

FREQUENTLY ASKED QUESTIONS ON PROCUREMENT AND DISPOSAL FAQs



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

"Regulating for Results"



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FREQUENTLY ASKED QUESTIONS ON PROCUREMENT AND DISPOSAL



The PPDA from time to time receives inquiries on a range of issues related to the public procurement and disposal. This is a compilation of responses to the frequently asked questions.

What is Public Procurement?

Public Procurement means acquisition of works, services or supplies or any combination thereof by a Government procuring and disposing entity using public funds.





- i. A Procurement Plan is a comprehensive statement of requirements to be procured by a Procuring and Disposing Entity over a period of time usually one financial year.
- ii. In developing a Procurement Plan, the Procurement and Disposal Unit (PDU) consolidates the user department procurement plans. The PDU indicates the procurement methods, the time frames within which the requirements shall be procured taking into account the source of funds and types of contracts to be entered into.

This is a procurement requirement whose estimated cost is within the threshold set by the PPDA. Procurements for supplies, consultancy services and non-consultancy services below UGX. 5 Million are micro procurements. Works requirements below UGX. 10 Million are micro procurements for central and Local Government Entities.

Micro procurements require no bidding document, submission of a bid and adjudication by Contracts Committee. Evaluation is undertaken by the Procurement and Disposal Unit or user department where delegated by comparison of prices.

Are Primary and Post Primary Institutions required to follow the PPDA Law

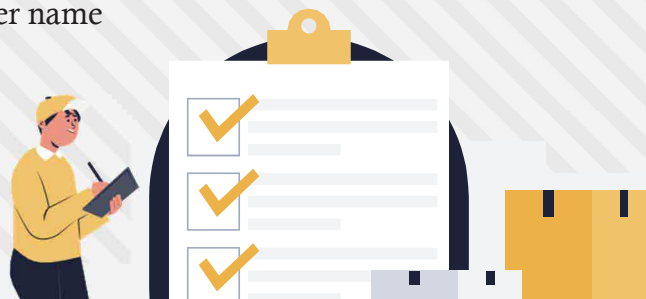


Primary, post primary institutions such as Secondary Schools, colleges are covered under the PPDA Act and should adhere to it.

The Authority has issued a Guideline to guide the procurements and disposal of these institutions. The Guideline provides for the structures, the roles and responsibilities of the stakeholders and the extended procurement procedures that are unique to these institutions.

Who is the Accounting Officer in Primary and Post Primary Institutions?

The school Head teacher or Principal by whatever name called is the Accounting Officer.



What is the composition of the Contracts Committee?



- The Contracts Committee is a Committee approved by the Secretary to Treasury on recommendation of an Accounting Officer of a Procuring and Disposing Entity to adjudicate procurement and disposal submission from the Procurement and Disposal Unit.
- It is composed of 5 members nominated by the Accounting Officer who include a chairperson, three members and a secretary.
- In Central Government Procuring and Disposing Entities, one member should be a lawyer by profession.
- The Quorum for the Contracts Committee meeting is three persons.
- Members are appointed in their individual capacity among serving public officers of Government within the Entity.
- The lawyer may be external to the Entity.

What are the roles of the Evaluation Committee in the public procurement and disposal process?

An Evaluation Committee is one approved by the Contracts Committee to review the bids received in accordance with the evaluation criteria in the issued bidding document and recommend the best evaluated bidder. The roles of the Committee include:

- Evaluation of the bids using the criteria stated in the bidding documents.
- Undertaking verification and due diligence on the documents submitted in the bid.
- Preparation of the evaluation report recommending award of contract to the best evaluated bidder or shortlisting of providers.



A preference scheme is an arrangement where a percentage is added onto a bidder's price that does not qualify for the scheme at financial evaluation for works, goods and services.

- Where the open domestic or open international bidding methods are used;
- In respect of consultancy services, where proposals are invited from both national and foreign consultants and the quality and cost based selection method or the least cost selection methods are used during financial evaluation.

- It is applied by adding a specified percentage margin to a financial bid or proposal price of bidders that do not qualify for preference (a foreign bid/ proposal) thereby raising their bid or proposal price.
- For goods, the margin of preference is 15% while for works and services, the margin is 7%.

Only goods/ Supplies that are domestically manufactured qualify for preference schemes provided:

- The labor or the value addition to the good is more than 30%; and
- The production facility in which the goods are manufactured, assembled or processed is in Uganda and is engaged in the manufacturing, assembling or processing of the goods at the time of submission of the bid.

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Which providers qualify for preference schemes?



A contractor and a consultant qualifies for preference scheme where:

- It is incorporated or registered in Uganda
- In case of an individual , it is a Ugandan national;
- More than 50% of its capital is owned by Ugandan national; or
- In case of a Government Entity, more than 50% of the share capital is owned by the Government of Uganda or a Procuring and Disposing Entity.

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What is a reservation scheme?

A reservation scheme is one that sets aside procurement opportunities for only the participation of a target group of providers.

Reservations are issued by PPDA and include those by thresholds to national, resident and EAC providers; to providers with manufacturing facilities in Uganda such as uniforms and clothing materials, transformers, electrical conductors, motorcycles, medicines and medical supplies among others.

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What objectives do reservation schemes serve?

- Promote the use of local expertise and materials;
- Promote the participation of targeted providers in the public procurement process;
- Promote the Buy Uganda Build Uganda Policy.

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How can Procuring Entities promote reservation schemes?

- Invite bids from qualifying providers under the appropriate reservation schemes;
- Holding Entity Supplier Fora at which reservations are emphasized.
- Publication of Procurement Plans which indicate procurements to be reserved and to which providers.

16. What is a bid securing declaration?

- A bid securing declaration is a form of bid security in which a bidder undertakes in writing that it will not withdraw its bid after bid submission or fail to sign an awarded contract.

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Does PPDA grant waivers and deviations on use of procurement methods?

- The Authority does not grant waivers/ deviations on use of procurement method. Procuring and Disposing Entities should undertake procurements in accordance with the Regulations and Guidelines issued.
- The PPDA grants deviations on use of standard bidding documents and formats.
- The PPDA also accredits alternative procurement procedures of entities with exceptional requirements that make the application of the PPDA Act and Regulations impractical or uneconomical to comply with.

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Doesn't the display of the procurement plan on the PDEs' notice board affect the confidentiality of the procurement process?



The display of the procurement plan does not affect the procurement process since the award of contract is not only based on price but follows the evaluation criteria stated in the bidding document. The bidders will still be subjected to competition to determine the best offer.

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Do the 10 days display period of best evaluated bidders apply in cases of emergency procurement where the Accounting Officer has constituted himself into the Contracts Committee?

The display of the best evaluated bidder notice for 10 working days does not apply for procurements under emergency circumstances.

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In the case of disposal by Donation, does the Act & Regulations define who should be donated to?

The law does not specify who to donate to. However, donation(s) should be done to private entities to benefit the community.

21

What should I do in case bid security and bid validity is about to expire before signature of the contracts?



Request the bidder to extend its bid validity and security using the Bid Securing Declaration. An Entity should not sign a contract where the bid validity or bid security has expired.

22

Can an Entity communicate reserve prices for revenue centers to the bidders?

Yes, an Entity should indicate the reserve prices for revenue collection centres in the bid notice and bidding documents for transparency.

23

Is it allowed to request for submission of eligibility documents that were omitted in the bid?

It is allowed for the Chairperson of the Evaluation Committee to request a bidder that omitted to submit eligibility documents in its bid. This applies to historical eligibility documents.

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Are members of PDU allowed to evaluate bids?

Yes, the law provides that an Evaluation Committee shall, among its members, have a member of the Procurement and Disposal Unit.

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What is the Register of Providers?



The Register of Providers (ROP) is an online database of providers of works, services and goods to government. The Register of Providers is accessible on the eGP at <https://egpuganda.go.ug> where providers register before they are issued with a Certificate of Registration.

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Are the Districts Officials allowed to compete in the procurement opportunities within their respective District?

No. The PPDA law prohibits Contracts Committee members, staff and employees of council or employees of any PDE from being bidders in the entities where they are employed.

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Can PDEs use the PPDA Act and Regulations in procurements under development partner funding?

The PPDA Act, 2003 and Regulations are applicable for procurements under development partners provided this was spelt out in the Financing Agreement. Where the Financing Agreement indicates that the development partner regulations are to apply to the procurements, the PPDA Act, 2003 and Regulations shall not apply where there is conflict between them and the Financing Agreement.

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Does repetitive awarding of contracts to one bidder limit competition, especially where the prequalification list has more than one provider?



Yes it limits competition. The Procuring and Disposing Entity is advised to rotate the invitations of the providers on the prequalified list or use the PPDA Register of Providers or providers from other entities in order to increase competition.

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Should PDEs require eligibility documents from pre-qualified providers under restricted bidding?

PDEs should not require pre-qualified providers to submit eligibility documents in the bids unless there are changes to those in the pre-qualification bids.

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Do Entities have powers to suspend providers?

Procuring and Disposing Entities have no powers to suspend any providers from participating in public procurement and disposal proceedings. It is PPDA with powers to suspend providers following a recommendation of an entity or at its own initiative.



31 Where should the original bids be kept?

Procurement records including original bids should be kept by the Head Procurement and Disposal Unit. During evaluation, the Evaluation Committee should be given copies of the bids submitted where an entity is not rolled onto the eGP System.

32 What can an Entity do where the procurement is for software and providers have standard agreements contrary to those issued by PPDA?

The entities should seek prior approval of the Authority at the commencement of the procurement process to use other contract forms than ones issued by PPDA.

33 What is Sale to Public Officers?

This is a disposal method and the conditions for its application are as indicated below:

- Where there is no likely benefit or financial advantage to a PDE, in using any other method
- Where assets for disposal are a small number of low value items which are unlikely to attract public interest
- Where the personal use of disposal assets would directly benefit the performance of a public officer in the execution of his or her duties within a PDE
- The disposal process under sale to public officers is contracted out to an entity that is not participating in the disposal of the public asset.

What does the Authority look out for during a compliance audit?

- Is the Procurement and Disposal Unit staffed, facilitated and performing its role?
- Are Standard Bidding Documents being used in the procurement and disposal proceedings?
- Are Procurement and disposal files for all contracts awarded in place and securely kept?
- Are reference numbers being used and generated in accordance with the Guideline?
- Is the Entity procurement and disposal plan in place and generated from departmental plans?
- Are records for micro procurements kept?
- Are the monthly procurement and disposal reports prepared and submitted to the Authority?
- Are there delegation of procurement and if so, whether they are in writing?
- Does the entity have copies of the PPDA Act, Regulations and Guidelines?
- Is the pre-qualification list in place and updated?
- Is the register of procurements and contracts in place?
- Is a procurement notice board in place and accessible to the public?
- Is there independence of roles and responsibilities of the structures involved in the procurement and disposal process?
- Do members of the Contracts Committee and Evaluation Committee sign the ethical code of conduct at every meeting.

What should PDEs do when providers require more than 30% advance payment before providing service?

The Accounting Officer should seek approval of the Permanent Secretary/Secretary to Treasury where advance payment above 30% of the contract sum is to be paid.



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What kind of information does the Accounting Officer (AO) need to look at when assessing market price?

The AO can use all appropriate sources of information including:

- Prices obtained on previous similar bids or contracts taking into account any difference in the quantities purchased, inflation and location of delivery among others;
- Prices published or advised by potential providers; (e.g supplier catalogues, average prices and list of common user items) or;
- a buildup of estimates of prices of components of the cost of BOQs established by the user department, or rates obtain from professional associations.

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What should be done where the price of the best evaluated bidder is higher than the market price established at the commencement of the procurement?

The Evaluation Committee should recommend to the Contracts Committee that negotiations be carried out with the bidder. The Contracts Committee once it approves the recommendation, a Negotiation Committee is constituted and negotiates with the bidder based on the negotiation parameters and plan approved by the Contracts Committee.

Does the political leadership have a role in procurement?



The political leadership in Entities has the following roles in procurement:

- i. Approval of the budget and workplans that include procurement plans; and
- ii. Monitor the implementation of the workplans;

What is the law applicable for procurements in Local Governments?

- i. The Local Governments Act Cap 138;
- ii. The PPDA Act, 2003;
- iii. The PPDA (Procuring and Disposing Entities) Regulations, 2023;
- iv. The PPDA (Procurement Planning) Regulations, 2023;
- v. The PPDA (Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services) Regulations, 2023;
- vi. The PPDA (Procurement of Consultancy Services) Regulations, 2023;
- vii. The PPDA (Evaluation) Regulations, 2023;
- viii. The PPDA (Disposal of Public Assets) Regulations, 2023;
- ix. The PPDA (Contracts) Regulations, 2023;
- x. The PPDA (Force Account Mechanism) Regulations, 2014; and
- xi. The PPDA (Administrative Review) Regulations, 2023.

The Local Governments (Public Procurement and Disposal of Public Assets) Regulations, 2006 were revoked effective 5th February 2024



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