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Uganda

**Country Procurement
Assessment Report
(CPAR)**

**Volume I
EXECUTIVE SUMMARY**

June 15, 2004

**Operational Quality and Knowledge services
Africa Region**

Introduction

1. The main objective of this 2004 CPAR is to update the 2001 CPAR, the basis for the ongoing procurement reforms, to incorporate lessons learned and the changing role of donors in their fiduciary oversight resulting from the shift of focus from project lending to program lending. This up-dated CPAR covers the issues related to weaknesses in the existing legal and institutional frameworks and capacity building. The CPAR is a component of the Country Integrated Fiduciary Assessment (CIFA) a product consisting of PER, CPAR and the CFAA, being carried out in the framework of the Public Expenditure and Financial Accountability (PEFA).

Status of Implementation of the 2001 CPAR

2. The key recommendations of the 2001 CPAR included: (a) abolishing the Central Tender Board; (b) enacting a Procurement Law; (c) establishing a Policy and Regulatory Body; (d) establishing Contract Committees and Procurement Units in procuring entities; (e) harmonizing central and local government regulations; (f) incorporating procurement plans in sector investment programs; (g) preparing standard bidding documents; (h) establishing a procurement cadre in the civil service; and (i) restoring professionalism in the procurement function. A number of these recommendations have already been fully implemented and others are at an advanced stage of implementation. The Central Tender Board was abolished on March 1, 2001 and a new “*Public Procurement and Disposal of Public Assets Act (PPDAA)*” became effective on February 21, 2003. Two important elements of the new Act were: (i) the decentralization of public procurement operations to Procuring Entities at central and local government levels; and creation of Contract Committees and Procurement Units in these entities; and (ii) the establishment of a procurement regulatory body, the Public Procurement and Disposal of Public Assets Authority (PPDA). The PPDA has prepared draft standard bidding documents which are currently being reviewed by stakeholders. The Ministry of Public Service has already established a procurement cadre at the central government level and the process of restoring professionalism in the procurement function has started. Implementation of these recommendations has resulted in substantial improvement in the procurement system making Uganda one of the most advanced countries in Africa in the area of implementing procurement reforms. A number of donors were involved in financing the design and implementation of these reforms namely: the World Bank, Dutch Government; DANIDA; DFID; USAID; ITC; and UNDP

3. Despite the improvements in the procurement system, the Government of Uganda is fully aware that its public procurement system is still weak and needs to be strengthened substantially to enable it to ensure that the procurement laws and institutions become effective tools in the efficient and transparent management of public funds. This awareness was the main driver for carrying out this CPAR. Simultaneously with the CPAR exercise, an Independent Procurement Review (IPR) was being carried out on four World Bank financed projects: HIV/AIDS Control Project; National Agricultural Advisory Services Program; Second Road Development Program; and Second Economic & Financial Management Project. The main objective of the IPR is to verify compliance with procurement and contracting procedures and processes stipulated in the Credit/Grant Agreements between the Bank and the Uganda Government.

4. This CPAR has identified four key areas the Government needs to focus on as a matter of priority to ensure Uganda’s procurement system achieves maximum positive impact in promoting economy, efficiency, transparency and accountability. The four areas, covered in more detail under relevant pillars, include: (a) *weaknesses in local government procurement*; (b) *the weak compliance and enforcement quandary*; (c) *the weak capacity dilemma*; and (d) *apparent abdication by the Ministry of Finance of its policy making and coordination roles in procurement*. Addressing these four issues will go a long way towards achieving the second generation procurement reforms proposed in this CPAR.

LegISLATIVE and regulatory Framework

KEY FINDINGS

5. With the effectiveness of the PPDA on February 21, 2003, the legal framework for public procurement in Uganda now embodies the principles of economy, efficiency, transparency and accountability and hence the value for money. The PPDA, which broadly describes the methods for public procurement, has greatly helped to clarify the legal framework and eliminate exemptions. However, the full enforcement of the PPDA across all the procurement entities and the local government has yet to be achieved. Of particular concern at the central government level is its enforcement at the Ministry of Defence. At the time the field study was carried out (January 2004), the Ministry of Defence was not in compliance with the Act. It had not constituted a Contracts Committee and it had not separated its procurement in an “open” and “restricted” lists, in consultation with the PPDA, as required by the Act. Items on the “open” list are required to comply fully with the open competitive methods stipulated in the Act while items on the “restricted list only utilize the restricted methods of the Act. The Ministry seems to have defined the two lists without consulting the PPDA.

6. Applicability and enforcement of PPDA at the local government level is one of the most critical issues in the procurement reform agenda. The Local Government Tender Regulations which are needed to implement the PPDA at local level, are still being drafted and most local authorities continue to apply the old regulations of 1997 which are based on the Local Government Act of 1997. Cleaning up procurement practices at the local level is one issue that requires action at the highest level of Government. Political interference is the most intractable procurement issue at this level. This problem was also highlighted in the 2001 CPAR, thus the recommendation to harmonize central and local government Regulations, but action has been slow. The question of harmonization has been taken up by the fourth Poverty Reduction Support Credit (PRSC4) with the following prior condition: “By May 2004 the Ministry of Local Government will have submitted to Cabinet the draft Local Government Regulations & Disposal of Assets Regulations and proposals to amend the Local Government Act, particularly on those issues relating to the appointment and removal of the tender boards members in the Local Governments.” The appointment and removal of tender board members is discussed in Chapter 3 (Central Institutional Framework and Capacity). A prior action for PRSC5 is “to table the revised Local Government Act in Parliament” At the time of issuing this report the team was informed that the prior condition for PRSC4 had been met.

7. The new central government procurement regulations, which specify the conditions for the use of the PPDA, are essentially sound but the study identified a few weak areas including: application of domestic preference; use of merit point evaluation; access to negotiations with the lowest evaluated bidder; and complaints appeal mechanism. Both the Act and the Regulations stipulate procedures for handling of complaints at the procuring entity, and as a second level of complaint, at the PPDA. Beyond the PPDA, the Act requires the complainant to go to court which may not be the most efficient approach to administrative matters. The complaints systems and access to the courts, which the PPDA stipulates, suffer from a low level of public awareness and hence has not yet had the expected practical impact. A mechanism needs to be put in place for handling administrative complaints for: (a) cases which the PPDA cannot resolve satisfactorily; (b) cases which the PPDA has advised on upstream; and (c) complaints against the PPDA itself.

KEY RECOMMENDATIONS ON THE LEGISLATIVE AND REGULATORY FRAMEWORK

8. In the short run (within the next two years), the CPAR proposes the following actions to be taken to address the above weaknesses:

- *Regulations for local government should be revised and harmonized with those in the central government as soon as possible including mitigation of the risk of direct political influence on the procurement process at local level, by having the Chief Administrative Officer to nominate appointment and removal of members of tender boards, with the approval of a central government authority such as the PS/ST.*
- *The IGG needs to appoint a specialist procurement body to handle procurement complaints and thereby strengthening his complaints handling system*

Central Institutional framework AND CAPACITY

KEY FINDINGS

9. The PPDA defines the institutional framework for procurement in Uganda. Even though the Government of Uganda should be lauded for its achievements so far, some areas still require improvement. The main area of improvement relates to the role of the Ministry of Finance, Planning and Economic Development (MoFPED). The MoFPED has seemingly abdicated its policy-making role in public procurement as laid down by the PPDA. The policy making role of (MoFPED) is predicated on its constitutional role as the custodian of all public resources and budget allocations. There are a number of reasons why the MoFPED should remain the main policy leader in the sector. Firstly, it is the parent ministry of procurement staff in the Government. Secondly, it is the most competent ministry to forge clearer and closer links between procurement reforms and reforms taking place in the budgetary arena in general including: MTEF, Integration of Procurement in the IFMS, enforcement of proper procurement planning and reporting as a basis of budget allocations. Thirdly the ministry has special capacity to act as a convener of senior civil servants on issues that require multi-agency attention, resources and action such as capacity building of procurement staff that involve the Ministry of Public Service and all other ministries, and professionalizing the procurement sector. Fourthly, the PPDA, which is charged with overseeing the regulatory and monitoring functions, is still in its formative stage thus requiring substantial support from the MoFPED before it can serve as the centre of excellence and expertise in the area of public procurement.

The Lack of Capacity Dilemma

10. The lack of capacity is the single most important issue in the sector, and all of the interlocutors with whom the CPAR team met, cited lack of capacity and skilled personnel as a great impediment to conducting sound procurement. This lack of capacity is specially acute at the local government level. Most importantly, a general lack of understanding of key public procurement principles is manifest and poses as a main impediment to sound public procurement. Some progress has been made in building procurement capacity since 2001 including:

- analyzing, profiling, and establishing the institutional mechanisms i.e., the Procurement Units, the Contracts Committees and the Accounting Officers. A total of 105 Procuring and Disposing Entities have been established
- assessing available and required Human Resources needs and making provisions for these
- developing and introducing a procurement professional cadre in the public service - A total of 76 positions were created in the civil service for procurement professional cadre.
- preparing, developing and delivering tailor-made training modules - Seven standard modules have been prepared
- developing institutional linkages and capacities on the part of selected local training institutions to support, in a sustainable manner, all training needs - The twinning programme for Kyambogo and Makerere University Business Schools
- training of over 5000 persons on the new procurement system between March 2001 and February 2004
- offering line support to more than fifty Procuring and Disposing Entities.

11. With decentralization and the creation of properly staffed Procurement and Disposal Units (PDUs) in each Procuring and Disposal Entity (PDE), the demand for skilled procurement staff has risen sharply. The PPDA has recently prepared a capacity building strategy for Public Sector Procurement¹. The Strategy estimates that the minimum number of staff presently required to deal with procurement amounts to approximately 5416. The main components of the Strategy are: (a) **Training** – both short and long term, focused on actual practical needs; (b) **Capacity Building Needs Assessment** – Building on past assessments, the PPDA will develop guidelines for conducting comprehensive, integrated and all embracing capacity needs assessments in the PDEs that address the human, institutional and organizational deficiencies that affect the performance of the PDEs; (c) **Development and Refinement of Training Modules/Materials**; (d) **Providing line**

¹ "Capacity Building Strategy for the Public Procurement Sector for the Period 1st July 2003 to 30th June 2006", issued in August 2003.

support to PDEs – Assistance in procurement planning and day-to-day mentoring of procurement staff; (e) **Training and Capacity Building of Providers of works, goods and services** - the Authority is to pre-qualify and train such firms/institutions to deliver the training using the standardized training modules; (f) **Development of local training institutions** – the Authority will develop local institutions to deliver professional procurement course; (g) **Creation of a Professional Development Committee** – the objective of the committee would be to create an influential, sustainable forum whereby the academic, professional, academic, practical and ethical aspects of procurement can be addressed; (h) **Development of a knowledge sharing centre**; and (i) **Development of a certification system.**

12. The donor community has taken special interest in capacity building and there are a number of capacity building initiatives under implementation and in the pipeline. The UNDP, through IAPSO, is implementing a 3-year capacity building project jointly financed by UNDP and the Government; USAID has done a capacity assessment at the local government level and has recommended capacity building measures; DANIDA is supporting the PPDA in procurement audits; and the Dutch Government is financing a program for developing procurement curriculum at Makerere and Kyombogo universities. The World Bank is financing capacity building through PRSCs

Key Recommendations for Central Institutional Framework and Capacity

- *The MoFPED being the line ministry for the procurement sector should resume its policy making role for the sector. This includes involvement in the career development of the procurement cadre. A specific staff or Unit should be assigned this responsibility*
- *The PPDA should prepare and implement a detailed implementation plan for the Capacity Building Strategy including:*
 - *individual career development plans, performance measures, and training, etc. for its own staff*
 - *establishment of an accreditation system for procurement professionals, linking this to capacity building and career development measures*
 - *establishment of a similar cadre and upgrading/accreditation system at the local government level.*

Procurement Operations and Market Place

KEY FINDINGS

The Procurement Cycle

13. During each entity visit, the team went through the procurement cycle as carried out by that particular entity. In almost all instances the team found gross deviations from the procedures prescribed in the Regulations. Some of these practices would qualify as misprocurement, neglecting key principles of sound procurement, but in many cases ad-hoc alternative procedures were used, reflecting lack of knowledge and incentive to follow proper procedures.

14. There are three main reasons for the weak compliance:

- lack of knowledge of the legal framework, caused by poor dissemination of the Act and Regulations;
- lack of capacity by the procuring entities to implement the very comprehensive Regulations; and
- lack of incentives to follow proper procedures, caused by weak monitoring and enforcement

15. The specific weaknesses observed include: weak procurement planning; misuse of the decentralized registration system; excessive use of negotiations in open competitive bidding; poor quality and consistency in filing and record keeping; delayed payments; and poor contract management. Four of the above weaknesses were also observed by the IPR teams: lack of proper procurement planning; poor record keeping, delayed payments and poor contract management

16. Procurement Planning. The Regulations² specify a requirement for every procuring and disposal entity to prepare “a multi-annual rolling work-plan for procurement based on the approved budget”. Generally, the Regulations contain a comprehensive and complete list of the activities and content required for proper and timely procurement planning. However, the CPAR team only witnessed very few instances of this actually happening and then only in some of the ministries and parastatals with very large procurement budgets. The general impression was that procurements were launched either when funds were available or on an annual basis, regardless of how this corresponded with current needs.

17. Registration Lists. The Regulations have a provision³ for the use of the so-called prequalification lists or “registration lists” as they are commonly described, to minimize the cost and time of pre-qualifying for each procurement. Most procurement entities at the central level have chosen to apply such lists where bidders are pre-qualified annually and included on lists together with other suppliers of that particular group of supplies/ services/works. Since restricted bidding based on shortlists developed from the registration lists is the preferred procurement method, it is a general rule that a supplier must be on a list to do business with the public.⁴ The team identified a number of issues concerning the use of these registration lists, including: (a) The lists are tendered and advertised annually. The criteria for inclusion on the lists are usually generic criteria such as “Financial standing”. It is rare that the criteria are actually adapted to the specific needs of the procuring entity and the nature of the supplies/services required; (b) the information contained in the applications received from potential bidders is rarely verified; (c) The Regulations require the bidders to be “rotated” on the shortlists, but the team found no evidence of such rotation. The perception of the private sector is that decentralization has fostered these lists which are (a) administered unevenly and in contradiction with the principles of transparency and equality and (b) costly, as quite substantial fees are required to maintain the companies’ position on those lists.

18. Negotiations and Award. The Regulations allow the use of pre-contract negotiations in a number of instances⁵. It was observed by the CPAR team that negotiations are common in the award process, and that this is considered natural by the procuring entities. Negotiations are more the rule, than the exception even in open competitive bidding.

19. Local Preference. One of the major weaknesses of the current Local Government Regulations is a provision for access to local preference where suppliers/contractors outside the Council area are not allowed to participate in the provision of goods and services. The team was informed that this provision is there to build local capacity. The team strongly advised against having this provision because it reduces competition, it encourages cartel formation and it never builds capacity.

20. Filing and Record Keeping. The Records and Archive Act (2001) requires all public entities to observe proper filing. The Act has not yet been fully implemented. In addition the Procurement Regulations have very detailed instructions on the contents of a proper “procurement file”. The team found two issues in filing: a) missing or incomplete files, caused by carelessness or apparent malpractices; and b) faulty filing systems, where documents are grouped with similar documents⁶ instead of in one complete file. Such lack of

² Division II of the Procurement Regulations and specifically section 96.

³ The Regulations section 126.

⁴ The team met with private companies forced to maintain and resubmit requests for inclusion on registration lists at over 40 different entities.

⁵ According to Regulations section 219 and section 220.

⁶ For example it is quite common for all advertisements or all bids received in a year to be filed together without reference to the rest of the procurement file.

proper filing has also been recorded in every audit report on procurement in Uganda.⁷ Notably, the purpose of the procurement file is to serve as the basis for any audit and enforcement effort. To allow filing to be incomplete or missing is to give room for corruption.

21. **Payment and Contract Management.** Even though many public entities report payments are made on time, the picture given from the private sector is one of months-long delays. The reason for these delays lies within the current budget system of Uganda and poor contract management by the procuring entities. Issues of budget and untimely release of funds are discussed in the CFAA document. The Regulations⁸ contain comprehensive provisions covering contract management and transfer of responsibility from the Contracts Committee to the user departments for proper contract management. Even though the Regulations are comprehensive and in line with generally accepted practices, the actual performance of the procuring entities leaves a lot to be desired. The losses to the public and the business community due to delayed payments have not been systematically estimated but they are bound to be high and thus detrimental to the overall economy.

22. Enforcement of the procurement rules is indeed one of the most important factors that would improve the procurement environment in Uganda. Even though the PPDA is required by the Act to monitor procurement compliance and carry out procurement audits, due to lack of capacity, it has carried out only 2 audits of which none has yet been released to the public. The number of random inspections is at a minimum, and the PPDA is presently acting only on the few complaints received. Both the Auditor General and the IGG handle complaints involving procurement issues, but neither of these authorities are able or supposed to perform actual audits of the correct application of procurement procedures. An assessment of the effectiveness of the audit measures by both the PPDA and the Auditor General can be found in the following Section (Anti-Corruption) of this report.

KEY RECOMMENDATIONS ON PROCUREMENT OPERATIONS

23. The above weaknesses can only be resolved over a period of time. In the short and medium term the following actions need to be taken:

- *Enforce existing rules on advertising, pre-qualification, submission and opening of bids, and the use of appropriate evaluation criteria through regular procurement audits and application of effective sanctions.*
- *Enforce procurement planning through monitoring and capacity building, with the aim of ensuring that procurement plans are prepared and brought to the standards required by existing rules. At the same time guidelines for selection of bidders from pre-qualification lists should be issued to strengthen enforcement of the existing rules on equal treatment of bidders.*
- *For goods and works, the use of merit point evaluation criterion should be limited to complex contracts only, such as complex IT systems*
- *Negotiations in open competitive bidding should be restricted*
- *Local Preferences should be abolished*
- *The records and Archive Act should be fully implemented*

MARKET PLACE

24. The market place in the form of trade practices and commercial practices are important in relation to procurement for three reasons:

- Firstly the public sector needs efficient suppliers and an enabling environment and open competition for and in the private sector therefore becomes essential both in terms of obtaining good quality and a competitive price.

⁷ In some of the latest draft audit reports seen by the team, missing or incomplete files were an issue in more than 80% of the cases audited.

⁸ The Regulations division IV.

- Secondly the public sector needs a competent counterpart in terms of innovating products and solutions but also in terms of a competent controlling counterpart to enhance accountability and improving public procurement practices.
- Thirdly there is a need for efficient international suppliers and supplies, not only in terms of goods the public sector procures internationally, but also in terms of supplies for the private sector in Uganda for it to produce efficiently and at competitive prices. Efficient and non-corrupt trade practices and imports and exports of goods is a precondition for this.

25. The Ugandan economy is fully liberalized comprising major trade agreements with the East African Community, the EU, COMESA and the USA. Trade agreements are also in place with Asian markets. Import licences are only required on goods deemed to be sensitive for health or security reasons. In cases where licenses are required, however, the set-up is weak in terms of procedures being comprehensive due to the requirement to obtain certifications not from one, but from a number of different institutions. Export permits are only required for goods that are monitored for environmental conservation or national heritage. All imports are subject to a 17% Value Added Tax. Apart from this a three-tier structure applies for tariff rates on import duties. The key issues concerning trade practices are: evaluation of goods, lack of capacity, lack of ethics and knowledge within the private sector

The need for a revision of the Customs Act of 1971

26. Customs practices have recently improved and efficiency is rising. However, valuation of goods is still based on unsophisticated methods and creates incentives for corruption. More computerisation, especially prior to import, is needed. On the side of importers and industry, delays and inefficiencies in import procedures were reported, including loss of bonds in connection with transit traffic. In a 2003 survey of administrative barriers to investment in Uganda customs are in top five. Facility payment (bribe) of customs that takes place in the private sector suggests that it is widespread. The facility payment of customs is supplemented by a practice among some forwarding and clearing agents to inform importers that facility payments are necessary where in fact they are not. This is partly because forwarding and clearing agents have limited professional skills. This results in delays, under- and over-invoicing, and corruption. The legal framework for customs is based on the 1971 Customs Act which is now outdated.

27. The Uganda liberalised economy has yet to mature fully. Cartel formation is not illegal and therefore widespread, and an overall competition framework (both legal and institutional) does not exist. Some regulatory institutions, such as the Commercial Court, the Centre for Dispute Resolution and the Tax Appeal Tribunal are operating, while others, such as the Registrar of Companies are in urgent need of improvement.

28. Private Sector Capacity. Many smaller businesses lack basic business skills and there is a strong need to build capacity. Focus should remain on ensuring that the private sector is capable of participating efficiently in public tenders and thus become suppliers of works, goods and services. The need for capacity building includes: training/information on good business practices; financial management including accountancy practices; quality control and adhering to standards; and procurement - most urgently in terms of understanding rights and obligations in relation to public sector procurement, but also in the private sector's own purchasing and supply practices.

KEY RECOMMENDATIONS ON MARKET PLACE

29. The above weaknesses can only be resolved over a period of time. In the short and medium term the following actions should be taken:

- The customs valuation system for goods should be strengthened through sharing of data, providing customs with access to an international price data base, full implementation of ASYCUDA++, etc.
- Education and certification measures for forwarding and clearing agents should be established

- To ensure fair competition and transparency, a competition framework, including a Competition Act and a Competition Authority, should be established, and the Registrar of Companies should be strengthened
- The 1971 Customs Act should be revised

Integrity of the Public Procurement System

KEY FINDINGS

30. The CPAR team was informed about several examples of corrupt practices in public procurement and disposal, including facility payments, bribery of evaluation and tender board members, favoritism and conflict of interest especially in the form of biased evaluations and exclusions based on improper reasons. Surveys conducted by the Inspector General of Government (IGG) describe corruption as being endemic in Uganda. These findings are confirmed by Transparency International (TI), which since 1998 has included Uganda amongst the most corrupt countries in the World. In 2003, it ranked Uganda as the 17th most corrupt country out of 133 countries surveyed. The International Country Risk Guide gives Uganda a low rating, 2 out of a possible 6 with respect to corruption.

31. In particular for local government, the IGG has made it clear that there is a lot of work to be done in regard to corruption in procurement at the local level especially the political appointment of tender board members. Some of the other problems are: Local tender board members award contracts to themselves; secretaries of tender boards award tenders; contract sums are increased for no reason; some tender board members can barely read or write (qualifications); etc. This was confirmed by an assessment of the procurement capacities and systems in local governments in Uganda, which was initiated and funded by USAID in the first half of 2003. The report stated that corruption can be found at local government level manifesting itself in various ways including embezzlement, conflict of interest and influence peddling, but legal and preventive measures are in place to minimize this. The CPAR team expects that strengthening of capacity and improvement in procurement efficiency might result in amelioration of corrupt tendencies.

32. A number of recent high profile corruption cases within public procurement are yet to be fully addressed and key legislative improvements, such as Amendments to the Prevention of Corruption Act, the Access to Information Act, the Whistleblower Protection and Qui Tam Act remain to be enacted and/or implemented. Along with the legislative improvement, the monitoring and controlling of corruption in public procurement should be improved through regular surveys and the use of procurement indicators.

33. A key measure for accountability in public procurement is whether procurement processes are in fact being audited with the aim of enforcing the procurement rules. The two key institutions tasked with procurement audits are the PPDA and the Auditor General (AG), and there is a great deal of scope for cooperation between them. Thus, the AG and the PPDA should establish open lines of communication for a collaborative, strategic approach for the monitoring, audit and oversight actions associated with the procurement and disposal function at both at central and local government levels.

KEY RECOMMENDATIONS ON INTEGRITY OF THE PUBLIC PROCUREMENT SYSTEM

30. The following actions are being recommended to increase the integrity of public procurement in Uganda:

- *The various legislative instruments for combating corruption, including corruption in procurement, should urgently be enacted and implemented*
- *Performance indicators for monitoring public procurement must be effected as an important element of the monitoring and enforcement system*
- *The AG and the PPDA should establish open lines of communication and a collaborative, strategic approach for the monitoring, audit and oversight functions associated with the procurement and disposal functions.*

- *The mandates of the PPDA, the IGG and the CID with respect to responsibilities for receiving and investigating complaints, carrying out investigations, prosecuting cases, etc. should be clarified*
- *The IGG and the PPDA should collaborate (with other stakeholders) to conduct regular National Public Procurement Surveys which should be published quarterly and posted on the PPDA's website.*

Performance INDICATORS

DEVELOPMENT OF PERFORMANCE INDICATORS

31. It is essential that performance indicators are developed to monitor the procuring entities performance and development. The indicators should measure the performance of the procuring entities in relation to the four major parameters: *economy; efficiency; transparency; and Accountability*

32. Table 1 below lists a set of performance indicators for the four parameters. One performance indicator can relate to more than one parameter, e.g. “the number of procurements carried out in accordance with the published procurement plan” is an indicator relating to all the four parameters, i.e. economy, efficiency, transparency and accountability. Measuring performance demands resources, and this should be considered when selecting indicators. As far as possible, indicators should be based on available data or data the procuring entities are liable to record and collect in accordance with the regulations. This will minimize the resources needed to measure performance.

33. Measurement of the indicators the first year will establish a baseline against which targets for improvement in performance in the coming years can be set. Therefore the performance indicators should be chosen in accordance with best practice for setting targets. Best practice for targets is that they should SMART:

- **Specific:** they should be directed towards specific activities taking place, not general developments
- **Measurable:** it must be possible to measure or test the progression of the indicator
- **Achievable:** targets should not be set unrealistically high – they should be ambitious but not impossible to achieve
- **Relevant:** they must be the factors that actually determine if performance has been improved
- **Timed:** indicators must be measurable at a specific point in time and targets must express a forward movement in time – where do we want to be in a year

34. A Working Group consisting of the World Bank and OECD/DAC, working with some selected countries, is currently working on designing standard performance indicators. The PPDA has been closely involved in this work and it has used the indicators in **Table 1** as its input to this work. The performance indicators to be adopted by PPDA will depend on the final work of this Working Group. In the meantime, the World Bank (Africa Region) is using a ranking system where progress in implementing each of the above pillars is given a ranking of 1 to 5 and averaged: where 1= maturity stage where all the pillars are in place; 2= **Advanced Stage** - Maturity Stage is actively being pursued but have not yet been fully achieved; 3= **Average Progress**. The Reform Process is underway but sustained action by both the Government and the Bank is needed to maintain momentum; 4= **Initial Progress** - Initial measures of procurement reform are being taken but progress is still weak; and 5= **Reforms not started** (or **Not Rated**). Country status to be reviewed for possible action, say CPAR. The system is used internally by the Bank to rank African countries

implementing procurement reforms. It is not yet available to the public but Uganda currently ranks fairly high compared to other countries in Africa, being second only to South Africa. Uganda will be one of the pilot countries for implementing the performance indicators to be proposed by the Working Group.. .

Table 1 - Proposed Key Performance Indicators at National Level (PPDA level)

		Objectives							
		Economy		Efficiency		Accountability		Transparency	
1	Number and percentage of Procuring and Disposing Entities (PDEs) that do not have approved procurement plans	X		X		X		X	
2	Number and percentage of PDE procurement activities that have been initiated but are not in the approved procurement plan	X		X		X		X	
3	Number and percentage of PDEs to which funds have been released but have not prepared procurement plans	X		X					
4	Number and percentage of procurement activities for which there has been no public advertisement to tender							X	
5	Number and percentage of bids issued before requirements have been defined, and specifications and estimates established	X		X					
6	Number and percentage of contracts awarded without bids having been solicited	X						X	
7	Number and percentage of contracts not awarded to the lowest evaluated bid	X		X				X	
8	Number and percentage of contracts awarded without a bid evaluation based upon pre-determined evaluation criteria							X	
9	Number and percentage of contracts awarded more than 60 days after the bid-closing date			X		X		X	
10	Total value of contracts awarded using methods that are less competitive than those set out in the approved procurement plan, and their value as a percentage of all contracts awarded			X				X	
11	Number and percentage of contract awards that have been appealed					X			
12	Number and percentage of contract awards that have been appealed successfully					X			
13	Number and percentage of contracts awarded before there was a confirmation of funds being available			X					
14	Number and percentage of approved contract variations that exceed the thresholds set out in the Public Procurement Regulations			X		X		X	
15	Total value of approved contract variations that exceed the thresholds set out in the Public Procurement Regulations, and their value as a percentage of the total value of the contracts to which they are related	X						X	
16	Number and value of bid validities that have been extended			X					
17	Number and percentage of payments to contractors that have been paid more than 30 days after the submission of a claim			X				X	
18	Number and percentage of contracts terminated early by PDEs after payments were made but before goods and services were delivered	X							
19	Total value of payments issued against contracts terminated early by PDEs before goods and services were delivered, and the value of this amount as a percentage of the total value of the contracts to which they are related	X							
20	Number and percentage of contracts abandoned by contractors after advance payments were received, but before goods and services were delivered	X				X			
21	Total value of advance payments issued against contracts abandoned by contractors before good and services were delivered, and the value of this amount as a percentage of the total value of the contracts to which they are related	X				X			
22	Number of complaints about corrupt practice in procurement filed with the PPDA, IGG or CID					X		X	
23	Number of firms and individuals blacklisted for having been found guilty of any corrupt practice including misrepresenting any facts in respect of ownership in a tender submission or in registration with the Registrar of Companies					X		X	
24	Number of staff who have been disciplined, sanctioned or charged with breaking the law in connection with public procurement or disposal activities					X			
25	Number and percentage of PDEs that have been given a clean audit certificate by the PPDA			X		X			
26	Number and percentage of PDE accounting officers sanctioned for matters relating to public procurement or disposal			X		X			

ACTION PLAN FOR KEY RECOMMENDATIONS

34. The next step in this CPAR exercise is to prepare a comprehensive Implementation Plan that has all the actions properly costed and phased out. The Implementation Plan will be the basis for seeking donor funding. A summary of the Short and Medium term Actions is presented in **Table 2** below. Within its internal budget and available commitments from bilateral donors as well as the PRSC support, all these actions can be implemented

Table 2 – Short and Medium Term Action Plan

The four pillars of sound public procurement	Recommended Actions	Short term (0-2 years)	Medium term (2-4 years)	Responsible
Pillar 1: Legislative and Regulatory Framework	The IGG needs to appoint a specialist procurement body to handle complaints in cases where the PPDA has been advising party or complaints about PPDA itself	X		IGG
	Regulations for local government should be harmonized with those at the central government including giving to the Chief Administrative Officer the authority to appoint and remove tender board members	X		Ministry of Local Government, PPDA
Pillar 2: Central Institutional Framework and Capacity	Institutional framework The MoFPED should resume its policy making role for the public procurement sector and as a minimum assign staff or a unit responsible for this task.	X		MoFPED
	Capacity Building PPDA should prepare a detailed implementation plan for the capacity building strategy and commence its implementation	X		PPDA
	The PPDA should address the general lack of the fundamental understanding of the key public procurement principles, including the ethical aspects of procurement.	X		PPDA
	HR measures, including individual career development plans, performance measures, and training, etc. for the development of the PPDA staff should be introduced.	X		PPDA
	PPDA to initiate accreditation system, linking this to capacity building and career development measures	X		PPDA and MoFPED

Pillar 3: Procurement Operations and Market Place:	Procurement Operations Enforce existing rules on advertising, pre-qualification, submission and opening of bids, and the use of appropriate evaluation criteria through regular procurement audits and application of effective sanctions	X		PPDA, procuring entities
	PPDA to step up enforcement of procurement planning as required in the Regulations including integrating it in the budget process	X		PPDA, procuring entities
	The PPDA should issue guidelines on the proper application of the registration lists	X		PPDA
	Access to negotiations should be restricted in open competitive bidding	X		PPDA
	Local Preferences should be abolished	X		PPDA and Local Govt.
	The records and Archive Act should be fully implemented	X		MoFPED
	The PPDA should monitor and enforce the proper use of the “procurement file” through its procurement audits	X		PPDA
	Market Place Full implementation of ASYCUDA++ should move forward quickly, including access for importers to lodge data into ASYCUDA++ prior to entry and the blue, green, yellow, red line classification	X		URA, MTTI
	An education and certification programme for forwarding and clearing agents should be established.		X	URA, MTTI, UAFA, Universities
	The Customs Act of 1971 should be revised and brought up to the required modern standards	X		Government
	Parliament needs to approve the Competition Act without further delay and measures for implementation should be instituted	X		MITI
	A competition authority/ body aimed at overseeing the development of a competitive market in Uganda should be established	X		MITI
Pillar 4: Integrity of Public Procurement System:	The AG and the PPDA to establish open lines of communication and a collaborative, strategic approach for the monitoring, audit and oversight functions	X		AG and PPDA
	The mandates of the PPDA, the IGG and the CID with respect to responsibilities for receiving and investigating complaints, carrying out investigations, prosecuting cases, etc. should be clarified	X		GoU
	Government should enact and make effective the Amended Prevention of Corruption Act	X		GoU
	Government should enact and implement the Right of Access to Public Information law	X		GoU
	Government should enact and implement the joint Whistleblower Protection and Qui Tam law		X	GoU
	The IGG and the PPDA should collaborate (with other stakeholders) to conduct regular National Public Procurement Surveys.		X	IGG, PPDA and other stakeholders, including civil society

8. RISK ASSESSMENT

35. The government of Uganda has been implementing procurement reforms at the central government level since March 1, 2001. The Government has proven that it is committed to implementing the necessary procurement reforms to realize value for its money. Notwithstanding, this CPAR has concluded that weak enforcement is one of the most worrying issues in the reform process. Enforcement is a difficult issue which has to be tackled from many fronts. It will require a good balance between incentives for compliance and stiff remedies for infringing the rules. To achieve this will require the cooperation of all the relevant organs of government including: Public Service, Ethics and Integrity, Anti-corruption, Auditor General, Criminal Investigation...etc. The effective coordination of all these organs requires a strong and properly functioning PPDA. Unfortunately, the capacity of PPDA is still very weak and the risk of delayed implementation is quite high. This weakness has been demonstrated by the long time it has taken PPDA to finalize the first two audits carried out in the ministries of education and water. This is the appropriate time for the MOFEPD to give the much needed support to the PPDA. However, the MOFEPD seems to have abdicated its policy making and coordination roles, thus posing a special risk to the procurement reform program.

36. Together with the risk due to weak capacity at the PPDA, there is a major risk at the local government level where corruption appears rampant due to political influence exerted by the politically appointed tender board members. Tender Board members are nominated by the Chairman of the District Council and approved by the Council. This CPAR is proposing, consistent with the practice at central government, that tender board members be nominated by the Chief Administrative Officer and approved by the PS/ST. There is a risk that this may not be approved by the Government for fear of a political backlash from interested parties. This risk is expected to be mitigated through dialogue using the PRSC instrument which has so far been the vehicle for monitoring the implementation of procurement reforms. Implementation of the agreed Recommendations of this CPAR are already part of PRSC 5 and PRSC 6 Policy Actions.

37. This CPAR is part of the CIFA and the Recommendations contained in this report will form an integral part of the CIFA Recommendations. The CIFA Recommendations stand a better chance of receiving Government attention since they cut across all fiduciary aspects of government business. The PRSC will be the instrument for monitoring implementation of these Recommendations under the guidance of the Public Expenditure Management Committee (PEMCO) which consists of representatives from major stakeholders including the following agencies: Local Government; Public Service; Health; Education and Sports; Accountant General; Auditor General; MoFPED; Uganda Management Institute; Bureau of Statistics; PPDA; DfID; World Bank; and the Netherlands Embassy.

