and water consumed by the products over its lifetime
- Indirect costs e.g. less energy efficient IT equipment will add to electricity bills
- Administrative costs, re-cyclability and the costs of disposal e.g. it may be worth paying more to a supplier who undertakes to remove the product at the end of its useful life.

In addition there are several formal management standards such as quality management standards ISO 9000 series, environmental management (ISO 14000) and corporate responsibility CR. Such standards are all designed to ensure that

consumers get the best value for money. Public consumers are not an exception to this rule.

To obtain best value, quality and service, it is good procurement policy emphasise:

- the highest standards of honesty, integrity, impartiality and objectivity;
- comply with highest professional standards in the award of contracts, by competition in accordance with international standards;
- provide clear performance specifications where possible to encourage innovation, refer where possible to international or national approved standards;
- show clearly within the tender documents the criteria to be used for the evaluation of applicants to bid and for the contract award; and
- use only those criteria for decisions and include within the contract specification clear procedures for performance measurement, contract variations and dispute settlement. Purchasers will expect contractors to observe similar standards.

To ensure uniform application of good procurement practices national standards should be declared and implemented by all. The use of national standards should therefore ensure that a public procurement system:

- continues to achieve good value for money in public expenditure;
- adapts to changes in a country's public administration system;
- is able to meet international obligations under WTO;
- remains fair, open and transparent;
- is effective in providing and being perceived as providing an impartial complaints review process;
- addresses problems of fraud and corruption through effective mechanisms for prevention and detection;
- takes account of information on international best practices, such as "benchmarking" techniques which compare the performance of different procuring entities; and
- standards may also require a domestic certification, saving purchasing officers the trouble of verification and auditing.

## **Conclusion**

Quality for a competitive price is the target of today's economy. It is therefore the duty of all those involved in the public procurement to establish national standards for public procurement and ensure that the national standards body activities cover products purchased through public procurement in Uganda.

## **2.6 Private Sector Participation in Public Procurement**

Mr. G.N. Badagawa, Private Sector Foundation

### **Introduction to the private sector in Uganda:**

Uganda's private sector is dominated by Small and Medium Sized Enterprises (SMEs), which account for a remarkable 95% of the entire business community. Their commercial activities represent on average 75% of Uganda's annual GDP. They employ over 80% of the total workforce in the country and produce largely for the domestic market. SMEs therefore represent a major economic entity in the country's economic growth and when we talk about participation of the private sector in Uganda's public procurement, we want to emphasise the role played by the critical mass-the SMEs.

### **Extent of SME participation in public procurement:**

While SMEs are responsible for three-quarters of our annual GDP, their share in public markets (procurement) is limited and estimated to represent only one-third of all enterprises participating in public procurement schemes. Although this may be attributed to the small formal sector, the low level of participation is discouraging since public procurement represents an important and relatively stable market for such enterprises. This low response has largely been attributed to limited capacities to produce, innovate and access market information on the one hand, and the inadequate transparency in the tendering process on the other, the public sector quite often follows consistent spending patterns over the years, and the stability, or even predictability, of public purchasing allows for long-term planning horizons for the private sector. Public spending in procurement across Ministries is provided for under every national budget, which renders it a more stable market for the private sector to exploit.

### **Challenges of public procurement reforms:**

The private sector views the following as the major challenges for the procurement reforms being undertaken.

1. To seek value for taxpayers money (over quotation, non-procurement).
2. To make the public procurement process accessible to all by simplifying the process, encouraging fairness and transparency.
3. To ensure uniformity in procedures, policies, documentation and contract options.
4. To encourage greater competition in the public procurement process through the creation of an enabling environment for SMEs to be able to supply, while retaining quality and standards.
5. To increase the volume of work available to the poor and enhance the income generation of marginalized sectors of society.

## **The role of PSFU:**

PSFU have over time recognized that in order for the private sector to be able to seize market opportunities, it must be organized in group formations and efficiently employ productive resources. Through the Business Uganda Development Scheme (BUDS), PSFU has been involved in capacity building initiatives to enhance the productivity and competitiveness of the private sector to be able to provide the market in a timely manner, with high quality products in sustainable volumes. This has largely been through facilitation and injection of know-how and business expertise into SMEs. This initiative has to a large extent helped SMEs prepare themselves for the challenges of the market and gradually increase their participation in public procurement markets.

## **Rationale for increased private sector participation in public procurement:**

### **Better use of factor resources through increased production and productivity.**

1. Increase in employment levels and household income since demand stimulates production.
2. Saving of the country's foreign exchange.
3. Easier for government to identify and address the supply side constraints.
4. Exposure of local private sector to marketing challenges including the challenges of competition.

The private sector and particularly of the small kind has not exhaustively seized the opportunities offered under public procurement, due to the many barriers faced as they attempt to enter the public procurement market. Below are some of such factors inhibiting private sector participation in Uganda's public procurement:

1. The cost, time and complexity of preparing bids by especially the SMEs (note that preparing a tender gives no guarantee of success).
2. Increased participation usually occurs only where there are more opportunities for sub-contracting rather than direct tendering, where SMEs must compete directly with large firms who already enjoy economies of scale.
3. Inadequate expertise and skills. These largely rest with large companies that quite often have well-established management. If however, we are keen to develop this economy, this market ought to be focused on the SMEs and address supply constraints. (delivery mechanisms).
4. Financial problems: There are delays in payment (settling of contracts) on the public sector side and uncertainty of guarantees. This constrains private sector cash flows as it ties up capital.

5. Tendering procedures have continued to be unclear since the central tender board was disbanded. Political interference in the tendering process is commonplace especially at local governments.
6. In the construction industry, awarding of tenders to local contractors is constrained under the pretext that they lack sufficient capital and the quality of work is sub-optimal.
7. Limited transparency in evaluating bids and awarding of tenders especially at decentralized levels.
8. Rating/pricing: Although the public procurement market turns out to be a guaranteed market for private sector suppliers, the large enterprises are able to offer lower prices due to economies of scale.

### **What can be done to increase private sector participation?**

There is no quick solution, but what is required is action on a wide range of issues to assist the private sector particularly SMEs to exploit existing openings and opportunities. The following (government) initiatives could promote such participation:

1. Improve the flow of information concerning public procurement contracts, and strengthen the role of the PPDA in supporting potential private sector tenderers.
2. Building capacity for the private sector suppliers to be able to supply high quality products at competitive prices on time.
3. Mobilizing the private sector into supply groups (cooperatives) to be able to check quality and increase supply volumes.
4. Promote, by the use of incentives or regulation, the opportunities for sub-contracting to small enterprises.
5. Continue to address the problem of delay of payments as this ties up private capital.
6. Increase private sector participation in reviewing contract bids and awarding of tenders.

### **Conclusion**

PSFU continues to pledge its commitment to work with government in building private sector capacity as well as conducive environment especially for SMEs, to better respond to the requirements (quality and quantity) of the public procurement market. This way, a larger proportion of Uganda's private sector shall be able to participate more effectively in public procurement and contribute more to economic growth and social transformation.

## **2.7 Closing Remarks**

Mr. Jotham Tumwesigye, Inspector General of Government

I would like to commend the Public Procurement and Disposal of Public Assets Authority for organizing a second progress meeting for stakeholders to discuss the progress on the implementation of the procurement reforms. These meetings are very important for they give us an opportunity to discuss various concerns on some procurement issues and to work out possible solutions for them. I would, therefore, like to suggest that these meetings should continue to be organized in future until, hopefully, we reach a time when there will no significant procurement problems to bother us.

I would like to congratulate the Ministry of Finance for finally pulling through the enactment of the Public Procurement and Disposal of Public Assets Act. This law is what we had all been waiting for. With the passage of this law and the passing of the new procurement regulations which I am informed will be out soon the legal framework on public procurement will almost be complete. We have also gone a long way in setting up the institutional framework. Now that the institutional structure has been established the remaining challenge is the creation of capacity for all those procurement bodies that we have created. This calls for the immediate recruitment of sufficient staff who are professionally competent to effectively handle procurement matters under their charge.

In terms of establishing legal and institutional framework for procurement, I think we have gone a long way and we should congratulate ourselves. Considering the reforms that have been introduced in the procurement sector over the last three or so years, they have been nothing short of revolutionary. They deserve to be ranked a long side the fundamental economic reforms that were introduced more than a decade ago.

You have no doubt discussed some of the procurement problems that still beset us. There is the problem of capacity that I touched on earlier which concerns all bodies involved in procurement viz the procurement units, the contracts committees, the accounting officers, the Public Procurement and Disposal of Public Assets Authority and even the Auditor General's and IGG's offices. The raising of competence of all these bodies should be an urgent priority. Large procurements require greater professional competence and changes in technology require new knowledge and skills. Training in procurement for all those involved is an imperative if we are going to make real progress in this sector.

There is still a problem of proper planning. Many procuring entities do not know how to plan for their procurements. Poor planning leads to loss of public funds. Procuring entities must be educated to plan their procurements in time.

The biggest problem we have in procurement, however, is the problem of corruption. There is still a lot of corruption in procurement not only at Local Government level but also at central Government level. The recent National Integrity Survey that my office conducted reveals a lot of public disenchantment with Government on account of corruption in procurement. At Local Government level, not much effort is made to hide

it. Conflict of interest and political interference is very common. At central government level, however, there is more sophistication. It may be done through provision of vague terms of reference or not adhering to terms of reference laid down or through leakage of confidential information to preferred bidders or giving little time to prospective bidders to prepare their bids, or through signing of contracts with unfavourable terms to the procurement entity or through accepting goods or works that do not meet the set specifications.

The private sector believes that you cannot win a tender without offering a bribe to a key public officer involved in the procuring process. So they prepare their bribe well in time because they believe they have no choice if they are to remain in business. They do not seem to realize that it is unethical and a crime to offer a briber to influence a public officer involved in decision-making. A lot of corruption in public procurement is fuelled by the private sector.

Corruption is committed in secrecy so it is not easy to find enough evidence to prosecute the culprits. In procurement, corruption is usually manifested by deviation from laid down procedures. Failure to adhere to these procedures should not be taken lightly. It should not be seen as inadvertent or accidental. It is usually deliberate and should be severely punished. This, however, can only be achieved if the monitoring and legal enforcement machinery is strengthened.

There is also a need to educate public officers in ethics. This is one area that has long been neglected. It is not enough to lay down rules. It is equally important to teach those who are subject to these rules the importance of adhering to them and the consequences of violating them. The private sector also needs to be sensitized about the importance of ethical business conduct and the need to report corruption when they encounter it. We need to bring the business sector on board in the fight against corruption.

Civil society needs to be strengthened so that it participates more effectively in monitoring procurements and implementation of public projects. A lot of information is hidden from civil society even when it is of no strategic or security value. It is urgent for the Government to operationalize the constitutional right to freedom of information by passing the Right of Access to Information Act.

I would like to end by thanking our development partners, especially DFID and the Dutch Government. Who have been so supportive of these procurement reforms.

## **SECTION THREE: ANNEXES**

## ANNEX A: Programme for the Procurement Sector Review

TIME	ACTIVITY	BY
8:30 – 9:00 a.m.	Registration.	Mrs. Anna Senyonjo.
9:00 – 9:15 a.m.	Opening Remarks.	Mr. James Kahoza Chairman, Board of Directors, PPDA.
9:15 – 9:30 a.m.	Progress on the implementation of the Procurement Reforms.	Mr. Edgar Agaba, Ag. Executive Director, PPDA.
9:30 – 10:00 a.m.	Donors' Views on the Progress of the Procurement Reforms.	Mr. Harman Idema, First Secretary, The Royal Netherlands Embassy.
10:00 – 10:30 a.m.	Progress on the harmonization of the Local and Central Government Procurement Practices.	Mr. Kiiza Amooti Head of Training Decentralization Secretariat (MOLG)
<b>Chairman of Sessions:</b>		<b>Mr. James Kahoza</b>
<b>10:30 – 11:00 a.m.</b>	<b>COFFEE/TEA BREAK: FOYER: VICTORIA HALL</b>	
11:00 – 11:20 a.m.	Progress of Human Resource Development in the Procurement Reforms.	Mrs. Adah Kabarokole-Muwanga, Commissioner, Human Resource Development Ministry of Public Service.
11:20 – 11:40 a.m.	Development of a Provider's Registration System.	Eng. Samson Bagonza, Commissioner/Quality Assurance Ministry of Works, Housing & Communication.
11:40 – 12:00 noon.	Challenges and Issues of Accountability in Public Procurement.	Mr. John Muwanga The Auditor General.
12:00 – 1:00 p.m.	Discussions and Recommendations.	
<b>1:00 – 2:00 p.m.</b>	<b>LUNCH: CRANE RESTAURANT</b>	
2:00 – 2:30 p.m.	The Need for the use of National Standards in Public Procurement.	Mr. Terry Kahuma, Executive Director Uganda National Bureau of Standards.
2:30 – 3:00 p.m.	Private Sector Participation in Public Procurement.	Mr. Badagawa, Private Sector Foundation.
<b>3:00 – 3:30 p.m.</b>	<b>COFFEE/TEA BREAK: FOYER: VICTORIA HALL</b>	
3:30 – 4:30 p.m.	Discussions and Recommendations.	
4:30 – 5:00 p.m.	Closing Remarks.	Mr. Jotham Tumwesigye, Inspector General of Government.

### ANNEX B: Register of Participants and Contact Details

NO	NAME	NAME OF ORGANIZATION	DESIGNATION	TELEPHONE CONTACT
	<b>BOARD MEMBERS</b>			
	Mr. James Kahoza	Public Procurement and Disposal of Public Assets Authority (PPDA)	Chairman, Board of Directors	220276
	Mr. Anthony Okwenye	Public Procurement and Disposal of Public Assets Authority (PPDA)	Member, Board of Directors	077-899416
	Mr. John Wabwire	Public Procurement and Disposal of Public Assets Authority (PPDA)	Member, Board of Directors	077-569908
	Mr. Joseph Mukasa	Public Procurement and Disposal of Public Assets Authority (PPDA)	Member, Board of Directors	077-451685
	Eng. Y.B.K. Mpagi	Public Procurement and Disposal of Public Assets Authority (PPDA)	Member, Board of Directors	077-840333
	Ms. Sarah Lubega	Public Procurement and Disposal of Public Assets Authority (PPDA)	Member, Board of Directors	077-664492
	<b>DONORS</b>			
	Mr. Harman Idema	Netherlands Embassy	Head of Finance and Management	077-611776
	Mr. Richard Olowo	World Bank	Procurement Analyst	230094
	Mr. John Hoy	Embassy of Ireland	Development Attache'	344344
	Mr. Muhwezi Pontian	Embassy of Ireland	Rural Development Adviser	344344
	Mr. Dan Temu	UNDP	Deputy Resident Representative	234833
	Mr. Sam Ibanda	UNDP	Assistant Resident Representative (P)	077-370646
	Ms. Astrid Thygensen	UNDP/PPDA Capacity Building Project	Chief Technical Advisor	077-514257
	Mr. Julius Mulera	UNDP/PPDA Capacity Building Project	National Procurement Consultant	077-966640
	Mr. Francis Luwangwa	USAID	Program Development Specialist	077-200893

	Mr. Don Elliott	USAID		077-221256
	Mr. John Anderson	USAID	Team Leader, Democracy and Governance	077-200552
	Ms. Jane Namono	SDU	Program Manager	505006
	Mr. John Ssekatawa	IMF	Economist	077-419958
	Mr. Ostergaard	Danish Embassy	Counselor	
	Ms. Hannah Wilson	Danish Embassy		077-885934
<b>OVERSIGHT AGENCIES</b>				
	Mr. Jotham Tumwesigye	Inspectorate of Government	Inspector General of Government	259723
	Mr. John Muwanga	Office of the Auditor General	Auditor General	255487
	Mr. Silver T. Kangaho	Inspectorate of Government	Ag. Director Operations	347388
	Mr. Paul Beggan	Directorate of Ethics and Integrity	Governance Advisor	077-700067
<b>MINISTRIES</b>				
	Mr. P. W. Orone Atipo	Ministry of Finance, Planning & Economic Development	Under Secretary/Accounting Officer	231390
	Mr. David Kabateraine	Ministry of Finance, Planning & Economic Development	Head/Procurement Unit	077-418541
	Mr. Robert Muwanga	Ministry of Finance, Planning & Economic Development	Coordinator/EFMP II	347804
	Mrs. A. Kabarokole Muwanga	Ministry of Public Service	Commissioner, HRD	077-419959/250453
	Mrs. Naome Kibaaju	Ministry of Defence	Under Secretary	077-200750
	Maj. Annette Nkalubo	Uganda People Defence Forces (UPDF)	Procurement Officer	077-418277
	Lt. Col. Nkuutu	Uganda People Defence Forces (UPDF)	Liaison Officer	077-503864
	Brig. Oketta J.F.	Uganda People Defence Forces (UPDF)	Chief of Logistics	077-331055
	Capt. E. Kwihangana	Uganda People Defence Forces (UPDF)	Logistics Officer	077-465296
	Ms. Meke Jane Margaret	Police Tender Board	Secretary	077-428935
	Mr. Opiko O. Charles	Police	Police Officer	077-874413

	Mr. C. Tumuhairwe	Office of the President	Director	077-623989
	Mr. Ben Turyatamba	Office of the President	Management Consultant	077-924889
	Mr. Benson Bityo	Ministry of Tourism, Trade & Industry	Procurement Specialist	254827/232548 077-700004
	Mr. E. Okuraja	Ministry of Agriculture, Animal Industry & Fisheries	Secretary, Contracts Committee	071-812895
	Mrs. Dorcas Wagima Okalany,	Ministry of Local Government	Under Secretary /FA	077-458020
	Mr.C.F. Olarker	Ministry of Local Government	SUI	077-585706
	Mr. James Kiiza Amooti	Ministry of Local Government	Head of Training/ Decentralization Secretariat	250877
	Mr. James Baguma	PMU/Ministry of Local Government	Procurement Specialist	077-402165
	Mr. Samson B. Kateregga	Ministry of Local Government	Financial Analyst	077-520740
	Mr. C. Katarikawe	Ministry of Local Government	Assistant Commissioner	077-377960
	Eng. Samson Bagonza	Ministry of Works, Housing & Communication	Commissioner/Quality Assurance & Vice-Chairman, Contracts Committee	077-483712/320629
	<b>STATUTORY BODIES</b>			
	Mr. Dombo C. James	Public Service Commission	Under Secretary	077-508938
	Mr. Henry Ngabirano	Uganda Coffee Development Authority	Managing Director	075-760142
	Mr. Otim Francis	National Drug Authority	Head of Drug Registration	077-425003
	Mr. Kihika V.T. Zulu	Bank of Uganda	Ag. Director Administrative Services	077-518292
	Dr. Terry Kahuma	Uganda National Bureau of Standards	Executive Director	077-702688
	Mr. Abraham Nkata	National Water and Sewerage Corporation	Manager, Procurement	075-650344
	Mr. Andrew P. Opolot	Civil Aviation Authority	Corporation Secretary	321415
	Ms. Faith P. Akello	NAADS	Procurement Support Officer	345440
	Mr. Wilson U. Othieno	Uganda Revenue Authority	Commissioner	071-221206
	Mrs. Jovita Byamugisha	Electoral Commission	Ag. Director, F&A	341063
	<b>PROVIDERS</b>			

	Prof. Sam Turya-Muhika	Federation of Ugandan Consultants	Chairman	077-711139/236648
	Mr. Edgar Kamara	Uganda National Chamber of Commerce and Industry	Research Officer	503024
	Eng. Godfrey B. Zaribwende	Uganda National Association of Building, Civil Engineering and Contractors	Chairman	077-755011
	<b>NGO's</b>			
	Mr. Gideon Badagawa	Private Sector Foundation Uganda	Senior Policy Analyst	230956
	Mr. Tumwebaze Patrick	Uganda Debt Network	Finance Manager	077-421292
	Mr. Muloopa B. Hassan	Transparency Uganda	National Programme Officer	077-618341
	<b>TPPAs</b>			
	Ms. Caroline Healey	Crown Agents	Managing Director	077-755706/235312
	Mr. John Steer	Crown Agents	PPDA Consultant	077-552027
	Ms. Elinor Caborn	Crown Agents	PPDA Consultant	077-552027
	Mr. Kitiinisa Julius	Charles Kendall	Procurement Manager	077-502051
	Mr. Robert Mwesigwa	AMPROC INC	Managing Director	231120
	Mr. Geoffrey Kamuntu	AMPROC INC	Officer	231120
	Mr. David Kiyingi	CIPS – Uganda	President	077-433230
	<b>PPDA</b>			
	Mr. Edgar Agaba	PPDA	Ag. Executive Director	031-261231
	Mrs. Mary P. Sozi	PPDA	Director Finance & Administration	031-261231
	Mr. Milton Tumutegyereize	PPDA	Director Training & Capacity Building	031-261231
	Mrs. Hilda K. Mwesigwa	PPDA	Administrative Assistant	031-261231
	Mrs. Anna Ssenyonjo	PPDA		031-261231

**ANNEX C: Supporting Papers to the Presentation by Mrs. Addah Kabarokole  
Muwanga, Ministry of Public Service**

NO.	ISSUE	PROGRESS/STATUS
1.	Filling of posts in Procurement Units	Interviews were conducted by the Public Service Commission for the posts of Principal Procurement Officer, Senior Procurement Officer and Procurement Officer. The results will be released in the very near future. Interviews for Assistant Procurement Officers are slated for 4 <sup>th</sup> to 6 <sup>th</sup> June 2003.
2.	Abolition of Supplies Officer cadre	This position is being reviewed following consultations with various stakeholders. The supplies Officer cadre will be maintained but will only handle stores and supplies management functions. The Ministry of Public Service will soon advise the service on the job description and staff establishment for the Supplies Officer cadre.
3.	Inadequacy of sitting allowance i.e. 25,000/= for the Chairperson and 20,000/= for members per sitting	The majority of Ministries expressed inability to pay more than the sitting allowance due to budget constraints. So for uniformity, the sitting allowance was maintained as stipulated in the circular.
4.	Staff numbers	The Ministry of Public Service has received a few complaints to the effect that the staff provided are too few. The Ministry is of the view that all Ministries first fill up the posts as established under CSI NO. 1 of 2002 as a matter of urgency. If difficulties are experienced after filling these posts, then such cases can be presented to MPS for review.
5.	Revision of the professional qualifications for the procurement cadre	<p>The Ministry of Public Service wants to build procurement as a profession in the Public Service. Professional qualifications cannot therefore be opened up for anyone. The Ministry encourages co-opting members of the different professions to advise depending on the nature of procurement at hand.</p> <p>If however other professions acquire a qualification in procurement they can be appointed to a vacant procurement post.</p>

6.	Compliance of autonomous and semi autonomous bodies, Commissions, Referral Hospitals, Tertiary Institutions	<p>Referral hospitals have been cleared to adopt the structure for the small Procurement Entity.</p> <p>Restructuring of Tertiary Institutions is on going and procurement is one of the functions that should be considered.</p> <p>Other semi-autonomous and autonomous bodies may determine the structure of their procurement unit in line with the acts that brought them into force.</p>
7.	Availability of persons with the required procurement qualifications	<p>Recent applications to the Public Service Commission have proved that there are a good number of persons with procurement qualifications. However, internal capacity building needs to be enhanced more especially that all Procuring entities beside the mainstream Public Service will require Procurement Officers.</p>
8.	Procurement Unit reporting directly to the Permanent Secretary/Accounting Officer	<p>The importance attached to procurement necessitates that the Accounting Officer is directly involved. This is not the first unit to report to Accounting Officer – the Planning Units for example report directly to the Accounting Officer.</p>
9.	How to select persons of integrity for the procurement function	<p>Integrity is a crosscutting issue in service delivery. In the Public Service, Appointing Authorities are continuously improving the selection methods to ensure that the best persons are selected.</p> <p>The issue of integrity needs to be integrated into the training and sensitization programmes for Procurement Officers.</p>

## **ANNEX D: Supporting Papers to the Presentation by Mr. Edgar Agaba, PPDA**

### **Progress of the Reforms**

#### **Introduction**

- We will review:
  - Progress to date
  - The way Forward.

#### **Components of the Reforms**

- 7 key areas:
  - Legal framework
  - Establishment of PPDA
  - Introduction of new system in PDEs.
  - Capacity building and professionalising procurement
  - Enforcement
  - Local Government
  - Private Sector.

#### **Legal Framework Progress to date.**

- Act passed in November 2002 and in force since 21<sup>st</sup> February 2003.
- Regulations
  - Consultations complete
  - Regulations finalized and approved by Minister
- Forms included in Regulations
- SBDs being finalized, consultation underway
- Guidelines – first set draft and ready for Board approval.
- Appointment of members of DTBs

- Appointment of chairpersons of Contract Committees.

### **Legal Framework – The Way Forward**

- Issue Regulations by 1<sup>st</sup> week, June 2003
- Approve and issue Guidelines by 1<sup>st</sup> week, June 2003
- Issue further Guidelines over next 12 months
- Collect recommendations for future revisions
- Periodic review of the performance of the system

### **Establishment of the PPDA – Progress to date**

- PPDA formally established by Act
- New offices established and equipment purchased
- Training for management team
- Notice advertised to recruit new Executive Director and Technical Advisor

### **Establishment of PPDA – The Way Forward**

- Recruit staff by August 2003
- Build capacity among Authority staff by abreast of developments on public procurement
- Develop website and appropriate databases to link up with reporting from all Entities.
- Establish providers' Registration System

### **Introduction of system to PDEs – Progress to date**

- PDEs instructed to establish Contracts Committees by the end of May 2003
- Recruitment of procurement staff being conducted by Public Service Commission to be in place by end of July 2003.
- Other PDEs instructed to establish Procurement Units.
- Tender issued for initial compliance assessments and auditing of 2 key ministries.

- PDEs instructed to establish Contracts Committees by the end of May 2003
- Recruitment of procurement staff being conducted by Public Service Commission to be in place by end of July 2003.
- Other PDEs instructed to establish Procurement Units.
- Tender issued for initial compliance assessments of all central government PDEs and auditing of 2 key ministries.

### **Introduction of system to PDEs – The Way Forward**

- Issue Regulations and other documents to inform PDEs of system.
- Complete PSC recruitment by end of July 2003.
- Complete compliance assessment and auditing and review recommendations by end of July 2003.
- Conduct further compliance assessments at 6 or 12 monthly intervals.

### **Capacity Building & Professionalisation – Progress to date**

- UNDP/GOU capacity building programme started February 2003 for 2½ years. Staff recruited for the project.
- Initial course modules developed and training workshops currently on going. 134 trained between 2<sup>nd</sup> – 27<sup>th</sup> May.
- National capacity building strategy being developed
- MPS circular issued on professionalising procurement.
- TPPAs being pre-qualified by PPDA to provide line support to PDEs and auditing services to the Authority

### **Capacity Building and Professionalisation – The Way forward**

- UNDP project to continue for 2½ years with:
  - training
  - on-the-job support
  - strengthening of training institutions.
- Develop certification system for procurement staff

- Complete pre-qualification of TPPAs and issue list and guidance to PDEs by end of July 2003.

### **Enforcement – Progress to date**

- TPPAs being pre-qualified by PPDA for audit services
- 2 audits to be conducted this financial year
- Codes of conduct:
  - included in Act for procurement staff
  - to be included in Guidelines for Providers
- Contracts above \$200,000 to be published by mid June 2003.
- Compliance checks any time of the procurement or disposal process.
- Develop benchmarks for the new system
- Develop procurement audit programme.
- Establish joint working methods/programmes with IGG, OAG etc. Authority currently developing TORs for joint working group
- Develop working procedures for administrative review and suspension of providers
- Initiate discussions with OAG on procurement audits for the Defence and National Security Organs.

### **Local Government – Progress to date**

- Act also applies to Local Government procurement standards
- Capacity assessment study being carried out towards harmonization – to be completed by end of June 2003

### **Local Government – Way Forward**

- Develop and issue Local Government Regulations and other documentation
- Provide capacity building support and enforcement through existing central government standards

- Monitor compliance and audit the procurement processes

### **Private Sector – Progress to date**

- Private Sector included in consultations on Act, Regulations and SBDs

### **Private Sector – The Way Forward**

- Include private sector needs in capacity building programme
- Develop preference and reservation schemes
- Targeted publicity on administrative review procedures
- Review complaints by providers in a transparent manner

### **Finances**

- Need for government to fully fund the activities of the PPDA
- Need for development partners to assist in funding particular activities

### **Summary**

- Act in force
- Recruitment of Authority staff underway
- Assessment of compliance due to be conducted
- 2½ years capacity building programme underway
- Audits of 2 key ministries due to be conducted.

## **ANNEX E: Discussions and exchanges among Participants**

**THE CHAIRMAN:** Ladies and Gentlemen, we have about 30 or 35 minutes to discuss any issues, which the members may want to raise. Now in the area of discussions and recommendations, I would request members who are here to raise any issue about the operations of the Authority so far, about problems which they see or the problems which the providers may have experienced already. So I would encourage members to raise any issue about matters that have been raised in the speeches that have been made here so that these can be discussed and the meeting hopefully can arrive at recommendations with regard to those issues that have been raised and other questions which may arise right now. So I will call upon anybody here to raise any issue regarding matters that have been raised.

**MR. ABRAHAM NKATA:** Thank you Mr. Chairman. I am working with the National Water and Sewerage Corporation. Allow me to address myself to three issues. The first one is to do with the legal framework or the legislation. I am of the view that the Authority has a big role or a challenge to see how it harmonizes all the existing laws and Statutes, you will observe that each Statute or Law supercedes the other. So we need to have a unit within the Authority to understand these Statutes so that there is no conflict in the purpose and objectives of these Statutes. The other issue I would like to address myself to is the issue of pre-qualification of providers. As we do that, I strongly feel that this should be decentralized. If this is centralized, the list of providers in one category will end up being long and therefore the providers may continue to lose opportunities to get access to business. But what we need to do is to have standard criteria and documentation of pre-qualification and evaluation such that whichever entity undertakes pre-qualification will end up with its own list of providers but selected on the same criteria. Also related to that, I wonder whether there is a standard format for evaluating their performance; because unless we have a standard yardstick for checking providers' performance and therefore one should be able to qualify or disqualify in another year. Without that, we will end up with prejudiced short-listed providers. So we need to have a standard supplier performance evaluation scheme, which should be adopted by all entities. Mr. Chairman, the last item I would like to address myself to is the issue of promoting integrity in this profession. From my experience and with due respect to all appointing authorities around, I observe that there is a lot of influence peddling by the appointing authorities and I note that from the law, whereas there are issues of penalties, I would recommend that under administrative reviews, there should be an amendment or a regulation that encourages the lower officers in the procurement units to raise their concerns with the Authority in the event of their employers trying to influence their actions. If that is embedded in the law, then the appointing officers will realize that it is illegal and therefore will deter them from doing such a practice notwithstanding the fact that there are provisions that they should sign the Code of Ethics. Thank you very much.

**THE CHAIRMAN:** Thank you very much. I do not know whether we should discuss issue by issue. What do you think? Should we dispose of one question before we take on another one?

**MEMBER:** Thank you Chairman. I just wanted some clarification. In Statutory bodies, there are statutory decision making organs - the Chief Executive and the Board of Directors, I wanted to know the role made by the Board of Directors as far as procurement is concerned.

**MEMBER:** Thank you Mr. Chairman. Mine is an observation about the private sector or bidders and suppliers. The Ag. Executive Director Mr. Agaba talked about it briefly and I think Engineer Bagonza from Ministry of Works. But I would appreciate as we build capacity especially regarding government officials in procurement not to leave the bidders or suppliers behind, we will have a very serious problem. I will give examples like Ministry of Works that has a register. They have been in touch with their contractors or consultants and at times they have been building capacity with these people and I think or with my experience, the time we have been with government, Works has been more in touch with their suppliers than any other Ministry and they overcome many problems just because of that. But how do we bring in other Ministries and how do we bring in other suppliers like the publishers? Because if we encourage, like the Authority encouraged suppliers of Clearing and Forwarding firms to form associations and like these garages we have been talking about, if they had their own association and you had a program to train them so that they appreciate the new law, I think the Authority and the suppliers will gain a lot in this. I will give you an example which has been happening at the district level. With our experience through SFG, you would find the local government official presented a very good presentation on how these tender boards are. But you find suppliers at this local level really do not know the procedures, which are clearly put up. For them they think SFG is there to help them. SFG for those who do not know is the School Facilities Grant. The monies, which are put aside by donors, help the locals in terms of development so that they can supply or build on their own construction firm. But we find that at the district level, they manipulate them. They actually say that now the one to be allocated this tender is this one from this village. We have heard these reports. So how do you close this gap? I think we should build capacity, encourage one association from these suppliers, then build capacity where necessary and it should trickle down up to the districts. Thank you.

**BRIG. OKETTA:** Thank you Mr. Chairman. I have seen these papers have been worked on very well by the procurement Authority. But I would like to raise one question and another one is an observation. What would be the best strategic procurement policy to stand the test of dynamic environment in the short analysis noted by the cause of the development program, which has been done by the Authority? I have asked this because this is very interesting and looks very good but it must stand the test of time and the integrity therein. So I do propose that the training program be enhanced for both infant and the substantive. This should be imperative because there is need for continuity. Most of those who are there now are not trained and there is need for further recruitment. So I suggest that those who are there, who have been appointed because of political or whatever the situation, should be trained so that this integrity program should be enhanced because procurement will require technical skills right from planning, budgeting up to the time when the end-users get the idem. So I suggest that the training program be enhanced. Thank you.

**MR. TURYATEMBA:** I am a management consultant. I just wanted to make some few comments. Mr. Chairman you indicated the need to have the appointment of tender boards in districts. I think we need to make clear recommendations here about the need to de-link the appointment of district tender board members from the politics of the districts. I would recommend that we get the Public Procurement and Disposal of Assets Authority to be the one responsible for appointing these recommended board members both on minimum qualifications and going by the professional standards that would have applied to the guidelines. It is very important. You mentioned it and I think we need to seriously address it. The second one is, some lady from the Public Service indicated that you can never drop to the limits of perfection or corruption. But professions normally protect or control corruption because if people are protecting their professions, I imagine there would be less corruption. In this I mean if you have chosen to get qualified personnel in procurement, there should be an annexure clause that they belong to a professional body of procurement members that has specific guidelines. That if anybody makes some error that is not consistent with the profession, they are deleted off the list so that at the end of the day, we have the right people in the profession running this business in these entities. The third point Mr. Chairman is about the providers' list. For the sake of development of capacity in our country, I would request that we also make it clear that those who go on the providers list are not only international bodies. Thank you very much.

**MR. DAVID KIYINGI:** My comment goes to Mrs. Adah Kabarokore Muwanga who mentioned something about filling posts in the procurement units. I happened to have been one of those who were interviewed. However, I was disappointed by one issue in that area - when they are interviewing lawyers or engineers, they must use those professions. I was shocked when we did not have any representative from the procurement profession. I am only requesting that in future, we address this area. We have the Authority in place and we have the professional bodies. So it is very unfair for the auditor to come and interview procurement people because he will only ask the questions which I do not think would be really relevant to such posts. Thank you very much.

**THE CHAIRMAN:** You are a lawyer yourself?

**MR. KIYINGI:** I am a professional buyer.

**THE CHAIRMAN:** Oh, I see!

**MEMBER:** Thank you Mr. Chairman. I want to make one or two observations. It is important to note that the Authority should pre-qualify providers for it will be helpful to the procurement entity like the Ministry and other procuring entities. But you find that the Ministries or the procuring entities have a right to pre-qualify providers, I can observe that there is going to be a problem at the end of the day. I can see that there will be some kind of influence peddling. Is there a system in place to make sure that the providers will be chosen by the procuring entities without any influence peddling or the procuring entities will just choose the providers they want? Another observation I want to make is about our development partners. The development partners are giving their funds to the government now with the new system of budget support. I can note that

there is need for direct support to the project. So I am worried. Our development partners, have you got any controls in place to ensure that the money that you are giving us will be put to good use? Then I want to also make an observation on the relationship between the contracts committee and the procurement entity because you say that the Ministry of Public Service has interviewed the staff to work in the procurement units and you will note that most of these staff will be more qualified, others have masters. Then when it comes to the time of awarding the tender, the Chairman and the contract committee will have to take a decision. I think there is a very big problem there because the members of the contract committee may not be more qualified. He could be a Permanent Secretary but he does not any qualifications in procurement and the procurement secretariat can recommend a certain supplier and the Chairman can say no, I do not want that. Don't you think there is going to be a problem there? Thank you Mr. Chairman.

**THE CHAIRMAN:** I think we can stop comments there and we respond to some of the issues raised. Now somebody from the Ministry of National Water and Sewerage Corporation raised a question of pre-qualifications of providers. Obviously, this is an area which one has to handle carefully. In the contracts committee in the Department of Water and Sewerage Corporation, obviously we have a whole department in pre-qualifying providers on certain criteria. Now here, the responsibility will be mainly them but the Authority will monitor this activity and also will require the Department of Water and Sewerage Corporation in the process of pre-qualifying providers to consult other professions on the basis of advice and that is the reason why the Authority will pre-qualify certain firms to assist in procurement and disposal entities in departments and Ministries so that the Department of Water and Sewerage Corporation will have available to them a list of firms from which they could seek advice to assist them pre-qualify providers relating to their mandate. In other words, pre-qualification of providers has to be handled with care but also the Department concerned has to ensure that they get professional advice from outside with regard to the qualification of the providers, the criteria used and so on. So here the Authority is not going to be the one to do your work but you have to do your work with guidance from other competent people. That is why the Authority will give you a list of people who can assist you in this pre-qualification of your providers. Now with regard to performance, how performance of providers can be assessed, that obviously depends on the work you have given them and how they have performed. Now performance will also be done by other firms, which have been pre-qualified to carry out audits on a regular basis. Quite obviously, the audits will look at the procurement system, how decisions have been made and of course over time assess the providers and the work they have done on different tenders. For instance, if a particular entity has been a subject of public outcry or comment, obviously the providers who are involved in certain tenders which are being queried or where public concern has been raised, then the Authority will focus on that provider to see their track record, the tenders they have provided and how they have performed. If clearly there is evidence that their performance has been questionable, the Authority will use their audit reports to judge the performance of certain providers and take action however, it is the procurement entity, which has to take action on the providers they use from time to time. Now the audit will help them to determine whether they should keep a provider or they should not keep a provider. Now the other point he raised was the question of conflict and integrity. At the level of the contracts committee, you have the Accounting

Officer who appoints members of the contracts committee. What I understood him to say was that members of the contracts committee may make decisions which their appointee, the Accounting Officer may not be happy with. The regulations here are very clear. Members of the contracts committee are supposed to make decisions, evaluate tenders without the presence of the Accounting Officer. The reason for this is to reduce conflict. Now at the level of the contracts committees, quite obviously the performance will depend on the integrity of members of the contracts committees. They have been appointed by the Accounting Officer but they are supposed to make their own decisions without reference to him or her. Now that depends on individuals. Quite obviously if they want to please their appointing authority or the Accounting Officer, they may encourage him to direct them; because you can always encourage him to interfere depending on how you behave. But that obviously depends on individuals. You are appointed the Chairman of the contracts committee, you are supposed to prove worth, you are supposed to make your own decisions as regulations will demand and you may have to disappoint an Accounting Officer who wishes to interfere. Do not forget that the Authority will be monitoring what is going on. Now if an Accounting Officer clearly shows that he or she is interfering with the work of the contracts committee, the Authority will be auditing. Quite obviously the Accounting Officer according to regulation has to account to certain people.

**THE CHAIRMAN:** Well, he asked, what was the role of the directors of the Authority? Now the Board of Directors of the Authority are supposed to be responsible for regulating the whole procurement system. They are not supposed to do the business of awarding tenders or anything like that. We leave that to the procuring entities in the ministries and departments. They make their own decisions according to the law and the regulation. Our duty is to monitor their activities, their system of decision-making, how they award tenders, what is taken into account, possibilities of abuse, that is the role of the Authority - to monitor the procurement system. I think another participant raised the question of building capacity and I think he was referring to the private sector and raised particularly the rural area; the district level. Now obviously building capacity is important in handling this procurement system because capacity does not exist. Even at the central government, there are few people familiar with procurement as such. So in building capacity, training is going to be a major activity of the Authority provided of course we are facilitated with the resources to do the work. But building capacity and training are going to be a continuous process especially at this time when we are beginning this work. I think the same point was made by the officer from UPDF. He also raised the question of training to be enhanced in the central government and the local government. I need not emphasize the fact that training will probably take a lot of the resources of the Authority because I can see the Authority spending a lot of money on developing training models and delivering training lectures almost monthly and probably even weekly because the procuring entities at the center are about 100 now. When we include the local government, I do not know how many they are going to be; 200 or something like that. So training is an important activity and I hope the development partners, the donors will help us in this. They are always doing it but training is a major activity because as of now, not many people are familiar with procurement and in any case, procurement is not an act of buying things. You have to be familiar with the development in technology, the new products, and their quality, fake goods that are on the market right now. All those you have to be familiar with and what

is happening in the industry. So it is a major area in training. Another officer of UPDF talked about Kazinga Channel. Kazinga Channel is blacklisted in some areas and used in other departments. Now obviously there is a contradiction there because if one ministry blacklists a company and then another Ministry is using the same company, obviously there is a problem there. Some people will raise the question as to why the company is being used in certain areas and blacklisted in others. I think here the Authority has a role to play, because if a company for instance is sort of disqualified or criticized by a procurement entity for certain reasons, the Authority is obviously going to investigate this matter and where a company is found to have violated matters of ethics in a very serious way, the Authority can always recommend blacklisting of certain companies after careful consideration because disputes between procuring entities and certain companies can arise depending on what is involved. This is something one has to be very careful about. We will not want to blacklist companies unless we absolutely have to because it is not always easy why companies have been blacklisted. They may be blacklisted for very good reasons or they may be blacklisted for bad reasons also. The consultant in President's Office raised a question of de-linking appointment of members of the tender boards at the district level from the politics of that district. Now here, I think I made a point that you need to have a system where the politicians at the local level do not have the final say in the appointment of the members of the tender board at the district level. Now I have raised this with some people in government and I think the view in the Ministry of Local Government is that the appointing authority should not be external to the district council because if you do it, you undermine the system of decentralization. You need to make sure that the districts have the power to do their work. As of now they do not seem to have the power, most districts are corrupt and ignorant, some of them are just uneducated really. Ministry of Local Government however has a view that probably somebody external to the Authority should confirm those appointments if they are made at the district level. They are prepared to discuss that. I do not know what the USAID study will come up with. Of course we expect them to make recommendations in this area because that one is really vital. Now the consultant also made the point about encouraging local providers because local providers do not have the sufficient capital base to undertake certain works. But I think the point he made and which I agree with and which the law itself agrees with is that local providers should be given on a competitive basis certain work so as to build their capacity. I think this is quite legitimate because local providers cannot as of now take on certain things for example, tarmacking a road, definitely will be handled by foreign companies. A local provider will not come in. So there are certain areas where local providers cannot be considered because of their level of capitalization and skills. But there should be certain areas where they are given some consideration just for the purpose of building their experience and their capacity. We will always try to give local providers opportunities and we expect the procuring entities which will be awarding tenders will look at certain areas where local capacity can be developed and you do this by giving them work, you do this by giving them a certain road to grade. Now if they fail, they are the ones to blame of course. But if you give them certain jobs and they perform say 80% well, that is something. They are learning. We agree with that and we hope the procuring entities will do what they can to assist. Now another officer made a point about interviewing procurement officers. He said when interviews are taking place, we should make sure that on the interviewing board, you have somebody to deal with those who belong to certain professions. We do not really think that is a major

problem. Certainly this can be taken into account. Another participant raised the question of the selection of third party procurement companies, which are going to be selected by the Authority. As you know, the Authority is going to pre-qualify a whole range of firms, they are going to be quite a number; to be given to procuring entities so that when they want for instance training, professional support or advice, they call on any of those companies through bidding. Of course they are not expected to go and pick on one. They ask them to bid so that they select those who can assist them. I think the person raised the question of whether the Authority is simply going to list the firms and give them to the procuring entities in the Ministries. In fact the authority itself is going to pre-qualify these firms through bidding. The Authority is going to advertise and firms themselves will respond and the Authority is going to pre-qualify on the basis of competitive bidding. It will not just select firms, that would be against the law.

**MEMBER:** Thank you Mr. Chairman. I am from the National Drug Authority. A very important issue was raised as to who should appoint the members of the District Tender Board and I would think that this is the time really. We cannot do justice to ourselves by leaving this room without making a resolution on that. My view is that in conformity with this law, we said that the Accounting Officer should be the one to appoint the members of the contracts committee and we also said that it would be ideal to uplift the appointing authority to be within the district. So my idea would be the Chief Administrative Officer should be the one to appoint and the PPDA should approve because if any money gets lost in the district, he is the person to be responsible. It is subject to discussion Mr. Chairman. Thank you.

**THE CHAIRMAN:** There is somebody who I believe would want to immediately respond.

**MEMBER:** This is my personal view. What I think is that the current appointing mechanism should remain. But what is missing is vigilance on the part of the central government to ensure that regulations are complied with. Now that the Authority is in place, it should ensure that the regulations and the law are enforced. The IGG should inspect some of the report and prosecute whoever flouts regulations. Otherwise if we change the mechanism as the Chairman has said, it can undermine the whole issue of decentralization. We need to make sure that regulations which are in place and yet to come are enforced so that things are done according to the law. Thank you very much.

**THE CHAIRMAN:** But you see the problem is that the Inspector General of Government has been doing all this. He will read the papers, give a recommendation and but the district council also says, we do not agree. I do agree that the appointing authority should remain in the district but somebody should have a say either in confirming the appointments or something like that than leaving it like this. The Inspector General of Government can comment on this one.

**THE IGG, MR. JOTHAM TUMWESIGYE:** Thank you Mr. Chairman. I have always failed to understand why some people strongly feel that the appointing authority of district tender boards and urban tender boards should remain in the districts. I could take decentralization to mean independence of districts. I see no reason why central government – I am not talking of the President or Minister of Finance or whoever. I am

just talking of an independent body, which can appoint people in the district to sit on the district tender board. I do not see anything wrong with this because about 90% or even 100% of the procurement funds to the district level come from the central government and I think central government has a stake to ensure that these funds are properly utilized. My view is that decentralization does not mean independence. In some cases, we have actually gone too far in giving these districts too much autonomy which they cannot manage properly and I do not think that anyone suggesting that for example the Authority should suggest names for people to be in procurement, to be accused of undermining the decentralization process. I therefore think that we should reconsider – because the thrust of our districts is to be protecting public funds. It is not interfering with political power and an independent body can best be entrusted in this nomination of people at the district level, civil servants and people of integrity who can be from these districts and tenders should be awarded rather than entrusting this task to politicians at the district level. The IGG has been trying to investigate but it is overwhelmed because they are just too many cases and there is the added problem that recommendations are not actually respected. The district leaders say the IGG can suggest whatever he wants, he can make his recommendations but who cares? And it was not until the central government started to withhold funds of the districts that they started to proceed with the IGG's recommendations in Mbale, Lira and some other districts. So these districts need to be careful in appointing some of these officials to manage these areas.

**THE CHAIRMAN:** While talking to the Minister of Local Government about this very issue, he said that giving the authority of appointment to people outside the district undermines decentralization. Of course I do not agree with him. As you said, decentralization is not independent in the one sense, that is the cause of the problem which gives the impression to the districts that they are not under the control of anybody and that is a wrong message. So in my personal view these tender boards and public service committees in the districts can be appointed by somebody in the central government as long as the people there come from the districts.

**MR. TURYAMUHIKA:** Thank you Mr. Chairman. I will not make comments on this particular subject but I had prepared to talk so much on many issues as long as you allow me to talk again. I think the key to this problem is really independence or so on decision making and output. This is what is very important in awarding tenders. So I do agree with the views of the IGG and those of the chair. But this is a problem that needs to be addressed in fact seriously because I am from the private sector and in this country we have carried out what I call aggregate expenditure working service on a number of sectors and we have just concluded water. We have done public service and education is on going. In all these studies, the list of problems is common. The money arises in the districts 100 per cent and things start going on because these district tender boards are not independent, they are influenced politically in their decision making. Consequently, overturning recommendations of technical evaluation committees is a very regular occurrence. As the local government official pointed out, there are no guidelines to guide them on how to ask especially on that subject because a number of eminent lawyers here including the IGG in any provision where a higher authority can use a pen to deny what will look legitimately a technical process there must be circumstances under which that can happen. Even the President cannot just

say the bill passed by Parliament is no good. I do not like the typing of it. Send it away. Then there must be a due process; first of all. This is a very common occurrence. I think it should be addressed. If these regulations are ready Mr. Kiiza Amooti, really delegate them down to Local Government because there are reports. I have a copy here on procurement Mr. Kiiza read in the morning. Provisions are good but there is no policeman. There is no effective policeman in the districts to enforce these laws at all and this is where you need to have monitoring and evaluation, quarterly or half monthly audits. This must be effectively done. I think if powers are used they can be recalled. This is basically delegation of powers. We still hold central government as the people of Uganda responsible for the development of the country both to the local government. So the government will be very sure to make amendments to the relevant law. This statement also equally applies to contracts committees even at the center. For us in the Federation of Ugandan consultants, we do not understand how the Chairpersons of these contracts committees actually employ public servants in the same Ministry for they can also be influenced. A Chairperson should be an independent public person who is a retired senior public servant, respected for his impartiality. So if we cannot do this both at the center and district level, we should say at least a Chairperson should be an independently identified person. These are some of the irregularities with the local government procurement. The membership is supposed to be five. In this report practically, all districts have got more than five members. Is this the law? According to section 92 sub-section 8 all district tender boards and I presume urban tender boards are supposed to prepare quarterly reports. Nobody in the center received them including the IGG. The IGG is supposed to receive them. We wrote to the Ministry of Public Service, they do not have them. So there is a lot of non-compliance and this is an area that needs to be strengthened up and a lot of money we suspect is going astray at that level. So this is a strong recommendation we would like to make from the Federation of Ugandan Consultants. But there is another element also which is more independent. Within the technical evaluation committee, we have a problem of more independence. In fact we have a body of people sitting in a room, are they morally independent? You cannot have independence without moral independence. The standards, which are assessed for these committees, are not observed. So going on to evaluation committees even at the center in our industry there are cases where those things happen. They have flimsy excuses just to throw out certain firms, we are talking about transparency and then you get the letter - sorry, your tender was not successful but nobody tells you why, yet you think it was very good. So one of the things of transparency that we should do is to publish the results saying there were 20 marks. For this technicality, you obtained only five. Otherwise these procedures which the Authority is going to establish will not respond to the problem because the basis of complaint – I am the Chairman of the Federation of Ugandan Consultants. I have seen a company, which has never run any project in the area saying 100% experience and the companies, which have done several projects in the area obtained only seven and a half which was 60%. So that was the recommendation that our members thought we should make. But going back to the subject of the moment we should make sure that the district tender boards and urban tender boards act effectively and safeguard the integrity of public funds. There must be independent selection of the members. But the problem now is not who selected, it is not that they are not independently selected but that they are agents of some benefactors and normally who have principle control over the whole process and I think

really this is not good enough. So as a start, I would go along with the recommendation of the IGG. Maybe the Minister and the Authority might have to set up a Task Force to address the state of poor information, poor practice and supervision. Thank you.

**THE CHAIRMAN:** Mr. Amooti, I think you need to address yourself to this issue because you have a tender board in a district which is supposed to consist of say four or five members and yet you find some of them have got eight members, that is terrible! It just shows that there is no law. That is jungle. So you have got to do something about it. That is why we are saying that members of tender boards should not be appointed by council members, you see some of them are campaign managers. That is why the system does not work and you cannot continue like that. That is why we are saying the appointing authority should be elsewhere, I do not know where. It can be in the Ministry of Local Government or in the procurement Authority but it should be outside the district. Now, that one theoretically you could say that it undermines decentralization. Yes that is theoretical to you but I think something needs to be done to make the system work.

**MEMBER:** Thank you Mr. Chairman. I want to comment on that issue. But I think it does not matter who appoints that particular tender board. What I think is the issue here is the issue of evaluation by the PPDA because even if you cannot respect that the district appoints and then PPDA approves but even then if they are going to do what they do, we have to be more vigilant because what probably lacks is the information flow of what those people do anyway. Like the other speaker has said that they even do not make quarterly reports. So my view is, PPDA should force those tender boards to make regular reports and then the information collected could be used by the PPDA to open up a website. If civil society is availed on the website the on-going projects, those projects which have been awarded and also other information on pending programs, people could make a follow up. Now these suppliers could also be on that particular website. The people could easily monitor and say supplier X had this to offer. We know supplier B who could offer us a better job so that people could continuously follow up this matter. I am requesting that PPDA maintains a website so as to communicate in that way. Thank you.

**THE CHAIRMAN:** Well, thank you very much for your comment. But you see, with the problems in the district, you cannot expect a procurement Authority to do very much by way of improving the current situation. For your information, the IGG has constitutional powers which the procurement Authority does not have. He has more power than the Authority. In addition, the Inspector General of Government has his staff there in the districts; they are actually seeing what is going on but nobody cares. So you were talking about the civil society and the website, those people there do not give a damn about those things. They do not care. As far as they are concerned their problem is kickbacks - rewarding those who helped them in the political area. It is as simple as that. So we are saying the person to give them the power to do anything should be divorced from friends and should have the power to discipline them but just not appointing them. That is what they understand, not the website. They do not care about this thing.

**MR. KIYINGI:** Thank you Mr. Chairman. I earlier made an observation regarding the panel that was handling the interviews in Public Service for procurement professionals. I did get your point here that it is necessary to have professionals in such bodies. But I hope that it is the Ministry of Public Service view because I believe we have professional bodies like engineers, doctors and so forth. Two, my second point is on integrity. Let us try to copy what other professions have done like Accountants. I always want to use the Accountants because I look at them as the bench-marks for us to determine. They discipline their members who misbehave, I will give an example of doctors. Sometime back, I have been seeing cases where the doctors' association bans doctors to practice after doing something wrong. My humble request is that we find a way to make it mandatory for these practitioners to ban members because I understand a law is formed about professionalising and I believe everybody appreciates that this is professional. The way forward should be how do we make sure that the practitioners are made compulsory to a particular body that can maybe to some extent discipline them other than hearing someone has erred in Ministry of Education and now he has been transferred to Defence. I think it should not be the solution, there should be a mechanism, let us copy it from other professionals. Accountants have ever done it, engineers are also telling us they have their professional bodies. That is my humble request. Point number three was on Prof. Turyamuhika's point of transparency. Definitely I think it is now in the law, we are now supposed to communicate to the losers. However, I think there is only one Ministry with a procurement unit and even that Ministry is being actually helped by donors. You make sure the capacity is there before you can talk of enforcing some of these ideas. Actually even that Ministry where there is a procurement unit, they may not have enough personnel to communicate to the suppliers where it is necessary. So as we look at building capacity, we should also look at facilitating these procurement units so that they can be helped to do their work and what they are really supposed to do. Thank you very much Mr. Chairman.

**THE CHAIRMAN:** Anybody who wants to respond to that point?

**MR. AGABA:** Thank you Mr. Chairman. Before I respond to Mr. Kiyingi, I want to talk about what exists in the local government system. We are talking about all these problems in the local government system but in actual fact, regarding public procurement in the local government system, there is no legally existing framework. A framework that is being used in the local government are draft regulations. Now these draft regulations have been prepared to a certain extent but they do not reflect the national standard. That aside, it is very difficult to enforce draft regulations since a competent authority has not passed them and they have not been issued. Now what is happening in the local government is that draft regulations were being developed. When the procurement process was going on, they dropped the regulations while awaiting international standards to be set up but at the same time issued them to many of these Accounting Officers for them to be used. So apart from all the problems that are happening in the local government, there is no existing framework to guide the local government. Everyone in the local government, apart from the structures of the tender boards, which are in the Local Government Act and a heap of procurement procedures, which are laid down in the Financial and Accounting Regulations, the local government tender boards have no legal framework. So everybody does everything whenever he feels they want to do. So I think it is also a big challenge for the Authority and the

Government of Uganda to try and come up with an appropriate framework. Like I said earlier, we have a capacity assessment study going on and at the beginning of the next financial year, we should be able to invite local government stakeholders. But as we talk now, there is no legally binding framework to guide these procuring entities at the local government. To respond to Mr. Kiyingi about professionalisation, yes, it is very prudent that any profession, whenever there is need to improve on your profession, you have at the end of the day to legalize your profession. Now the first step has been taken by Ministry of Public Service to recognize procurement as a profession. The government of Uganda has just recognized that procurement is important in the government sector. We are in the process of developing competent levels. You might be aware that most of the procurement officers who are going to be appointed to these procurement units do have separate professions and they either have as an added advantage or actually they do not have this but have procurement experience. Thank you very much.

**THE CHAIRMAN:** Thank you. Mr. Agaba, my understanding of what you have just said is this that the local government tender boards are exploiting regulatory vacuum. In other words, by extension, you are saying, if those regulations were actually signed by the Minister of Finance, the situation in the local government with regard to procurement would be different. Is that what you are saying?

**MR. AGABA:** Yes, to an extent. Why? Because they would have at least a framework in which you can process. Let us take an example. If there is a complaint at local government level, how do you review the complaint? There is no existing framework. That is where the IGG comes in, investigates and recommends.

**THE CHAIRMAN:** You see, the point I am mentioning simply is this, the IGG has been auditing these institutions. They have been resisting his recommendations but they never mentioned non-existence of regulations. They simply say no. My view is, that is not the problem. The problem is, they just want to protect their own agents.

**MR. TUMWESIGYE:** The Local Government Finance and Accounting Regulations contain reasonable regulations, which must be followed by the tender boards in awarding tenders. For example, one of them provides against the councilors and district officials from awarding tenders to themselves, It is very clear. No councilor, no head of department, no civil servant in the district or any local government official shall contract with the administration in which he participates. But they award tenders to themselves and it is not because they are ignorant of that law. They are very well much aware of it. What these days they do is to go and create fictitious companies and make them win tenders. So when we intervene and bring this up, they resist. So the point Mr. Agaba is making is not entirely correct. The legal framework is there. Thank you.

**THE CHAIRMAN:** So the financial regulations are there but they ignore them anyway. So really the thing is deliberate. Now we have a problem here. These people have people to protect them in the council. The council members themselves have some people to protect them in Kampala. So you have a vicious circle. So if appointments can be made by independent organs, at least at the center, I think the level of ethics is a little bit higher than at the districts. People at the center have some amount of shame

when they are doing certain things. I think it is a combination of corruption and ignorance. The leaders of the district level are partly politicians and peasants, they are a very complicated group. So it is not always easy to talk ethics to them. They do not really see. So you see the problem is not that there is no regulatory Authority.

**MR. AGABA:** Thank you Mr. Chairman. In my presentation, I made it very clear that the Authority is in the process of developing terms of reference for a working group; that is within the Authority, the Inspectorate of Government and the Auditor General. Even this morning, we were discussing with the Auditor General especially on the powers he has in auditing Defence and other security organs. So what the Authority is going to do is that it is going to use the resources available, the offices available in conjunction with the Inspectorate of Government and the Auditor General to monitor compliance, to audit procurement and review procurement decisions. So there are three main areas in which we are going to work together to try and solve problems, which are pertinent. Considering the fact that both the Inspectorate of Government and the Auditor General already have regional offices, we shall be using their resources to form these committees and review problems that are affecting us.

**MEMBER:** Thank you Mr. Chairman. I have a proposal and this is from the Ministry of Public Service. In most Ministries, the Chairpersons of these committees are Under Secretaries. I think they could be rotated by the Ministry of Public Service so that each one does not stay long in the current Ministries but is transferable to another Ministry. For instance, I am the Under Secretary in the Ministry of Defence, if I could chair a committee in the Ministry of Public Service or in the Ministry of Works and the Under Secretary in the Ministry of Works also chairs the Defence committee and we go on, on a quarterly basis, I think this would go a long way in reducing the fears that most Chairpersons have of their bosses and their superiors having an influence on their activities and their actions. Mr. Chairman, this is just a proposal and a suggestion, which is open to scrutiny or debate.

**THE CHAIRMAN:** Thank you very much. I suppose somebody from Ministry of Public Service would want to say something about this. Somebody from Ministry of works would want to say something about this, or even Defence. I do not know how you will take somebody to go to Ministry of Defence going to buy beans, guns or boots or whatever. It may not be easy. I do not know. I would like comments on this.

**MEMBER:** Thank you Mr. Chairman. Mine is supplementary. The Ministries have started sending in their nominations for approval by the PS/ST. But in our observation, we are finding that the Under Secretary is the Chairperson in most cases. His junior who is the Assistant Secretary is Secretary of the contracts committee and he is also a member. You find the Accountant is also a member and that the office superintendent is also a member and these people form a quorum. When you talk of independence of the members, I do not know how this assistant of the Under Secretary is going to be independent. So you find the only person in most cases who is not from the department is a lawyer and the law is not mandatory that you should form a quorum. There is a regulation talking about how to form a contracts committee but it is not clear. It does not say for example, that not more than two members should come from one department.

Any time they become more than two members they form a quorum and their boss is the Chairman. What do you say to that Mr. Chairman? Thank you.

**THE CHAIRMAN:** Alright. Mr. Agaba, I do not know. When forming contracts committees, are there qualifications? You mean an office superintendent or a messenger can also be a member of the contracts committee? I do not know. Who actually qualifies?

**MR. AGABA:** Mr. Chairman, the regulations provide that members of the contracts committee should have a certain level of seniority. One of the problems why some people have been recommending office superintendents, is that you find that some entities are really very small. But where you find that there are Ministries with competent officers, such appointments have not been made. Now the problem talked about, has been disturbing me because we have had an experience in some Ministries where you find that Accounting Officers appoint all the members of the contracts committees from one department. You find the Under Secretary, Accountant, the Assistant Secretary and the Principle Assistant Secretary are the members of the contracts committee. That is very unfortunate because we have tried to guide the Accounting Officers in the nomination and appointment of these officers. The officers should represent a user department and we have made it very clear in the regulations. The last time I talked to Mr. Kabateraine who is actually in charge of the desk for approving these officers, I told him, please, if you have that kind of scenario, discuss it with us and we shall recommend that you send back that kind of submission because this has happened in the Ministry of Education. The last time, the contracts committee was only administration and yet this is a Ministry, which has not less than seven departments. So in our regulations, we have made it very clear that first of all, the members of the contracts committee should be at a senior level in the Ministry or government department. Two, they should represent the departments that you have. There are some Ministries, which are a problem like Ministry of Works, the five members we are proposing are not enough considering that they have ten or so departments. So we have agreed with them that they will co-opt members because the law allows co-option of other members. However, we have cases like the Insurance Commission, which has very few staff. We have advised them to borrow from other Ministries but not to appoint members at the low level. Mr. Chairman, that is very, very clear and I suppose that if such a case arises again, Mr. Kabateraine, we are ready to guide him on the levels of seniority and we are ready to look at the department. I think in case a procuring entity sends you names, which you feel, are from one department, you may as well ask for all departments of that Ministry. So Mr. Chairman, it is not right. I personally cannot guard against an Accounting Officer choosing a certain line of people from a department. That is why we have at least an approval desk in the Ministry of Finance. If this happens, please, return the submission and ask them to give the departments and we have also made it very clear that if you are sending names for approval, you must send their qualifications and what kind of position they hold in an organization.

**THE CHAIRMAN:** So you are saying that as far as the Authority is concerned, if an Accounting Officer for instance appoints members of the contracts committees from only one user department, that constitutes a valid audit query? Does it?

**MR. AGABA:** That is true.

**THE CHAIRMAN:** Now the Under Secretary in the Ministry of Defence made a suggestion to rotate Chairpersons of contracts committees. Now Ministry of Works, do you think that is possible in your Ministry for instance?

**MEMBER:** Mr. Chairman, I think the proposal can work if you look at it from a simplistic view. But you have to look at it from the legal angle because the regulation is saying the contracts committees are appointed for a period of three years. Once you are a member, you are a member of that committee for a period of three years unless you get a problem along the way. Now I have not seen that arrangement where you can move like a temporary member of the committee. The arrangement assumes that you are a permanent member unless you get a problem along the way. So it looks a very good proposal but the practical implementation may be difficult. Once you have been nominated by the Ministry and confirmed by PSST, you are permanent and therefore this business of being a visiting Chairperson may now work.

**THE CHAIRMAN:** Well, apart from that one, the Chairman of the contracts committee for instance, in the Ministry of Works, must he not be an engineer? In practical terms, I am not talking about law or anything like that.

**MEMBER:** I think the Chairman can be from any profession. But really when the Accounting Officer looks around, the biggest volume of procurement is in engineering and really for somebody to give good guidance, you need to be in that line because that is where 90% of the procurements are. It is just reasonable you must be that but you can be the Under Secretary, you can be an economist.

**PROFESSOR:** Thank you Mr. Chairman. I hope that the recommendation which we are going to table regarding strengthening independence of district tender boards has been adopted and we have sort of discussed it and I do hope that we are going to recommend that the members will be independently appointed.

**THE CHAIRMAN:** Yes, that should be the recommendation of this meeting. But I am not sure that Kiiza Amooti is with us.

**PROFESSOR:** Okay if that be the case, then the issue also in the same vein as far as the remarks of our friend from the Netherlands embassy who made a statement on behalf of the donors is concerned, we also want to strengthen the independence of the contracts committees at the center. So while the proposal from the Under Secretary for Defence looks attractive, once you look at the clause, then you think it is not as attractive as it looks. First it is impracticable in the sense that if you have a very important sensitive force and you know the value, what I normally call management capital, if you gain by doing in the same post, as you were PS/ST for a long time, you cannot do this – three months you are in Defence, next three months you are in Works, next three months you are in Education and so on. The Chairperson of the tender committee gives some management capital by being in the same chair for three years. Secondly, there is a continuum with respect to management of contracts. It is not just procurement. There must be somebody who can say, okay, this was the reason why it

was done this way so that you can put it into context. If you just stay there for three months, you do not even know the background of all these contracts. Some of them being in controversy, others require extension and so on. So there is some element in having somebody who is permanent in the chair. For us, from the Federation of Ugandan Consultants, who are from the private sector, what we really want that at least the Chairperson of the contracts committee at the center should be independently appointed from the public not an in-house bureaucrat who can be directed by the PS or by the Minister. So you get a senior retired engineer as a Chairperson of the contracts committee in the Ministry of Works.

**A MEMBER:** Mr. Chairman, I want to talk on the issue of the Chairperson of contracts committee rotating or being somebody from outside the ministry or department. Mr. Chairman, section 26 of the Act says that the Accounting Officer of the procuring and disposing entity shall have overall responsibility for the execution of the procurement and disposal process in the procuring and disposing entity. This means, Mr. Chairman, that the Accounting Officer if anything goes wrong he is liable. How is he going to trust somebody whom he does not control to manage the process? And if it is a person from another ministry, if anything goes wrong, how will he manage the disciplinary procedures?

**THE CHAIRMAN:** You see, Ladies and Gentlemen, the Accounting Officer has responsibilities under the Constitution. Now if for instance you bring somebody from the private sector to chair the contracts committee, as she says, the Accounting Officer has no control over him or her. How is he going to assume responsibility? How is he going to accept responsibility for errors made by somebody who is not legally his subordinate? Mr. Turyamuhika, there is a legal problem about your suggestion and the suggestion of the Under Secretary, Ministry of Defence. It is a question of accountability. How is the Accounting Officer going to account for the mistakes made by a person who is not under him legally? It is a problem.

**MR. OTHIENO:** Thank you, Mr. Chairman. I think this recent problem brings up the issue of consistency in the local council. The Act says that the Accounting Officer appoints and we have already got the reason why the Accounting Officer appoints officers. Then recommending that the tender board of districts should not be appointed by the CAO, I think is inconsistent also because the CAO is responsible for the management and uses of the funds in the district. So, if the Accounting Officer of a Ministry is appointing the Chairman or the members of the contracts committee, then in the same vain, I think the CAO should appoint members of the contracts committee of the district.

**THE CHAIRMAN:** Well, we can get guidance from the IGG. Is the CAO responsible for the errors of the Tender Board?

**MEMBERS:** No.

**THE CHAIRMAN:** Not really. He is not.

**A MEMBER:** You see, it is this recent law, which makes the Accounting Officer responsible for procurements of the department; but under the Local Government Act, the tender boards are created by the law. So, all the laws of local government tend to attach the responsibility of procurement to the CAO, they attach the responsibility to the tender board. When the tender board has finished its work, it can make its recommendation, it can forward the award to the CAO for implementation. The two are completely different.

**THE CHAIRMAN:** Yes, Mr. Othieno, you can see. I hope you hear that the appointment of the contracts committee and the appointment of tender board at the district level are quite different. While the contracts committee is responsible to the Accounting Officer, the tender board at the district level is not necessary responsible to CAO. So, the two things are different.

**A MEMBER: Thank** you, Mr. Chairman. I want to add my voice to the people who are concerned with the independence of powers when it comes to these Accounting Officers nominating members of the contracts committee. I happen to belong to an entity that is training and I think we must really appreciate that the presence of the senior citizens in those tender boards has been of great, great help. I cannot imagine a situation where we are now going to have active members; it is more less a reflection of the tender boards in the districts. I do now know what is wrong with the Accounting Officer, may be in collaboration with some Authority, choosing senior citizens, because I believe senior citizens at least in this country are one of the people we could relay on for integrity; and we could bring either some of them or all of them to these contracts committees and of course to have active members chosen by an accounting officer to be on the contracts committee. I fear getting a small problem similar to that in the districts.

**THE CHAIRMAN:** Yes, I think we appreciate that the law as it is creates conflict. There are grounds for conflict of interest in the procurement entity in a Ministry. There is no doubt about that. The question is what do we do? It is impracticable to bring somebody from outside without changing the law. So, what do we do? We just leave it as it is.

**A MEMBER:** Thank you, Mr. Chairman. We are kind of trying to under rate the role of professionalism in this concept. We have qualified as many third party procurement agents and the Authority is to qualify most of these third party providers. When it comes to the contracts committees, previously SWIPCO was doing some work recommending, though there was some kind of monopolism. But now since the powers of SWIPCO have been put to competition, third party providers are there. So the subject of discussion is about corruption in the contracts committees. Why do we not use the practices of the third party providers to do the procurement audit or why can't we put some members of different third party procurement agents on the contracts committees? Because there are some people in operations and you will find that they do not have very close relations or connections with the people on the contracts committees. So why do we not look at professionalising the profession and utilizing the role of third party procurement providers instead of fighting corruption. Thank you, Mr. Chairman.

**THE CHAIRMAN:** Okay, I do not know. Does anybody want to respond to that?

**A MEMBER:** The important point here is not third party providers or an independent Chairman from the public, the issue which the Chairman, raised is that if somebody is outside the ministry, can they be accountable to the Accounting Officer? You see the issue? My answer is yes. If the Accounting Officer offers you a letter of appointment as the Chairman of the contracts committee, you are accountable to him. This is just a matter of ironing, I do not see any illegal fabrication. The independence here is that you do not derive your livelihood from that job therefore you have to speak your minds and say this is right, this is wrong. But if you are part of the hierarchy and you need to be assessed at the year for performance, for promotion by the same Accounting Officer, you can be compromised. So we say let us call a spade a spade. It will happen, it is happening and it will continue to happen, and the solution is to get people who will say no, my livelihood is not from you, I do not want to be promoted, thank you, Mr. Chairman. When my term ends, I will go and I must do a good job. May be he will be able to resist.

**THE CHAIRMAN:** You see, when you talk about this, you are also talking about sanctions and discipline because you know, wrong doing has to attract sanctions or discipline. Now how does an Accounting Officer discipline the Chairman of a contracts committee from outside? How does he discipline, by dismissing him or what? You see this is a problem.

**A MEMBER:** Yes and also it depends on the terms and the guidelines he gives him. If he makes an error he is liable like any other citizen or loss of funds should be prosecuted, he will be collectively responsible for any wrong decisions they made. What happens now and what happened when we had Central Tender Board? Central Tender Board used to award tenders on behalf of Ministries but the Permanent Secretaries were still Accounting Officers. So there were rules guiding the members of Central Tender Board, if they did something foul, may be there was a law or there was what we call state machinery everybody knows this.

**THE CHAIRMAN:** No, no, that is all. I think we know there are conflicts of interest. For sure there is no question about that, but how do we go about it? I need to be guided. Can the Accounting Officer appoint somebody from outside? Is that in order? I am earning the response from the Inspector General of Government because first of all he is a lawyer, secondly he is knowledgeable – can we do this?

**IGG:** Well, I have been advocating for a long time the independence of these contracts committees. If for example you read my presentation last September. I made this point very clear that we must create contracts committees, which are independent because these contracts committees would easily be compromised by not only the Accounting Officer but even the Minister in the Ministry. So they are liable to be influenced and when you talk of auditing and monitoring, sometimes these things come when it is already too late. If a contract is already signed and it is disappointing, what are you going to do with it? The best you can do is to have those people who made mistakes punished, but the contract is not likely to be cancelled. However the suggestion by Prof. is not practical because bringing outsiders people who retired long time ago in the

operations of government, may be very difficult. I find it difficult. Some of these people are already too old in any case and they may not easily adapt to changing circumstances, new technology, training that is inevitable because we are promoting that there should be constant training and training these people and compelling them, might be a bit difficult. So, I am not even talking about the legal complications involved because just giving someone a letter of appointment does not necessarily mean that you control him. So, I think we need to think about this much more critically than thinking of bringing some outsider and making him head of a contracts committee and then the Accounting Officer and that person appointed do not work together what happens? Do you appoint another one? I think there will be some confusion.

**THE CHAIRMAN:** Yes, I think we discuss this one at our next meeting, which is going to come because it involves quite a number of complications.

**A MEMBER:** Mr. Chairman while we may discuss it in our next meeting, I think one point, put forward needs to be seriously emphasized. You see legislation is a balancing act. We are looking at accountability, discipline, visa vi conflict of interest and other factors. Now the balancing has to be done. Fundamental, we are making one assumption that if you appoint somebody from outside, that one will have less conflict of interest than the one who is appointed internally.

**THE CHAIRMAN:** Yes true, true.

**A MEMBER:** Me I think that since the law has just taken place and we are gaining experiences and so on rather than start anticipating at this moment, let us get things on the ground and then put in place a feed back system, where we will get to know some of the glaring inconsistencies. But as far as the law is concerned, I think we should go by the appointment of the Chairman of the contracts committee from within the Ministry by the Accounting Officer. So me at this point, I am not ruling out discussing it in the next meeting, but I think we have to balance and see that accountability is paramount. If we are going to hold the Accounting Officer really accountable then he must have a system which also responds. That does not mean he is going to influence unfairly because we are also assuming that unless proved otherwise the Accounting Officer also is somebody with some good standing. That is the assumption we are making. We are assuming that he is a person of moral character. So, Mr. Chairman, that is what I thought I could just add on this.

**THE CHAIRMAN:** Yes, that should be the last one.

**A MEMBER:** Thank you, Mr. Chairman. I want to say that this law has just been passed in January 2003 and now we are discussing of amending the law, the law does not change like that. It will take us a lot of time to change this law and we should not dwell on this. I know this thing was discussed when passing this law. It went to the Parliamentary Committee but it was passed yet so many people were against this point. But what I would want to say at this juncture is that may be we should concentrate on compliance, monitoring and valuation. We should see that these people are monitored, and evaluated to ensure that they are following the regulations. I think that is what is going to help us at this juncture but not changing the law. Section 26 of this law gives

power to the Accounting Officer to appoint the committee members. We are not going to change it today. Yes, we have noted there is something wrong with it, but are we going to change it today? I think that may be the Authority, is going to work on the compliance as the Executive Director said. He said that the process of recruiting staff to ensure monitoring and evaluating compliance is in place. So, I think we should leave this point and concentrate on other things.

## **ANNEX F: SUMMARY OF RECOMMENDATIONS**

1. Harmonization of the different statutes.
2. Standard criteria for the pre-qualification of providers.
3. Standard format for evaluating providers' performance.
4. Strong administrative review.
5. Encourage all bidders to form associations.
6. Training.
7. Need for centralization of the providers' list since one bidder can be short listed in one PDE and blacklisted in another.
8. Appointment of District Tender Board members should be done by an independent body.
9. PPDA should have a Website.
10. PPDA should have the powers to discipline/ban a procurement professional like other professions.
11. PDEs should communicate to the unsuccessful bidders.
12. Need for a working mechanism among the PPDA, the OAG and the IGG.
13. Ensure that members of the Contracts Committee are not from one department.
14. Chairpersons of Contracts Committees should be appointed by the Accounting Officers.