

Where the Authority fails to review the decision of the Accounting Officer within 15 working days of receipt of such decision, a bidder may seek redress from the Tribunal.

Details to be included in an application for administrative review to the Authority

- I. Name and contact of bidder;
- II. The Procuring and Disposal Entity against which the complaint is made;
- III. The procurement or disposal requirement to which the complaint relates;
- IV. The complaint made to the Accounting Officer;
- V. Include a record of the correspondences between the Accounting Officer and the bidder regarding the complaint;
- VI. The grounds of the complaint; and
- VII. The corrective measures requested for by the bidder from the Authority.

The Authority shall dismiss without investigation, a complaint which does not fulfill the above conditions and the bidder shall be notified of the dismissal.

Role of PPDA in an administrative review

- I. Instruct the Procuring and Disposing Entity to suspend the procurement process until the administrative review process is complete.
- II. Notify all bidders of the application and invite them to make any submissions.
- III. Institute an investigation.
- IV. Issue its decision within 21 working days stating whether the application is upheld or rejected, reasons for the decision and whether there are any corrective measures to be taken.

The PPDA Appeals Tribunal

The PPDA Appeals Tribunal (the Tribunal) is created under the PPDA law but is independent of PPDA in its composition, funding, accountability and execution of its mandate.

When may one appeal to the PPDA Appeals Tribunal?

- I. Where a bidder is aggrieved by a decision of the Authority in an administrative review.
- II. The Authority does not issue a decision in respect of a review of the decision by the Accounting Officer within 15 working days.
- III. The bidder alleges that the Authority cannot handle a review impartially.

The appeal to the Tribunal should be made within 10 working days from the date the decision appealed against is made.

Limitation of time for lodging complaints:

A bidder cannot apply for administrative review where a Procuring and Disposing Entity has entered into a contract for procurement or disposal.

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Public Procurement & Disposal of Public Assets Authority

AMENDMENTS TO THE PPDA LAW AND THE ADMINISTRATIVE REVIEW PROCESS

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The Public Procurement and Disposal of Public Assets Authority (PPDA) was established under the Public Procurement and Disposal of Public Assets Act No. 1 of 2003 as the regulatory authority for public procurement and disposal of public assets in Uganda. Part VII of the PPDA Act, prescribes the administrative review process. The Amendment of the PPDA law has introduced changes to the administrative review process to guarantee public confidence in the complaints handling process.

ADMINISTRATIVE REVIEW

What is administrative review?

Administrative review is the process of handling complaints arising out of alleged breaches of the procurement law. An administrative review is initiated when a complaint from a bidder is made, claiming to have lost or is at the risk of losing a tender due to a breach of procurement law or as a result of errant actions by a Procuring and Disposing Entity or competitors.

When a complaint is lodged, the administrative review body (i.e. the Accounting Officer or PPDA) re-examines how the Procuring and Disposing Entity managed the procurement process to determine whether it was carried out in accordance with the law.

A complaint is first submitted to the Accounting Officer upon payment of a prescribed fee. A complaint should be submitted within 10 working days from the date the bidder first became aware or ought to have become aware of the facts giving rise to the complaint. If a bidder is not satisfied with the Accounting Officer's decision, or where the Accounting Officer does not issue his decision within 15 working days, the bidder may appeal to the Authority within 10 working days from:-

- i. The date of receipt of the Accounting Officer's decision; or
- ii. The date by which the Accounting Officer ought to have issued his decision.

Who can apply for administrative review?

Only a bidder can apply for administrative review. Under the PPDA Law, a bidder is defined to include a person participating or intending to participate in a procurement or disposal process.

When can the application for administrative review be made?

A bidder can apply for administrative review at any stage of the procurement process but in any case, within 10 working days from the date when the bidder first became aware of the circumstances giving rise to the complaint. A bidder cannot apply for administrative review after a contract has been signed.

What are the grounds for administrative review?

A bidder requesting for administrative review must show that there has been an omission or breach of the PPDA Act, Regulations, and guidelines, provisions of the standard bidding documents or best practices by a Procuring and Disposing Entity.

Requirements for the application

Details to be included in an application for administrative review to the Accounting Officer are:

- i. The name and contact of bidder;
- ii. The procurement or disposal requirement to which the complaint relates;
- iii. The grounds of the complaint, including—
 - (a) The provision of the PPDA law which has been breached by the Procuring and Disposing Entity;
 - (b) Where known, the names of the person involved in the subject of the complaint, the facts that constitute the complaint;
 - (c) The corrective measures requested by the bidder; and
 - (d) Any documentary evidence and any other evidence, relevant to the complaint.

Where the above information is missing, the Accounting Officer shall dismiss the complaint without investigation and inform the bidder in writing of the dismissal. An application for administrative review should be accompanied with payment of the relevant administrative review fees as per the scale below.

Fees Payable for Administrative Review

	Estimated Value of Procurement (UGX)	Fees Payable (UGX)
1	>100,000,000,000	15,000,000
2	>50,000,000,000 ≤ 100,000,000,000	10,000,000
3	>1,000,000,000 ≤ 50,000,000,000	5,000,000
4	>500,000,000 ≤ 1,000,000,000	2,500,000
5	>100,000,000 ≤ 500,000,000	1,500,000
6	≤ 100,000,000	500,000

Role of the Accounting Officer in an Administrative Review

- i. The Accounting Officer upon receipt of the complaint must suspend the procurement process.
- ii. Institute an investigation into the complaint.
- iii. Issue his/her decision within 15 working days from the date of receipt of the complaint stating whether he/she upholds or rejects the application, reasons for the decision and whether there are any corrective measures to be taken.
- iv. Submit a copy of his/her decision to PPDA for review upon issue of the decision to the bidder.

When can a bidder apply for administrative review to the Authority?

- i. Where the bidder is not satisfied with the decision of the Accounting Officer; and
- ii. Where the Accounting Officer fails to issue his/her decision within 15 working days from the date of receipt of the complaint.