



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

**INVESTIGATION INTO ALLEDGED IRREGULARITIES IN
THE PROCUREMENT PROCESS FOR THE SUPPLY OF
GOWNS**

ENTITY: MAKERERE UNIVERSITY

COMPLAINANT: WHISTLE BLOWER

NOVEMBER 2023

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ACRONYMS

COUNCIL	-	Makerere University Council
PPDA	-	Public Procurement and Disposal of Public Assets Authority
LTD	-	Limited
MAKEF	-	Makerere University Endowment Fund
MUK	-	Makerere University
UGX	-	Uganda Shillings

1.0 BACKGROUND

On 18th September 2023, the Authority received a complaint from a whistleblower alleging irregularities in the procurement process for supply of gowns.

Specifically, the following issues were raised:

1. That the procurement is being irregularly carried out by the University Endowment Fund instead of the Procurement and Disposal Unit.
2. That there was conflict of interest since some of the companies that participated in the procurement process were owned by lecturers and staff of the University.
3. That the University Endowment Fund denied bidders the opportunity to view the samples of the gowns required which would have enabled suppliers to quote the correct prices for their gowns.
4. That the University Endowment Fund is not interested in verifying the production capacities of bidders before awarding the contract for the supply of gowns.

2.0 OBJECTIVES OF THE INVESTIGATION

The investigation was conducted with the view of establishing whether:

1. The procurement for the supply of graduation gowns is being irregularly carried out by the University Endowment Fund instead of the Procurement and Disposal Unit.
2. Some of the companies participating in the procurement process for the supply of gowns are owned by lecturers and staff of the University, and if this tantamounts to conflict of interest
3. The University Endowment Fund denied bidders the opportunity to view the samples of the gowns required
4. The University Endowment Fund is not interested in verifying the production capacities of bidders before awarding the contract for the supply of gowns.

3.0 LAWS APPLICABLE

- i) PPDA Act 2003;
- ii) PPDA Regulations 2014; and
- iii) PPDA Guidelines 2014

4.0 SCOPE

The investigation focused on the procurement processes for the production of graduation gowns by Makerere University

5.0 METHODOLOGY

Documents retrieval and analysis: The following documents pertaining to the procurement of laboratory instruction manuals were retrieved and analyzed:

- i. The procurement action file for the production of graduation gowns
- ii. The Trust Deed for Makerere University Endowment Fund
- iii. Bidding documents submitted for the supply of graduation gowns
- iv. Makerere University Council minutes
- v. Company Registration information for the companies participating in the procurement process
- vi. Relevant correspondences pertaining to supply of graduation gowns

❖ **Interviews:** The officials in Table 1 were interviewed:

Table 1: People interviewed

S/N	Name of Interviewee	Title	Entity	Date
1.	Mr. Paul Agaba	Head, Procurement and Disposal Unit	Makerere University	4/10/2023
2.	Mr. Emmanuel Kitamirike	Fund Administrator	Makerere University Endowment Fund	11/10/2023
3.	Mr. Yusuf Kiranda	University Secretary	Makerere University	12/20/2023
4.	Rev. Prof. Dr. Samuel Abimerech Luboga	Director	Chrisams Designs Ltd	18/10/2023
5.	Ms. Christine Luboga	Director	Chrisams Designs Ltd	18/10/2023
6.	Dr. Isaac Okullo	Director	Sokana Enterprises	18/10/2023
7.	Mrs. Anna Okullo	Director	Sokana Enterprises	18/10/2023

6.0 LIMITATIONS

1. There were delays by stakeholders to report for interviews as scheduled and to avail their recorded statements.
2. The Chairperson of the University Council did not respond to the interview invitation as requested. The investigation was therefore unable to give her a fair hearing on behalf of the University Council.

7.0 SUMMARY OF FACTS

- 7.1 Makerere University Endowment Fund was established by a Trust Deed as an irrevocable Trust on 16th October 2014 by Makerere University Council for purposes of mobilizing, investment and management of funds to provide budget support for various University operations. A Board of Trustees consisting of seven members was appointed for the administration of the Endowment Fund.
- 7.2 Section 7 (page 5) of the Trust Deed indicates that the assets of the funds consist of funds which the Council shall contribute as seed fund, contributions from the Council, ring fenced contributions from/ for any of the Constituent Colleges, gifts, donations, grants, returns on investments, any other sources legitimately obtained by the Board, Council and/ or any other Entity to contribute to the Fund.
- 7.3 The Trust Deed was updated in 2022 upon appointment of a new seven-member Board of Trustees under the leadership of Dr. Margaret J. Kigozi
- 7.4 The Fund follows Makerere University Investment Policy in undertaking its investment mandate. Section 6 of Makerere University Investment Policy 2021 indicates the sources of funds as donations and/ or endowment gifts, funds set aside from university resources, pooled resources from Colleges, Makerere University Alumni Fund (annual small contributions), private investors, Makerere University and her affiliated institutions annual students' contributions, pension funds and any other source as may be determined by Council.
- 7.5 On 14th July 2023, the University Secretary wrote to the University Bursar informing him of the resolutions passed by the University Council during a meeting held on 22nd June 2023. That the Council resolved to approve the production, sale and distribution of gowns by Makerere University Endowment Fund following a report from the Finance, Planning, Administration and Investment Committee (FPAIC) to allow Makerere University Endowment Fund to produce graduation gowns.
- 7.6 The University Secretary also noted in his letter that the University Council approved production, sale and distribution of gowns by the Endowment Fund on the following terms:
1. The gowns will be sold at UGX 90,000;
 2. The cost of the graduation gown is included in the mandatory graduation fees;
 3. Each graduand pays directly to Makerere University Endowment Fund's designated bank account and obtains payment slip; and
 4. The payment of graduation gown forms part and parcel of the requirements to be cleared to participate in the graduation and obtain an academic transcript/ certificate.
- 7.7 The University Secretary further noted in the same letter that Management had developed the following guidelines to for production of gowns:
1. Production will follow the current designs approved by the University Council;
 2. The Endowment Fund will use its resources to fund the production of gowns;
 3. Production will be outsourced to competent local firms.
 4. A production unit will be set up within the University or at a designated place on ont of the University Estates.

5. The central point of sale and distribution shall be the University gift and souvenir shop with outlets in all colleges and Makerere University Business School;
6. There will be an option to hire and return the gowns to ease the acquisition and use of gowns by some graduates who may be financially constrained.

7.8 In a Makerere University Endowment Fund Board meeting held on 4th August 2023, the Fund Administrator informed the Board that he had consulted the University Secretary, Bursar and Academic Registrar on the proposed guidelines for production of gowns. The Board made the following resolutions pertaining to the gowns.

1. The Fund Administrator to notify and discuss contractual details, including production and distribution rates for graduation gowns with Xtraordinary Media Group as the primary contractor to produce and distribute gowns.
2. The Fund Administrator to issue a closed solicitation for proposals and identify two additional vendors to produce graduation gowns
3. The Fund Administrator to negotiate production rates with the preferred vendors and initiate contractual discussions.
4. The Fund Administrator to open a separate bank account in DFCU Bank for the sole purpose of receiving payments for the graduation gowns.

7.9 On 25th August 2023, Makerere University Endowment fund issued bidding documents for Production of Makerere University Gowns for the 74th Graduation Ceremony, Ref No. MAK-TF/SRVCS/2023-24 to 13 bidders as tabulated below:

Table 2: List of bidders issued with bidding documents

S/N	Bidder	Date of Issuance
1.	Xtra Ordinary Media Group	25 th August 2023
2.	Goreth Kisekulo Tamale Co. Ltd	28 th August 2023
3.	Clanok Garments Ltd	28 th August 2023
4.	Cissy Garments Ltd	28 th August 2023
5.	Nafrax Designer Co Ltd	28 th August 2023
6.	Muit Sherpard Business Services Ltd	29 th August 2023
7.	Sokana Enterprises	29 th August 2023
8.	Chrisams Designs Ltd	29 th August 2023
9.	Sunguti Designs and Textiles Ltd	30 th August 2023
10.	Mmacks Investments Limited	30 th August 2023
11.	Winfred Fashion Designers Ltd	31 st August 2023
12.	Harrod's Designers & Tailoring Services	31 st August 2023
13.	Fundi Building Centre	31 st August 2023

7.10 The bidding document issued to the bidders for production of Makerere University Gowns for the 74th Graduation Ceremony, Ref No. MAK-TF/SRVCS/2023-24 to 13 indicates that the procurement was to be undertaken under open domestic bidding procurement method. As per the planned procurement schedule, bid notice publication was indicated as 25th August 2023; bid closing date was indicated as 7th September 2023; bid opening date was indicated as 8th

September 2023; bid evaluation process was indicated to occur between 11th -13th September 2023 (3 work); display and communication of best evaluated bidder notice and contract signature were indicated to be done upon approval by the Board of Trustees. The bids were to be delivered to Makerere University Endowment Fund office at Lincoln Flats Building, Makerere University.

- 7.11 On 7th September 2023, 12 bids were received and opened by Mr. Emmanuel Kitamiti, the Fund Administrator and Ms. Nakiranda Mwajuma, the Administrative Assistant as tabulated below:

Table 3: Bids received by Makerere University Endowment Fund

S/N	Bidder	Date of Receipt	Currency and Price read out in UGX
1.	Xtra Ordinary Media Group	31 st August 2023	280,000,000
2.	Goreth Kisekulo Tamale Co. Ltd	6 th August 2023	320,000,000
3.	Cissy Garments Ltd	4 th August 2023	320,000,000
4.	Chrisams Designs Ltd	7 th August 2023	322,711,865
5.	Sokana Enterprises	7 th August 2023	330,400,000
6.	Nafrax Designer Co Ltd	7 th August 2023	332,000,000
7.	Harrod's Designers & Tailoring Services	4 th August 2023	339,200,000
8.	Mmacks Investments Limited	7 th August 2023	339,840,000
9.	Clanok Garments Ltd	5 th August 2023	340,000,000
10.	Winfred Fashion Designers Ltd	6 th August 2023	354,000,000
11.	Fundi Building Centre	7 th August 2023	391,998,720
12.	Mult Sherpard Business Services Ltd	4 th August 2023	300,000,000

- 7.12 According to Mr. Emmanuel Kitamirike, the Fund Administrator, Makerere University Endowment Fund, the procurement was at the bid evaluation stage when the Authority halted the procurement process.

8.0 FINDINGS AND CONCLUSION

8.1 Whether the procurement for the supply of graduation gowns is being irregularly carried out by the University Endowment Fund instead of the Procurement and Disposal Unit.

The complainant alleged that the procurement for the supply of graduation gowns is being irregularly carried out by the University Endowment Fund instead of the Procurement and Disposal Unit.

Section 31(a) of the PPDA Act 2003 states that:

"A Procurement and Disposal Unit shall manage all procurement or disposal activities of the procuring and disposing entity except adjudication and the award of contracts".

Section 39 (a) of the PPDA Act 2003 states that:

“An Accounting Officer may delegate certain procurement and disposal functions of the accounting officer, contracts committee or procurement and disposal unit to a sub-division of the procuring and disposing entity; or a member of staff of the procuring and disposing entity”.

Section 31(b) of the PPDA Act 2003 further states that:

“An Accounting Officer may contract out certain procurement and disposal functions of the contracts committee, procurement and disposal unit or user department to any other procuring and disposing entity or a third party procurement or disposal provider in accordance with the terms and conditions specified in regulations made under this Act”.

Entity’s response

Makerere University Council established the Makerere University Endowment Fund in 2014 to mobilize and receive funds to benefit University operations and to invest the funds following the Investment Policies and Guidelines set by the University Council. The Endowment Fund is a corporate body administered and governed under the Makerere University Endowment Fund Trust Deed dated 17th July 2014 and the Endowment Fund rules 2014.

The University Council approved the production, sale and distribution of gowns by Makerere University Endowment Fund in its 160th meeting held on 22nd June 2023. The Council noted that the Endowment Fund Board was exploring several investment options to grow the fund, including producing graduation gowns effective academic year 2023/2024.

After assigning the role to the Endowment Fund, the University divested itself from the direct procurement and sale of graduation gowns. The task of procuring and selling gowns was transferred to Makerere University Endowment Fund, a corporate body and an independent company of Makerere University.

When interviewed, Mr. Yusuf Kiranda, the University Secretary, Makerere University revealed that the University Council assigned the Endowment Fund the responsibility to produce and sell gowns to the students at a fee. That as a Company, the Fund would use its funds to acquire the gowns and recover the funds by selling the gowns directly to the graduands.

That the procurement of the gowns is not a public procurement because Makerere University did/will not invest funds in the process, and the item was not part of the Entity’s procurement budget. That the University decided against contracting private suppliers due to several repeated challenges including failure to deliver the right quantity of gowns, failure to deliver in time, and their refusal to pay the University the commission on the sale of gowns as per the terms of engagement of the vendors.

PPDA Findings

The Authority noted from the Trust Deed that birthed Makerere University Empowerment Fund as an irrevocable Trust that the Fund is fully owned by Makerere University, who is also the beneficiary of the Fund, which was formed for the purpose of mobilizing, investment and management of funds to provide budget support to the University. This therefore makes the Fund an integral part of the University, which is a Procuring and Disposing Entity, whose procurements are undertaken by the Procurement and Disposal Unit.

The Authority took note of Section 7 (composition of the Endowment Fund) of the Trust Deed which stated that the Fund shall consist of funds which the Council shall contribute as seed fund, contributions from the Council, ring fenced contributions from/ for any of the Constituent Colleges, gifts, donations, grants, returns on investments, any other sources legitimately obtained by the Board, Council and/ or any other Entity to contribute to the Fund. The donations, grants and gifts among others which are contributed by donors, development partners, alumni and any other well-wisher become public funds once they are contributed to the University.

This further applies to Makerere University Investment Policy 2021 which provides sources for investment of funds for the Endowment Fund investments, which include, funds set aside from University resources, donations and gifts and pooled resources from Colleges among others, which are public funds. The PPDA Act 2003 is therefore applicable to procurement and disposal activities of the Fund under Section 2 (1)(b) of the Act which states that:

“This Act shall apply to all public procurement and disposal activities and in particular shall apply to resources in the form of counterpart transfers or co-financing or pre contract financing by providers or any finances of a similar nature within the context of development co-operation agreements for the implementation of national programs”.

Considering that the Fund is an integral part of Makerere University and a beneficiary of public funds which makes them subject to the PPDA Act 2003, the Fund’s procurements should be undertaken by the Procurement and Disposal Unit of Makerere University as provided for under Section 31(a) of the PPDA Act 2003.

The Authority further noted irregularities in the process of transferring the procurement for the production of gowns to Makerere University Endowment Fund. Whereas Section 39 of the PPDA Act 2003 gives the powers to delegate procurements to the Accounting Officer, the Authority noted that the procurement for the production of gowns was erroneously transferred to the Endowment Fund by the University Council. In doing so, the University Council usurped the powers of the Accounting Officer.

Furthermore, the University cannot claim to have divested itself from a procurement it has been undertaking without the formal instruments from the Accounting Officer delegating/ transferring/ contracting of such procurements, in line with the relevant sections of the PPDA Act quoted above.

Although the Accounting Officer revealed in his response that the task of procuring and selling gowns was transferred to the Makerere University Endowment Fund, a corporate body and an independent company of Makerere University, the Authority noted that this was also erroneously done contrary to Section 39 (a)(b) of the PPDA Act 2003 which clearly lists to whom an Accounting Officer can delegate or contract out in transferring procurements being undertaken by a Procuring and Disposing Entity, where the Fund was noted not to be among those eligible for delegation and contracting.

The Empowerment Fund is therefore irregularly carrying out the procurement for the production of graduation gowns. The procurement for the production of graduation gowns should have been carried out by the Procurement and Disposal Unit.

The Authority therefore finds **merit** in this allegation.

8.2 Whether some of the companies participating in the procurement process for the supply of gowns are owned by lecturers and staff of the University and whether this tantamounts to conflict of interest

The complainant alleged that two companies that are participating in the procurement process for the supply of gowns are owned by lecturers and University staff hence resulting into conflict of interest. The complainant noted that Chrisarms Designs Ltd and Sokana Enterprises are owned by lecturers at Makerere University.

Section 91(U)(1)(a) of the PPDA Act 2003 states that:

“Except where expressly allowed by regulations, a Procuring and Disposing Entity shall not enter into contract with a member of the Contracts Committee or of the Evaluation Committee, an employee of the Procuring and Disposal Entity or a member of the Board of Survey”.

Similarly, Section 91(U)(2)(a) of the PPDA Act 2003 states that:

“A member of a Contracts Committee, a member of a Procurement and Disposal Unit, a member of the governing body of a Procuring and Disposing Entity, or a member of the Board of Survey who has a conflict of interest with respect to a procurement or disposal shall not take part in any procurement or disposal proceedings”.

Entity’s response

Mr. Yusuf Kiranda, the University Secretary, Makerere University revealed that both Prof. Samuel Luboga and Dr. Isaac Okullo were not currently staff of Makerere University. That these were staff of the University who had since retired.

PPDA Findings

Chrisams Designs Ltd

On analysis of Chrisams Designs Ltd company documents retrieved from Uganda Registrations Services Bureau, the Authority noted that Mr. Samuel Luboga and Ms. Christine Luboga are the registered Directors of the company.

On analysis of the Makerere University staff list as at September 2023, the Authority did not find the names of Prof Samuel Luboga and Ms. Christine Luboga as staff of Makerere University. An internet search revealed that Rev. Prof. Dr. Samuel Abimerech Luboga is currently the Chairperson, Education Service Commission.

When interviewed, Rev. Prof. Dr. Samuel Abimerech Luboga revealed that he retired from Makerere University in 2013. That at the time of his retirement, he was an Associate Professor of Anatomy.

Sokana Enterprises

The Authority noted that Sokana Enterprises was registered with Uganda Registrations Services Bureau on 2nd February 2015, with the registered owners being Mr. Isaac Okullo and Ms. Anna Okullo

On analysis of the Makerere University staff list as at September 2023, the Authority did not find the names of Dr. Isaac Okullo and Anna Okullo as staff of Makerere University.

When interviewed, Dr. Isaac Okullo, a Dental Surgeon revealed that he retired from Makerere University in 2020. He attached copies of documents indicating that he had retired and had already requested for payment of his retirement funds. That he currently works as a Dental Surgeon in his dental clinic known as Sokana Dentals while the wife (Ms. Anna Okullo) operates the boutique business that deals in the supply of gowns among other things.

The Authority therefore found **no merit** in this allegation since both Rev. Prof. Dr. Samuel Abimerech Luboga and Dr. Isaac Okullo are no longer staff of Makerere University.

8.3 Whether the University Endowment Fund denied bidders the opportunity to view the samples of the gowns required

The complainant alleged that the Entity refused bidders to view the samples of the gowns required, prompting bidders to quote without seeing the same. That the bidders were instead informed by the Entity that the samples would only be given to successful bidders.

In section 5.1 of the Statement of Requirements of the bidding document issued to bidders, the Entity indicated that the *“original samples of the gowns shall be viewed at the given address”*

Entity’s response

Mr. Emmanuel Kitamirike, the Fund Administrator, Makerere University Endowment Fund stated that samples were not viewed by bidders because there were no samples yet.

PPDA Findings

Whereas the Entity indicated in the Statement of Requirements that samples of the gowns were to be viewed by bidders, the Authority noted that the Entity did not avail these samples to bidders for viewing, thereby contravening Section 5.1 of the Statement of Requirements of the bidding document.

The Authority finds **merit** in this allegation.

8.4 Whether the University Endowment Fund is not interested in verifying the production capacities of bidders before awarding the contract for the supply of gowns.

The complainant alleged that the Endowment Fund is not interested in physical verification of the capacities of bidders before contract award

In Section E: Post qualification in Part 1: Section 3: Evaluation Methodology of the bidding document issued to bidders, the Entity indicated that *MAKEF “shall undertake a post*

qualification on the Best Evaluated Bidder to confirm whether it has the capacity and financial resources to execute the contract”.

Entity’s response

Mr. Emmanuel Kitamirike, the Fund Administrator, Makerere University Endowment Fund revealed that there is intention to view the production capacities of the bidders through physical verification of their production units.

PPDA findings

Considering that the procurement process was still at the evaluation stage, the Fund cannot be faulted for not undertaking physical verification of the production capacities before evaluations are concluded. Additionally, the Fund had already indicated their intention to undertake verification of the capacity of the Best Evaluated Bidders through post qualification.

The Authority found **no merit** in this allegation

9.0 CONCLUSION

Whereas there was no merit found in two of the four allegations raised, the irregular procurement for production of graduation gowns by Makerere University Endowment Fund made all the subsequent processes and actions in this procurement whether correct or not to be null and void.

10.0 RECOMMENDATIONS

In light of the above, the Authority recommends the following:

1. The Entity should immediately cancel the procurement for the production of graduation gowns which is currently being carried out by the Makerere University Endowment Fund.
2. The Accounting Officer should ensure that the procurement for the supply of gowns is expeditiously handled by the Procurement and Disposal Unit as an emergency in accordance with Regulations 8 and 9 of the PPDA (Rules and Methods) Regulations 2014 to ensure that the graduation gowns are delivered in time for the graduation scheduled for January 2024 and value for money is achieved.
3. The Accounting Officer should in the future ensure that all procurements undertaken by the Entity are carried out by the Procurement and Disposal Unit in accordance to Section 31(a) of the PPDA Act 2003. Any delegation or contracting out of procurements by the Accounting Officer should be done in accordance to Section 39 (a) of the PPDA Act 2003.
4. If Makerere University Endowment Fund is to be involved in public procurement, the Accounting Officer should ensure that it is registered as a company, regularized as a Procuring and Disposing Entity under Section 3 of the PPDA Act 2003, and accreditation sought for its procurements.
5. The Accounting Officer should advise the University Council and other University organs on procurement related issues to ensure that the erroneous assignment of procurement roles to none Procuring and Disposing Entities is ceased.