



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

**PROCUREMENT AND DISPOSAL GUIDELINE
FOR SCHOOLS IN UGANDA**

The Public Procurement and Disposal of Public Assets Guidelines

*Guidelines issued by the Public Procurement and Disposal of
Public Assets Authority under Section 97 of the Public
Procurement and Disposal of Public Assets Act, 2003.*

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*Guidelines are distributed to all Accounting Officers who are responsible for
distributing copies of this Guideline to the Contracts Committee and members of the
Procurement and Disposal Unit of the Procuring and Disposing Entity*

Guideline Subject: Procurement and Disposal Guideline for Schools in Uganda

This Guideline made under Section 97 of the Public Procurement and Disposal of Public Assets Authority Act, 2003, lays down procurement and disposal rules and regulations for goods, works and services in Schools. It customizes the Act, the Regulations and Guidelines to the School setting. While care has been taken to incorporate all the rules and procedures deemed necessary for the procurement and disposal function in Schools, it is important to point out that it is not intended to replace the Act or the Regulations. Therefore users of this Guideline are advised to consult the Act and Regulations so as not to miss the detailed provisions.

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ACRONYMS

AO	Accounting Officer
BTVET	Business, Technical Vocational Education and Training
CC	Contracts Committee
CAO	Chief Administrative Officer
EC	Evaluation Committee
GRN	Goods Received Note
HT	Head Teacher/Principal
MOES	Ministry of Education and Sports
NTCs	National Teachers' Colleges
PDE	Procuring and Disposing Entity
PDU	Procurement and Disposal Unit
PPDA	Public Procurement and Disposal of Public Assets Authority
PS	Permanent Secretary
PTCs	Primary Teachers' Colleges
RFP	Request for Proposals
RFQ	Request for Quotation
RTO	Requisition to Order
SMC	School Management Committee
TPP	Third Party Provider
UD	User Department

INTERPRETATION

In this Guideline, unless the context otherwise requires:

“Accounting Officer” (AO) means a head teacher of a primary or secondary PDE, or a principal or director of a post primary institution;

“Act” means the Public Procurement and Disposal of Public Assets Act, 2003;

“Authority” means the Public Procurement and Disposal of Public Assets Authority established under section 5 of the Act;

“Award” means a decision by a Contracts Committee or any other subsidiary body of a Procuring and Disposing Entity to which a Contracts Committee may delegate powers of adjudication and award within specified financial ceilings, to determine the successful bidder;

“Bid” means an offer to provide or to acquire works, services or supplies or any combination thereof and shall include pre-qualification where applicable;

“Bidder” means a a physical or artificial person intending to participate or participating in public procurement and disposal proceedings;

“Board” means a Board of Governors of a School;

“Chairperson” means the Chairperson of a Contracts Committee;

“Chief Administrative Officer” (CAO) means the Chief Executive of a district and the Accounting Officer for the District.

“Consultancy Service” means a service of an intellectual or advisory nature, provided by a practitioner who is skilled and qualified in a particular field or profession and includes, but is not limited to, engineering design or supervision, accountancy, auditing, financial services, procurement services, training and capacity building services, management advice, policy studies and advice and assistance with institutional reforms;

“Contracts Committee” (CC) means a committee established in accordance with this Guideline to perform the functions set out in 5.10 of this Guideline;

“Contract Management” means the management of a contract including, but not limited to, performance and compliance with the terms and conditions of the awarded contract by the provider and the procuring and disposing entity;

“Currency Point” has the meaning assigned to it in the First Schedule of the Act;

“Disposal” means the divestiture of public assets including intellectual and proprietary rights and goodwill, and any other rights of a school/institution by any means including sale, rental, lease franchise, auction, or any combination;

“Disposal process” means the successive stages in the disposal cycle, including planning, choice of methods and procedure, measures to solicit offers from bidders, examination and evaluation of such offers and award of contract;

“District Education Officer” means an officer appointed either by Central Government or Local Government to assist in the administration of education services;

“Emergency” “emergency situation” means a circumstance which is urgent or unforeseeable or a situation which is not caused by dilatory conduct where—

- (a) Uganda is seriously threatened by or actually confronted with a disaster, catastrophe, war or an act of God;
- (b) life or the quality of life or environment may be seriously compromised;
- (c) the conditions or quality of goods, equipment, buildings or publicly owned capital goods may seriously deteriorate unless action is urgently and necessarily taken to maintain them in their actual value or usefulness;
- (d) an investment project is seriously delayed for want of minor items; or
- (e) a Government programme would be delayed or seriously compromised unless a procurement is undertaken within the required time frame;

“Framework Contract” means a contractual arrangement for an estimated quantity or minimum value of supplies or services at fixed unit prices over a certain period of time, where actual quantities are purchased by means of individual call-off orders and payment is made for the actual quantities or services delivered to PDE;

“Governing Bodies” means Boards of Governors for Secondary Schools and Institutions and School Management Committees for primary Schools;

“Government” means Government of Uganda;

“Guidelines” means directives issued from time to time by the Authority under section 97 of the Act;

“Non-Consultancy Service” means a service of a skilled or non-skilled nature, which is not a consultancy service, and includes, but is not limited to, cleaning, security and maintenance and repair services;

“Pre-qualification” means a screening process designed to ensure that invitations to bid are confined to capable providers;

“Pre-qualified Provider” means a provider registered by the PDE or the Ministry of Education and Sports (MOES) or a respective Local Government;

“Procurement” means acquisition by purchase, rental, lease, hire purchase, licence, tenancy, franchise, or any other contractual means, of any type of works, services or supplies or any combination;

“Procuring and Disposing Entity” (PDE) means a School;

“Procurement and Disposal Unit” (PDU) means a unit in each PDE responsible for the execution of the procurement and disposal function;

“Procurement process” means the successive stages in the procurement cycle including planning, choice of procedure, measures to solicit offers from bidders, receipt and opening of bids, evaluation, award of contract and contract management;

“Public Asset” means any property, tangible or intangible, owned by Government or by a procuring and disposing entity, including physical property, shares, proprietary rights and land, except land held by the Uganda Land Commission or a district land board or land which is compulsorily acquired by Government in accordance with the law;

“Public funds” means monetary resources appropriated to Procuring and Disposing Entities through budgetary processes, inclusive of the Consolidated and Development fund; grants and credits put at the disposal of the Procuring and Disposing Entities by foreign donors, and revenues generated by the Procuring and Disposing Entities;

“Public Officer” means any officer employed in the public service, including statutory bodies, departments of the central government, local governments and any other body established by government to carry out public functions;

“Record” means any document relating to any stage of a procurement or disposal process and shall be the original document unless otherwise stated in writing by the Authority;

“Regulations” means regulations issued under section 96 of the Act;

“School” means a set up or institution in which not less than eighty or in special circumstances not less than ten persons receive regular instruction;

“Specification” means the description of an object of procurement or disposal in accordance with national and international standards adopted and approved by the Authority after consultation with the National Bureau of Standards or other appropriate trade associations and professions, which shall be mandatory in all bidding documents;

“Statement of Requirements” means a document that contains a full and complete description of the requirement that is the subject of the procurement or disposal;

“Supplies” includes goods, raw materials, products, equipment, livestock, assets, land or objects of any kind and description in solid, liquid or gaseous form, or in the form of electricity, or intellectual and proprietary rights as well as works or services incidental to the provision of such supplies where the value of such services does not exceed the value of the supplies;

“Third Party Procurement Provider” means a provider pre-qualified by the Authority and contracted independently by a procuring and disposing entity on a competitive basis to offer specific services which shall in each instance be defined by the procuring and disposing entity;

“User Department” (UD) means any department, division, branch or section of the PDE including any project unit working under the authority of the PDE which

initiates procurement and disposal requirements and is the user of the requirements; and

“Works” includes any work associated with the construction, reconstruction, demolition, repair, or renovation of a building or structure, on the surface or underground, on and underwater, and includes the preparation, excavation, erection, assembly, installation; testing and commissioning of any plant, equipment or materials, decoration and finishing, and shall include turnkey projects, build own and operate projects, build operate and transfer projects or any arrangement following in this nature, or any other form of private-public partnerships or joint development activities, all or any of which may also include management, maintenance, testing, commissioning and training; as well as supplies or services incidental to the foregoing works where the value of such incidental works does not exceed the value such works.

1.0 BACKGROUND

- 1.1 The Public Procurement and Disposal of Public Assets Act, 2003 was enacted to regulate policies practices in respect of public procurement and disposal activities in the public sector. The objective is to promote economy and efficiency in procurement, while ensuring that public procurement is conducted in a fair, transparent and non-discriminatory manner, thereby contributing towards the creation of a sound business climate in Uganda.
- 1.2 These objectives are supported by the introduction of a Code of Business Ethics. This applies to all public employees engaged in public procurement and disposal functions. A Code of Ethical Conduct has also been introduced for bidders and providers. Both codes can be found in Annex 1.
- 1.3 The Act introduces a new institutional framework for public procurement and disposal in Uganda. It consists of the Authority, the Accounting Officer (AO), the Contracts Committee (CC), the Procurement and Disposal Unit (PDU) and User Departments (UD).
- 1.4 There was very little focus on disposal previously. The law now requires the process and procedures for disposal to be handled through the structures introduced by the Act and Regulations.
- 1.5 The schools are the far ends of the MOES as a PDE. While they are user units in one way, in another way they are public institutions entrusted with public funds. This entails conducting procurement through the structures and procedures that are prescribed by the Act.
- 1.6 This Procurement and Disposal of Public Assets Guideline for schools in Uganda addresses the procurement principles, rules, methods and procedures that are applicable and suitable for the schools environment in Uganda. This has been attained through a consultative process between the MOES, the Authority and the head teachers.
- 1.7 For practical purposes the Guideline will be an invaluable Desk book to guide the head teachers of schools and all those associated with procurement and disposal activities in such settings. It will facilitate the operationalization of the new law by providing basic information to assist and inform the people involved in purchasing of supplies, services and civil works in schools nation-wide.

2.0 OBJECTIVES OF THE GUIDELINE

- 2.1 Specifically, the objectives of the Guideline are:
 - (a) To describe the procedures to be followed and the documentation to be used in sourcing, selection and retention of providers for goods/services/works to the PDEs;
 - (b) To guide the staff in the management of the procurement and disposal function in order to create uniformity and consistency, using best practices in order to achieve value for money;
 - (c) To ensure ethical conduct in procurement and disposal management activities.

- 2.2 Users of the Guideline are advised to regularly consult the Act, Regulations and Guidelines to ensure they do not miss the detailed provisions when required. In the event of conflict or uncertainty, Users are advised to contact the Authority for interpretation and guidance.

3.0 SCOPE OF PROCUREMENT AND DISPOSAL

- 3.1 Procurement and disposal activities in PDEs cover a wide range of items such as:
- (a) supplies and services for maintenance, repair and operations;
 - (b) works for expansion and provision of infrastructure;
 - (c) consultancy advisory services in a limited scope; and
 - (d) disposal of unserviceable stores.
- 3.2 Head teachers/principals are the AOs in PDEs. Currently, the Finance and General Purpose Committee of the Board of Governors (in the case of post-primary institutions) and School Management Committees (in the case of primary schools) play the role of the Contracts Committees, while the Bursar plays that of the PDU. The different departments of the PDEs are user units. Thus, it is important to identify the unique circumstances at the institutional level and make adjustments that will ensure the PDEs systems are compliant with the structures for procurement set by the Act. PDEs have to establish improved decision making structures and follow best practices in terms of procedures in the management of procurement and disposal budgets. This process will facilitate the shaping and implementation of reform programs for the procurement of goods, works and services and the management of procurement contracts by the PDEs.
- 3.3 In view of this, PDEs need to institutionalize the procurement and disposal processes to ensure that:
- (a) the AOs have effective control and direction of procurement and disposal affairs in their PDE;
 - (b) all procurement and disposal activities are carried out in accordance with the Act and Regulations.
 - (c) procurement and disposal activities conform with ethical conduct and best practices.

4.0 PROCUREMENT ORGANIZATION STRUCTURES

- 4.1 The Act has put in place a structure through which public procurement activities are carried out. These are shown in the diagram in Annex 2 and include:
- (a) Regulatory Body - the Authority
 - (b) Accounting Officer (AO) who is accountable for all procurement/disposal activities in the PDE.
 - (c) Contracts Committee (CC) – responsible for the functions in 5.10 of this guideline
 - (d) Procurement and Disposal Unit (PDU): charged with responsibility for managing day to day procurement activities
 - (e) User Departments/Units (UD): they initiate procurement and disposal requirements, are the end user of the requirements, monitor the implementation of contracts and certify payments of contract sumd

- 4.2 PDEs shall be classified in categories of large, medium and small depending on their annual budget.

PDEs Categories:

Size of Annual Budget	PDE Category	No of Procurement Staff
Not exceeding UGX 45 million	Small	1
Not exceeding UGX 150 million	Medium	2
Over UGX 150 million	Large	2

- 4.3 PDEs in the small category shall employ a procurement officer in the PDU to handle procurement activities.
- 4.4 PDEs in the medium and large categories shall employ two procurement personnel in the PDU to handle procurement activities.
- 4.5 Decision making in respect of procurement management in each PDE is based on the principle of separation of powers and roles. Within each PDE, the AO is required to establish a PDU and a CC. The PDU shall be responsible for all stages of the procurement cycle except adjudication and award, which shall be the sole responsibility of the CC.
- 4.6 PDEs are PDEs by virtue of using public funds. They are under obligation to comply with the Act. The procurement structure in PDEs will have to conform to the structure set by the Act and this is reflected in the chart in Annex 2.

5.0 FUNCTIONS AND REPORTING

5.1 Independence of functions and powers

- 5.1.1 The AO, the CC, the PDU and the UD in a PDE shall each act independently in relation to their respective functions and powers.
- 5.1.2 None of the parties referred to in the paragraph above shall seek to influence the decisions or activities of the others, except as permitted under the Act and the Regulations.
- 5.1.3 Every party shall ensure that its duty is properly and professionally performed in accordance with the legal requirements and in order to guarantee independence of action with the objective of eliminating corrupt or fraudulent practices.

5.2 Reports of the PDE to the MOES and Chief Administrative Officer

- 5.2.1 PDEs, which are fully decentralized, shall make their quarterly reports through their governing bodies to the CAO of the District.
- 5.2.2 PDEs under Central Government shall make their quarterly reports through their governing bodies to the AO Ministry of Education and Sports.

5.2.3 All quarterly reports shall be made using the format provided in *Annex 15.

5.3 Functions of the Accounting Officer

5.3.1 An Accounting Officer shall have the overall responsibility for the successful execution of the procurement, disposal and contract management processes in the PDE and shall:

- (a) certify the availability of funds prior to the commencement of any procurement activities;
- (b) ensure that a market assessment is undertaken prior to commencement of procurement and that no contracts are signed where the price of the best evaluated bidder exceeds the market price established through this assessment;
 - i. Where the price of the best evaluated bidder is higher than the market price, established at the commencement of the procurement, the accounting officer shall re-assess the market price to ascertain that the market price is still valid.
 - ii. Where the accounting officer ascertains that the market price established at the commencement of the procurement is still valid, the procurement shall be cancelled and re-tendered.
- (c) implement the recommendations of the Authority;
- (d) submit all reports as required under the Act, and the Regulations by the Authority;
- (e) submit applications to the Authority, for any deviations from use of the standard bidding documents.

5.4 Disagreement between Accounting Officer and Contracts Committee

5.4.1 Where an AO in a PDE disagrees with a CC on any decision pertaining to the application or interpretation of any procurement or disposal method, process or practice under the Guideline, the AO shall state the reasons for the disagreement in writing and may:

- (a) return the decision to the CC for review; or
- (b) may request for an independent review by the MOES.

5.5 Role of the Board of Governors and PDE Management Committee

5.5.1 In a PDE, which has a governing body, the AO shall work in consultation with the governing body in the execution of his or her functions and powers for procurement and disposal of public assets.

5.5.2 A member of the governing body of a PDE shall not be a member of a CC and shall not seek to influence a decision of a CC.

5.5.3 The governing body shall approve any appointment to the CC and PDU.

5.6 Accounting Officer not to be member of Contracts Committee

5.6.1 The AO shall not be a member of the CC and shall not seek to influence any decision of a CC.

5.7 Appointment of Contracts Committee members

- 5.7.1 The AO shall nominate members of the CC and forward them to the governing body for approval.
- 5.7.2 The AO shall appoint the members of a CC in writing, by letter of appointment.
- 5.7.3 The head of the PDU of the PDE shall be the secretary to the CC. The secretary of the CC shall not have the right to vote at a meeting of the CC.
- 5.7.4 The AO shall ensure that any appointment to the CC is made from among serving staff employed on a full time basis with the PDE.
- 5.7.5 In assessing a candidate for suitability for appointment to a CC, the AO shall consider the following:
 - (a) proven track record of sound judgment;
 - (b) appropriate level of seniority and experience in decision making;
 - (c) does not have more than two members from the same department
- 5.7.6 When reappointing a CC, the AO shall consider the need for both continuity and rotation of personnel in the membership of the CC.
- 5.7.7 The AO may appoint a temporary member of the CC, with the prior approval of the governing body to replace a permanent member who may be absent for a prolonged period.

5.8 Membership of Contracts Committee

- 5.8.1 A CC shall be composed of a minimum of 3 (three) members and a maximum of 5 members.
- 5.8.2 The quorum for CC meetings shall be three (3).
- 5.8.3 The AO shall appoint a Deputy Head Teacher as a chairperson of the CC.
- 5.8.4 Where a Deputy Head Teacher is appointed as an AO he/she shall cease to be a member of the CC. Another member of staff shall be appointed in that position as a temporary member. On resumption of the previous position of Deputy Head Teacher, he/she may be re-appointed to the CC and the temporary appointment retired.
- 5.8.5 A person shall be a member of a CC in his or her individual capacity.
- 5.8.6 Where a member of a CC is unable to attend a meeting, he or she shall not nominate an alternate member or proxy.
- 5.8.7 A temporary member shall be appointed only for the period for which the permanent member is absent.

5.9 Termination of office or removal of member of the Contracts Committee

5.9.1 The AO may at any time terminate the appointment of a member of the CC for:

- (a) abuse of office;
- (b) corruption;
- (c) incompetence;
- (d) physical or mental incapacity which renders the member incapable of performing his or her duties;
- (e) failure to attend three consecutive scheduled meetings without reasonable grounds;
- (f) conviction of an offence involving moral turpitude;
- (g) being declared bankrupt by courts of law;
- (h) on any other reasonable ground

5.9.2 The AO may remove and substitute any member of the CC, prior to the expiry of his or her term of office where it is necessary:

- (a) where the structure or status of the primary PDE and post-primary institution has changed; or
- (b) the post of the incumbent CC member has changed.

5.9.3 Termination of office or removal of a CC member shall be subject to the prior approval of the governing body.

5.9.4 The term of appointment shall be three years renewable for one term.

5.10 Functions and powers of a Contracts Committee

5.10.1 The CC shall be responsible for approving the recommendations from the PDU and awards of contracts. In particular it shall be responsible for:

- (a) Approving the PDE's annual procurement plan and any amendments to the plan;
- (b) Approving evaluation reports;
- (ba) approving negotiation teams;
- (bb) ensuring that before it is approved, a procurement is in accordance with the procurement plan;
- (c) approving bidding and contract documents;
- (ca) the following activities, for the purposes of disposal of the public assets of a procuring and disposing entity—
 - (i) assessing and verifying the public assets identified by a user department or by the Board of Survey for disposal;
 - (ii) causing the assets identified under subparagraph (i) to be valued in accordance with regulations made under this Act; and
 - (iii) approving the reserve price for the public assets to be disposed of;
- (d) Approving procurement and disposal procedures;
- (e) Approving membership of evaluation committees (EC) and negotiation teams;
- (f) Ensuring adherence to best practices in relation to procurement and disposal;
- (g) Ensuring compliance with the Guideline, the Act and the Regulations;

- (h) Approving contract amendments;
- (i) verifying assets identified for disposal, ensuring they are valued and approving a reserve price.

5.11 Member to declare personal interests

5.11.1 Where a member of a Contracts Committee has any pecuniary or other interest that may conflict with the performance of the functions of the member, the member shall disclose the interest at the meeting.

5.11.2 Where a member has or discloses an interest in any matter before the Contracts Committee, that member shall not take part in the proceedings or exercise of any powers by the committee relating to the item or the matter in which the member has an interest.

5.12 Decision making procedure by a Contracts Committee relating to submission

5.12.1 A CC shall consider each submission made, the recommendation of the PDU and approve or reject the submission made.

5.12.2 A CC shall state the reasons for rejecting a submission. In its decisions, the CC shall be independent and base them on the Guideline, the Act, the Regulations, best practices and shall act in good faith.

5.12.3 A decision of a CC shall be unanimous or, where unanimity cannot be achieved, shall be by simple majority of the members present.

5.12.4 A decision of the CC shall be recorded using the Form in Annex 16 and communicated to the AO.

5.13 Disagreement between Contracts Committee and Procurement and Disposal Unit

5.13.1 Where a CC disagrees with a PDU, concerning any decision pertaining to the application or interpretation of procurement method, process or practice under the Guideline and the Regulations, the CC shall state the reasons for its disagreement in writing and may:

- (a) return the submission to the PDU for review;
- (b) request for an independent review by the AO.

5.14 Records of Contracts Committee meetings

5.14.1 The secretary of the CC shall record the minutes.

5.14.2 The minutes of each CC meeting shall include:

- (a) a register of attendance, signed by all members, advisors and observers;
- (b) the code of ethics, signed by all members and other persons attending the meeting; and

- (c) a record of the decisions made for each submission considered by the CC together with details of any conditions to approved submissions, and reasons for the rejected submissions.

5.15 Co-opting of advisors and observers by the Contracts Committee

5.15.1 A CC may co-opt an adviser to assist it in the discharge of its functions. An adviser shall not take part in the decisions of the CC and shall only attend a part of a meeting, which considers the matter on which the advice is required.

5.15.2 A CC may request any member of a PDU, a user department, an evaluation team or negotiation team to attend a CC meeting as an adviser to offer clarifications on a submission.

5.16 Responsibilities of the chairperson of a Contracts Committee

5.16.1 The chairperson of a CC shall preside over the meeting of the CC and, in the chairperson's absence; a member from among those present shall be elected to preside over the meeting.

5.16.2 The chairperson shall be responsible for guiding the secretary in drawing up the agenda. He/she shall ensure that the agenda specifies:

- (a) the date, time and venue of the CC meeting;
- (b) the submissions to be considered;
- (c) issues to be discussed; and
- (d) any adviser to attend the meeting;

5.16.3 He/she shall also ensure that:

- (a) the performance of the CC is in accordance with all legal requirements, codes of conduct and standards established by the Authority;
- (b) order is maintained and productive work done at all meetings;
- (c) open and participatory debate by members present is possible at all meetings;
- (d) specialist advice is obtained if so required; and
- (e) the minutes of the CC meetings are confirmed by members and signed as required.

5.17 Responsibilities of the secretary of a Contracts Committee

5.17.1 The secretary of a CC shall be responsible for:

- (a) assisting the chairperson in convening meetings and preparing the agenda;
- (b) organizing and providing the necessary facilities for meetings of the CC;
- (c) ensuring that the agenda, submissions and any other documentation are distributed to CC members within a reasonable time before any meeting;
- (d) recording the minutes of the meetings;
- (e) keeping all records of the CC including, submissions and minutes;
- (f) promptly notifying the relevant officials of the decisions of the CC;
- (g) co-ordinating all activities of the CC;
- (h) preparing reports of the CC;
- (i) monitoring the term of membership of CC members and notifying the AO at least two months prior to the expiry of the term of membership.

5.18 Establishment of Procurement and Disposal Unit

5.18.1 The AO shall cause to be established a PDU. The number of staff shall be determined by the anticipated:

- (a) number of procurement and disposal requirements;
- (b) value of procurement and disposal requirements;
- (c) complexity of procurement or disposal requirements.

5.19 Functions and Powers of Procurement and Disposal Unit

5.19.1 A PDU shall:

- (a) manage all procurement activities of the primary PDE or post- primary institution except, adjudication and the award of contracts;
- (b) advise the UD on the individual procurement methods;
- (c) perform the functions of the secretary of the CC under 5.17;
- (d) implement the decisions of the CC;
- (e) consolidate the procurement and disposal plan of the PDE;
- (f) recommend procurement and disposal procedures;
- (g) check and prepare Statements of Requirements;
- (h) manage bid opening and closing;
- (i) prepare bid documents;
- (j) prepare advertisements of bid opportunities;
- (k) issue bidding documents and receive bids;
- (l) maintain a providers list;
- (m) prepare contract documents;
- (n) maintain and archiving records of the procurement and disposal process;
- (o) prepare monthly reports for the CC;
- (p) prepare any such reports as may be required from time to time and report any significant departures from the terms and conditions of the awarded contract;
- (q) require reports from UDs relating to contract management;
- (r) provide clarifications on bid documents;
- (s) recommend the composition of ECs and negotiation teams for the approval of the CC;
- (t) contract independent advice as may be necessary in the discharge of its function;
- (u) ensure compliance with the provisions of the Act, Regulations, Guidelines and best practices.

5.20 Functions and Powers of User Departments

5.20.1 The UD of a primary PDE or a post-primary institution shall perform the following functions:

- (a) liaise with and assist the PDU throughout the procurement or disposal process to the point of contract placement;
- (b) initiate procurement and disposal requirements and forward them to the PDU;
- (c) propose technical inputs to statements of requirements for procurement to the PDU;
- (d) certify invoices for payments to providers;

- (e) report any departures from the terms and conditions of an awarded contract to the PDU;
- (f) forward details of any required contract amendments to the PDU;
- (g) maintain and archive records of contract management;
- (h) prepare any reports required for submission to the PDU, CC or AO.

5.21 Role of the user department in preparation of procurement plan

5.21.1 Every UD shall prepare a procurement plan for procurement based on the approved budget, which shall be submitted to the PDU for implementation and may seek technical assistance, where necessary.

5.22 Evaluation Committee

5.22.1 All evaluations shall be conducted by ECs, which shall report to the PDU. The EC is formed on a case by case basis. The EC shall assess the bid in accordance with the appropriate criteria with a view to determining the best evaluated bid.

5.22.2 The number of members of the EC shall depend on the value and complexity of the procurement requirement, but shall in all cases be a minimum of three.

5.22.3 Evaluation of micro procurements need not be evaluated by an EC. The PDU can conclude this evaluation by comparison of at least three quotations.

5.22.4 The members shall be of an appropriate level of seniority and experience, depending on the value and complexity of the procurement requirement.

5.22.5 A member of a PDU or a UD may be a member of an EC, where he or she has appropriate skills or experience.

5.22.6 In order to maintain independence of functions and powers, a member of a CC shall not be a member of an EC.

5.22.7 A member of the EC may be external to the PDE or institution where the required skills or experience are not available within the PDE.

5.22.8 The meetings of the EC, the conduct of the evaluation and the evaluation methodologies shall be executed in accordance with the Regulations and Guidelines.

5.22.9 Membership of the EC shall be recommended by the PDU.

5.22.10 All members of the EC shall sign a Code of Ethics provided in this Guideline.

6.0 PROCUREMENT PROCESS

6.1 Pre-qualification

6.1.1 Pre-qualification may be used to obtain a list of bidders who have been evaluated as able to meet the PDE's needs for certain items or services.

- 6.1.2 Pre-qualification may be used where the PDE wishes to procure common user items regularly over a period of time, as it enables the PDE to develop a list of bidders to include on shortlists for future procurement processes. PDE
- 6.1.3 The information required from the provider shall be the minimum required to make a judgment on the firms' suitability and shall not be so complex as to discourage a provider from expressing interest.
- 6.1.4 The criteria for pre-qualification shall be limited to that necessary for performance of the intended contract and shall not be unduly restrictive.
- 6.1.5 The assessment of pre-qualification shall be in accordance with the pre-set requirements and criteria.
- 6.1.6 The list of pre-qualified providers shall be updated periodically at least annually to enhance competition.
- 6.1.7 The CC shall approve the list of pre-qualified providers.
- 6.1.8 PDEs may access the list of pre-qualified providers from the Register of Providers, the MOES and Local Governments and use such providers where available.

6.2 Framework Contracts (See Annex 9)

A framework contract shall be used:

- 6.2.1 where a requirement is needed "on call", but where the quantity and timing of the requirement cannot be defined in advance; or
- 6.2.2 to reduce procurement costs or lead times for a requirement which is needed repeatedly or continuously over a period of time by having them available on a "call off" basis.
- 6.2.3 The unit rate for each item supplied under framework contracts shall be indicated.
- 6.2.4 Payment shall be on the basis of services performed or supplies delivered.

6.3 Advertisement

- 6.3.1 PDEs shall advertise when:
 - (a) using the open bidding method;
 - (b) pre-qualifying suppliers for common user items.
- 6.3.2 Advertisements shall be made in:
 - (a) National Newspapers of wide circulation;
 - (b) Local Newspapers in the PDEs locality; or
 - (c) At Notice Boards at District HQs, sub-county offices, churches, mosques or other well-used and accessible public places.

- 6.3.3 Advertisements shall give adequate time for prospective bidders to prepare their bids and be able to submit them.
- 6.3.4 A minimum of ten (10) days shall be allowed between the first day of advertisement and the closing date for the bids.

7.0 PROCUREMENT PRINCIPLES AND RULES

7.1 Basic Principles: All public procurement and disposal activities in PDEs shall be conducted in accordance with the following basic principles:

- (a) non-discrimination;
- (b) transparency;
- (c) accountability;
- (d) fairness;
- (e) competition;
- (f) confidentiality;
- (g) economy and efficiency;
- (h) promotion ethics.

7.2 Records of a Procuring and Disposing Entity open to inspection by the Authority

7.2.1 A PDE shall maintain records on its procurement and disposal proceedings for a period of seven years.

7.2.2 The records of the procurement and disposal process shall be open to inspection by the Authority and competent Authority during working hours.

7.3 Contents of Procurement Records

7.3.1 Procurement records to be maintained by the PDE are:

- (a) a request to initiate procurement proceedings;
- (b) a copy of the published advertisement or shortlist;
- (c) a copy of the pre-qualification and solicitation documents and any amendments or clarifications;
- (d) a record of bid closing and bid openings;
- (e) a copy of all bids evaluated or clarifications requested and responses received;
- (f) the evaluation report;
- (g) minutes of meetings on procurement, including and negotiation meetings;
- (h) a notice of best evaluated bidder;
- (i) the contract document;
- (j) contract amendments;
- (k) all correspondences between the PDE and a bidder or potential bidder;
- (l) a copy of all submissions to and all decisions of the CC related to the procurement including the choice of procurement method, approval of pre-qualification and solicitation documents, approval of evaluation reports, contract award, approval of contract documents and contract amendments and any decision to suspend or cancel procurement proceedings.

7.4 Contents of Contract Management Record

7.4.1 Contract management records maintained by the PDE shall include:

- (a) a signed contract document, including any signed contract amendments;
- (b) any variations or change orders issued under the contract;
- (c) post: contract documents relating to the fulfillment of contract obligations, in particular copies of bank guarantees or payment guarantees;
- (d) minutes of any meetings related to contracts management, including contract progress or review meetings;
- (e) delivery documents evidencing delivery of supplies or completion certificates in relation to a contract for services or works under the contract;
- (f) a copy of all invoices for works, services or supplies including work papers verifying the accuracy of payments claimed and details of the actual payment authorized by a contract manager;
- (g) a copy of the PDE payment worksheets evidencing management of all payments made;
- (h) a copy of any claims made by the contract manager on behalf of the PDE in respect of any warranty, non-warranty, short supply, damage and other claims upon the provider or upon the PDE;
- (i) a copy of all submissions to the CC and decisions related to the contract management including the approval of contract amendments.

7.5 Procurement Planning

7.5.1 A procurement plan shall be drawn from the approved budget.

7.5.2 User departments shall identify their procurement needs and submit them to the PDU for consolidation.

7.5.3 The PDU shall then integrate the requirements into the annual expenditure plan in order to enhance procurement scheduling, financial predictability, accounting and control over procurement budgets.

7.6 Availability and confirmation of funds

7.6.1 Confirmation of the availability of funds shall be made by the AO or by any officer authorized by the accounting officer before the start of the process of procurement.

7.6.2 A PDE shall not initiate any procurement proceedings or activities, for which funds are neither available nor adequate, except:

- (a) where the delivery of goods, services or supplies and consequent payments to a provider are anticipated to be effected from subsequent financial years.
- (b) in the case of framework contracts, funds will be committed at the time of issue of each specific call off order;

7.6.3 Procurement may be initiated, in accordance with this regulation, before the receipt of funds, but a contract shall not be awarded before the availability of funds.

8.0 EXPENDITURE THRESHOLDS AND PROCUREMENT METHODS

8.1 Open Domestic Bidding

8.1.1 Open Bidding is the procurement method, which is open to participation on equal terms to all providers through advertisement of procurement and disposal opportunities. It is used to obtain maximum competition possible and value for money. The procedure for open bidding is summarized in Annex 6.

8.2 Restricted Domestic Bidding

8.2.1 Restricted bidding is the procurement method where bids are obtained by direct invitation from prospective providers without open advertising. It is used to obtain competition and value for money and where circumstances do not justify open bidding. Bidding shall be invited from a shortlist that shall include at least three bidders to ensure effective and real competition. The procedure for restricted bidding is summarized in Annex 5 and the shortlist form is provided in Annex 13.

8.3 Quotation Procurement

8.3.1 This is a simplified procurement method, which compares price quotations obtained from at least three providers. It is used to obtain competition and value for money where circumstances do not justify a full bidding process. The procedure for the Quotations method is summarized in Annex 4.

8.4 Micro Procurement

8.4.1 Micro procurement is a simple direct method used for very low value procurement requirements. The procedure for micro procurement is summarized in Annex 3.

8.5 Direct Procurement

8.5.1 Direct procurement is a method of procurement where exceptional circumstances prevent the use of competition.

8.6 Thresholds for Procurement Methods

8.6.1 A PDE shall determine the method to be used based on expenditure limits, time, duration, level of authorization and urgency of the requirements.

8.6.2 A PDE shall use the procurement methods and thresholds shown in the table below.

Procurement Methods	Conditions/Rules for Use and Thresholds
Open Domestic Bidding	<p>Used where:</p> <ul style="list-style-type: none"> The estimated value of the procurement exceeds UGX 20,000,000. Open to bidders following a public advertisement of a bid notice.

Procurement Methods	Conditions/Rules for Use and Thresholds
	<ul style="list-style-type: none"> • Bid documents maybe issued at a fee and should be recorded using the form in Annex 12. • A public bid opening to be held.
Restricted Domestic Bidding	<p>Used where</p> <ul style="list-style-type: none"> • The estimated value of the procurement or disposal does not exceed UGX 20,000,000 and is above UGX 5,000,000. • Invitation to bid shall be addressed to at least three bidders; • Public bid opening shall be held.
Quotations/Proposals Method	<p>Used where:</p> <ul style="list-style-type: none"> • There is insufficient time for open domestic or restricted domestic procedure such as in an emergency situation; • The estimated value of the procurement exceeds UGX 500,000 - but does not exceed UGX 5,000,000. <p>Acceptance of a quotation shall be by use of a purchase order A minimum of 3 quotations shall be obtained to facilitate comparison and competition.</p>
Micro Procurement	<p>Used where</p> <ul style="list-style-type: none"> • the estimated value of the procurement does not exceed UGX 500,000. <p>Micro procurement includes items procured using petty cash.</p>
Direct Procurement	<p>Used where:</p> <ul style="list-style-type: none"> • There is insufficient time for any other procedure such as in an emergency situation; • The works, services or supplies are available from only one provider; • Value of the new works, services or supplies does not exceed 15% of the original or existing contract value;

8.6.3 The expenditure on procurement shall conform to the expenditure levels set by the governing bodies of PDEs appropriate to their budgets and consistent with best public finances and accounting practice.

8.6.4 The estimated value of the goods, works or services is usually the key factor in deciding which procurement procedure to use and thresholds for the use of each procurement method are given by the Act. A summary of these thresholds is given in section 8.7 below.

8.7 Procurement of Consultancy Services

8.7.1 Where consultancy services are to be procured, the PDE should refer to the Act and Regulations and seek advice from the MOES. However, the thresholds in this Guideline shall apply.

9.0 DISPOSAL METHODS

9.1 Disposal methods shall include:

- (a) Public Auction

- (b) Public Bidding
- (c) Sale to Public Officers
- (d) Direct negotiations
- (e) Destruction of assets
- (f) Trade in
- (g) Transfer to another PDE
- (h) Donation

9.1.1 Public Auction

Public Auction is a disposal method open to all. It is appropriate;

- (a) For high volume of low value assets for which there is a large number of potential bidders and there are no conditions or restrictions attached to the sale, or
- (b) Where there is a large variety of assets to be disposed off in one location and there is no need to control who buys or uses the asset

9.1.2 Public Bidding

Public Bidding is a disposal method open to all public for high value or unique assets or assets located in remote areas or where conditions need to be attached to the sale of the asset.

9.1.3 Sale to Public Officer

Sale to public officer is a disposal method where the sale of a public asset is to staff of the PDE.

- (a) Where there is no likely benefit or financial advantage to the PDE in using any other disposal methods.
- (b) Where there are a small number of low value items, which are unlikely to attract any public interest.
- (c) Where the personal use of particular assets would directly benefit the performance of staff in execution of their duties within their PDE or institution.

9.1.4 Direct Negotiations

Direct negotiations shall be used where national security, public interest, health and safety issues, legal and human rights issues or environmental considerations are served, when a sale is made to a particular bidder.

9.1.5 Destruction

Disposal by destruction is used:

- (a) On grounds of national security or public interest, health and safety, legal or human rights issues or environment considerations, or
- (b) Where the asset has no residual value and it cannot be transferred to any other PDE or converted or classified into another form with any value.

9.1.6 Trade in

- (a) Trade-in shall be used where a public asset of a procuring and disposing entity will be upgraded in a convenient, economic and efficient way, by trading-in a surplus public asset of the procuring and disposing entity, to offset the purchase price of a new asset.
- (b) Trade-in shall not be used where competition and value for money will not be achieved in the procurement process.

9.1.7 Transfer to another PDE

Transfer to another procuring and disposing entity shall be used where the procuring and disposing entity to which a transfer of the public asset is made shall make further use of the public asset.

9.1.8 Donation

Donation of a public asset shall be used where –

- (a) the procuring and disposing entity cannot obtain payment for the public assets using any of the relevant methods of disposal;
- (b) the public asset cannot be transferred to another procuring and disposing entity.

9.2 Procedure for Disposal

9.2.1 The user department declares the asset for disposal.

9.2.2 The asset is presented to the governing body to approve disposal action.

9.2.3 The Governing Body invites the Board of Survey for a report and upon receiving it, approves boarding off.

9.2.4 The CC approves the requirements, the method of disposal and the reserve price.

9.2.5 Assets given by the MOES and Local Governments

- (a) The governing body passes a resolution recommending disposal and the CC approves. This is forwarded to the PS MOES/the respective CAO.
- (b) The PS MOES/respective CAO seeks a valuation report from a competent authority where their involvement is required by law for example Ministry of Works and Transport, Chief Government Valuer etc/
- (c) Once the government valuation report is made the AO MOES/respective CAO authorizes the HT/Principal to dispose. The HT sends the authorization to dispose the asset to the PDU for action.

9.2.6 Assets bought by the PDE

- (a) The governing body orders valuation/assessment of the asset.
- (b) The governing body sends the report to the AO MOES seeking a go ahead to dispose.
- (c) Once approval is obtained from the AO, MOES the governing body authorizes the HT to dispose. The HT sends the authorization to dispose the asset to the PDU for action.

9.2.7 PDEs which are fully decentralized will seek approval through the CAO.

10.0 DELEGATION OF FUNCTIONS

10.1 Delegation and contracting out of procurement and disposal functions

10.1.1 An Accounting Officer may:

- (a) delegate his/her procurement and disposal functions, those of the Contracts Committee or Procurement and Disposal Unit to:
 - (i) a department of a PDE;
 - (ii) a member of staff of a PDE;
- (b) contract out certain procurement and disposal functions of the Procurement and Disposal Unit or user departments to a third party procurement or disposal provider.

10.2 Delegation of the Accounting Officer's own functions

10.2.1 An Accounting Officer may delegate in writing the following functions to a member of staff of a PDE:

- (a) certifying the availability of funds prior to the commencement of any procurement or disposal activity;
- (b) committing funds prior to contract placement;
- (c) communicating award decisions;
- (d) ensuring that the implementation of an awarded contract is in accordance with the terms and conditions of the award; and
- (e) implementing the recommendations of the Authority.

10.2.2 The Accounting Officer shall remain accountable for all decisions taken under the delegated authority.

10.3 Powers and functions of the Accounting Officer not to be delegated

10.3.1 The Accounting Officer shall not delegate the following powers and functions:

- (a) establishment of a Contracts Committee;
- (b) appointment of the members of the Contracts Committee;
- (c) establishment of a Procurement and Disposal Unit;
- (d) investigation of a complaint by a bidder; and
- (e) submission of reports of findings in respect of complaints to the Authority.

10.3.2 A holder of delegated authority is obliged at all the times to comply with the Guideline, the Act and the Regulations and any conditions of the delegation.

11.0 THIRD PARTY PROVIDERS

11.1 Functions which may be contracted out to a third party provider

11.1.1 Where there is lack of technical capacity an Accounting Officer may contract out a procurement or disposal function of the procuring and disposal entity to a third party.

11.2 Contracting a third party procurement provider

11.2.1 A third party procurement provider shall be selected from among providers pre-qualified by the Authority and shall be contracted by the PDE.

11.3 Contracts committee to approve submissions of third party providers

- 11.3.1 The third party contracted under this regulation shall submit a report of the procurement or disposal function undertaken, to the AO. A representative of the third party provider may be invited to attend a contracts committee meeting as an adviser in relation to any assignment undertaken.

12.0 SOURCING METHODS AND BIDDING PROCESS

- 12.1 The PDU shall source for providers of goods/services/works through any of the following applicable methods:

- (a) Advertising
- (b) Pre-qualification
- (c) Short listing
- (d) Direct Procurement

- 12.2 The bidding period shall be sufficient to allow bidders to prepare and submit their bids and shall not be reduced with the aim of limiting competition.

- 12.3 A bid may be withdrawn by the bidder at any time before the deadline for bid submission.

12.4 Bid Security and bid securing declaration

- 12.4.1 A bidding document shall state any requirement for a bid security or bid securing declaration in accordance with the PPDA Guideline No. 3/2014 on Bid and Performance Security.

12.5 Receiving and Closing of bids

- 12.5.1 The receiving and closing of bids shall be either by receipt of bids in person and issue of a receipt, use of a bid box or by signing in a bid register book.

- 12.5.2 The PDU shall ensure that its officer is available at the location where the bids are submitted for a reasonable period before the deadline. Bids shall be closed at the precise time and date stated in the closing deadline. The bid closing process shall be managed by the PDU and witnessed by a representative of the CC or a member of the UD.

12.6 Bid opening

- 12.6.1 Open domestic and restricted domestic bidding methods shall include a public bid opening and the solicitation document shall contain instructions to bidders regarding the:

- (a) Date and time of the bid opening;
- (b) Precise location of the bid opening; and
- (c) Information to be read out and recorded at the bid opening.

- 12.6.2 The bid box shall not be opened until the time of the public opening.

- 12.6.3 The bid opening shall be managed by the PDU in full view of the bidders' representatives.

12.7 Evaluation of Bids

- 12.7.1 Evaluation shall be conducted by an EC, which shall report to the PDU.
- 12.7.2 The evaluation criteria to be used shall be stated in the solicitation document. The evaluation shall be conducted in accordance with the stated criteria without any amendments or additions to the criteria. Evaluation criteria shall be used to assess compliance with the statement of requirements, ability to perform the proposed contract or ability to meet the objectives of the procurement.
- 12.7.3 Evaluation criteria shall not be drafted in a way, which restricts competition. Evaluation criteria which are not related to the statement of requirements, proposed contract or objectives of procurement shall not be included in the solicitation document.
- 12.7.4 Evaluations for works, non-consultancy services and supplies shall use the Technical Compliance Selection (TCS) evaluation methodology. The evaluation shall determine the best evaluated bid as the bid -
- (a) which is eligible and administratively compliant to the technical requirements of the procuring and disposing entity; and
 - (b) with the lowest evaluated price.
- 12.7.5 Evaluations for consultancy services shall be in accordance with the Act and Regulations.

12.8 Determination of compliance and responsiveness of bids

- 12.8.1 A PDE's determination of a bid's compliance and responsiveness shall be based on the contents of the bid itself.
- 12.8.2 A compliant and responsive bid shall be one that conforms to all the instructions, requirements, terms and conditions of the solicitation documents without material deviation or omission.
- 12.8.3 If a bid is not compliant and responsive to the solicitation documents, it shall be rejected by the PDE.
- 12.8.4 An Evaluation Committee may correct any non-conformity or omission in the bid that does not constitute a material deviation.
- 12.8.5 A material deviation shall be that deviation that:
- (a) has a major impact on key factors such as costs, risk, time and quality; and
 - (b) if corrected would unfairly affect the competitive position of the other bidders whose bids are administratively compliant and responsive.

12.9 Stages of evaluation process

- 12.9.1 An evaluation shall be conducted in three sequential stages:
- (a) a preliminary examination to determine the eligibility of a bidder and the administrative compliance of bids received;

- (b) a detailed evaluation to determine the commercial and technical responsiveness of the eligible and compliant bids; and
- (c) a financial comparison to compare costs of the eligible, compliant, responsive bids received and determine the best evaluated bid.

12.9.2 Post-qualification shall be conducted on the best evaluation bidder following completion of the financial comparison.

12.10 Evaluation report

12.10.1 An evaluation report shall be prepared for each evaluation.

12.10.2 All members of the EC shall sign the evaluation report.

12.10.3 An evaluation report shall contain reasons for the rejection of any bid and details of any non-material deviations accepted and the way in which they have been quantified and taken into account in the financial comparison.

12.10.4 The evaluation report shall contain recommendations on:

- (a) the best evaluated bidder and the evaluated price of the best evaluated bidder;
- (b) where necessary, the issues for which negotiations should be conducted with the bidder; and
- (c) a proposed price for the contract.

12.10.5 The PDU shall submit the evaluation report from the EC to the CC for a decision.

12.10.6 The PDE shall within five working days after the decision of the CC to award a contract display a notice of best evaluated bidder on the notice board of the PDE and deliver a copy of the notice of best evaluated bidder to all bidders who participated in the bidding process.

12.10.7 Where a bid is still valid and the contract document does not contain any counter offer, a contract shall be formed when the contract document is signed and issued by a PDE.

12.11 Performance Security

12.11.1 A performance security maybe requested to protect against non-performance of a contract in accordance with the PPDA Guideline on Bid and Performance Security.

12.12 Contract Management

12.12.1 After a contract has been placed, contract management shall pass from the PDU to UD. The PDU shall provide a copy of the contract to the UD. The UD shall prepare a contract implementation plan and forward a copy to the PDU for monitoring purposes.

13.0 PAYMENT TO PROVIDERS

13.1 Payment Terms

- 13.1.1 Solicitation documents and the resulting contracts shall specify the payment terms (methods and structures) that apply to a contract.

13.2 Payment Documents

- 13.2.1 The bidding documents shall clearly state the documents against which each payment shall be made. A payment document may include a document certifying or proving that:
- (a) the delivery or receipt of goods, works or services is in accordance with the terms of the contract;
 - (b) content of the consignments delivered;
 - (c) insurance coverage of the delivered items;
 - (d) successful inspection of the delivered items;
 - (e) Goods Received Note (GRN) for goods received into stores (see Annex 10);
 - (f) origin or eligibility of the delivered items;
 - (g) payment of costs specified in the contract, such as duties, levies, taxes that may be due and payable by the provider on the delivered items;
 - (h) acceptance of installation or commissioning of the delivered items by the user department;
 - (i) receipt or acceptance of reports, Guidelines, guides, or other documentation required as a deliverable against a contract;
 - (j) the actual time period worked;
 - (k) actual works or services completed;
 - (l) the payment of sums due to sub-contractors;
 - (m) payment to a provider/supplier will require an original invoice from the provider specifying the payment due.

14.0 ADMINISTRATIVE REVIEW

14.1 Grounds for administrative review

- 14.1.1 A bidder may seek administrative review for any omission or breach of the Act, the Regulations, the provisions of solicitation documents or best practices, by the PDE.
- 14.1.2 A bidder may submit an application for administrative review in writing to the AO copied to the Authority within ten working days from the date he or she first becomes aware of the circumstances giving rise to the complaint.
- 14.1.3 A bidder shall pay the sum of UGX 30,000 - upon lodging a request for administrative review. The Administrative Review Fee is refundable if the complaint is upheld following completion of the Administrative Review procedure.

14.2 Administrative review by the Accounting Officer

- 14.2.1 Upon receipt of an application for administrative review, the AO shall immediately suspend the procurement or disposal proceedings
- 14.2.2 The AO shall institute an investigation to consider:
- (a) the information and evidence contained in the application;
 - (b) the information in the records kept by the PDE;
 - (c) information provided by staff of the PDE;
 - (d) information provided by other bidders; and
 - (e) any other relevant information.
- 14.2.3 The AO shall issue his or her decision in writing within fifteen working days of receipt of the application and the decision shall indicate:
- (a) whether the application is upheld or rejected;
 - (b) the reasons for the decision; and
 - (c) corrective measures to be taken.
- 14.2.4 The AO shall submit a copy of his or her decision to the MOES or respective Local Government.

14.3 Administrative Review by the MOES or the respective Local Government

- 14.3.1 A bidder may submit an application for administrative review to the MOES or the respective Local Government where the AO does not issue a decision within ten working days or the bidder is not satisfied with the decision of the AO.
- 14.3.2 An application to the MOES for administrative review shall be submitted within ten working days from the date of the decision by the AO or the date by which the AO should have issued a decision.
- 14.3.3 Upon receipt of an application, the MOES shall immediately:
- (a) give notice of the application to the PDE;
 - (b) instruct the PDE to suspend any further action on the procurement or disposal requirement;
 - (c) notify all bidders of the application and invite them to submit any relevant information prior to a given deadline; and
 - (d) institute an investigation.
- 14.3.4 In investigating the application for administrative review, the MOES shall consider the following, where appropriate:
- (a) the information and evidence contained in the application;
 - (b) the information in the records kept by the PDE;
 - (c) information provided by staff of the PDE;
 - (d) information provided by the other bidders; and
 - (e) any other relevant information.
- 14.3.5 The MOES shall issue its decision in writing within twenty-one working days of the receipt of the application.

14.4 Appeal to the Authority

14.4.1 Where a bidder alleges that the MOES or the respective Local Government has a conflict of interest in respect of the complaint, it may submit an application for administrative review to the Authority, who may conduct the administrative review in place of the MOES or the respective Local Government.

14.4.2 A bidder may submit an application for administrative review to the Authority where the PS MOES or the respective AO of the Local Government does not issue a decision within twenty one working days or the bidder is not satisfied with the decision of the AO.

15.0 SUSPENSION OF PROVIDERS

15.1 Grounds for Suspension

15.1.1 A provider may be suspended from participating in public procurement or disposal of public assets on the following grounds:

- (a) Breach of the Code of Ethics for providers
- (b) The provider is debarred from the procurement processes of an international agency of which Uganda is a member
- (c) The provider is found to have a record of unsatisfactory performance following investigation by the Auditor General and an independent body appointed by the Auditor General
- (d) The provider is convicted of a corrupt or fraudulent practice under the Act.

15.1.2 The CC in the PDE shall lodge their complaints to the AO in writing recommending suspension and giving reasons for their recommendations.

15.1.3 The AO shall submit in writing a request to suspend a provider giving reasons for the requests to the Authority.

15.1.4 The Authority shall decide on a recommendation for suspension within twenty-one working days. Suspended suppliers are excluded from participating in public procurement and disposal for a period to be determined by the Authority on a case to case basis.

16.0 CONTENTS OF SOLICITATION DOCUMENTS

16.1 **Invitation for Bids (IFB):** This notice is issued to bidders inviting them to submit bids to the PDE.

16.2 **Instruction to Bidders (ITB):** This shall describe how bids are to be prepared and submitted, other documents required including performance bonds, bid forms, financial statements where applicable and contract references. This section shall highlight precautions against undue contact and attempts to influence procurement office staff, format for submitting bids, pricing and currency of the bids, domestic preference, and criteria for bid

evaluation and procedures for adjudication. The ITB has standard wording which should not be amended.

16.3 Bid Data Sheet (BDS): This is used to complement, supplement or amend the provisions in the ITB. It has clauses numbered to correspond with those in the ITB. Whenever there is a conflict the provision in the bid data sheet shall prevail.

16.4 Evaluation Methodology and Criteria: This section provides for evaluation methodology and criteria in accordance with the PPDA Regulations and 12.7 above.

16.5 Bidding Forms: This section contains the following bidding forms;

16.5.1 Supplies:

- (a) Bid submission sheet
- (b) Price schedule for supplies and related services
- (c) Bid security
- (d) Manufactures' authorization

16.5.2 Works:

- (a) Bid submission sheet
- (b) Activity schedule/bills of quantities
- (c) Bid security/bid securing declaration
- (d) Bid qualification form

16.5.3 Consultancy Services:

Technical Bid – Standard Forms

- (a) Technical Bid Submission Sheet
- (b) Bidder's References
- (c) Comments and Suggestions on the Terms of Reference
- (d) Description of the Methodology for performing the Assignment
- (e) Team Composition and Task Assignments
- (f) Format of Curriculum Vitae for Proposed Professional Staff
- (g) Estimated Time Schedule for Professional Staff
- (h) Activity (Work) Schedule
- (i) Bid Security

Financial Bid - Standard Forms


- (a) Financial Bid Submission Sheet
- (b) Summary of Bid Price (Breakdown of Lump Sum)
- (c) Breakdown of Fees
- (d) Breakdown of Reimbursables
- (e) Breakdown of Miscellaneous Expenses.

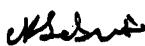
16.5.4 Non- Consultancy Services:

- (a) Bid Submission Sheet
- (b) Bid Security
- (c) Price Schedule
- (d) Qualification Form

- 16.6 **Eligible Countries:** This section indicates eligible countries to participate in the procurement.
- 16.7 **Statement of Requirements (SOR):** The Statement of Requirements defines the works, services or supplies to be purchased. The SORs may take the form of specifications for supplies, terms of reference for services and scope of works for works procurements.
- 16.8 **General Conditions of Contract (GCC):** The general conditions shall cover all possible aspects relating to the obligations of the supplier and purchaser in relation to the contract and shall define breach, fundamental breach of the terms and remedies applicable to either party. The GCC has standard wording which must remain unchanged in the format laid out in the standard bid documents.
- 16.9 **Special Conditions of Contract (SCC):** These are used to complement, supplement or amend the provisions of the GCC. Wherever there is a conflict the SCC shall prevail.
- 16.10 **Contract Forms:** These include an agreement/LPO, performance security and advance payment security.

Signed:


.....
Chairman of the Board of Directors


.....
Executive Director

ANNEXES

ANNEX 1 - Code of Ethical Conduct in Business

1. Ethical principles

(1) Employees shall not use their authority or office for personal gain and shall seek to uphold and enhance the reputation of the Ugandan Government at home and abroad by-

- (a) maintaining an impeccable standard of integrity in all business relationships both inside and outside the organizations in which they are employed;
- (b) fostering the highest possible standards of competence;
- (c) optimizing the use of resources for which they are responsible to provide the maximum benefit to Uganda; and
- (d) complying both with the letter and the spirit of-
 - (i) the laws of Uganda and regulatory guidance;
 - (ii) accepted business practices in commercial markets; and
 - (iii) contractual conditions.

2. Conflict of interest.

Employees shall reveal any personal interest that may impinge or might reasonably be deemed by others to impinge on an employee's business dealings with an industry.

3. Confidentiality and accuracy of information.

(1) Employees shall respect the confidentiality of information received in the course of business dealings and shall never use such information for personal gain.

(2) Information given by employees in the course of business dealings shall be true and fair and not designed to mislead.

4. Competition.

Employees shall avoid any business arrangement that might prevent the effective operation of fair competition.

5. Business gifts.

Employees shall not accept business gifts from current or potential Government Providers unless such gifts are of very small intrinsic value such as a calendar or a pen.

6. Hospitality.

Employees shall refrain from any business hospitality that might be viewed by others as having an influence in making a government business decision as result of accepting that hospitality.

7. Restrictiveness.

A member of the Authority, a procuring and disposing entity or expert contracted to deliver specific services shall not use to his or her personal or organizational advantage, information acquired by him or her by virtue of his or her association with the Authority or a procuring and disposing entity for a period of one year after vacating office or ceasing to render the specific services.

8. Definitions

In this Schedule, "employee" means a public officer and an expert.

Code of Ethical Conduct for Bidders and Providers

1. Ethical Principles

Bidders and providers shall at all times-

- (a) maintain integrity and independence in their professional judgment and conduct;
- (b) comply with both the letter and the spirit of-
 - (i) the laws of Uganda; and
 - (ii) any contract awarded.
- (c) avoid associations with businesses and organizations which are in conflict with this code.

2. Standards

Bidders and providers shall-

- (a) strive to provide works, services and supplies of high quality and accept full responsibility for all works, services or supplies provided.
- (b) comply with the professional standards of their industry or of any professional body of which they are members.

3. Conflict of Interest

Bidders and providers shall not accept contracts which would constitute a conflict of interest with, any prior or current contract with any procuring and disposing entity. Bidders and providers shall disclose to all concerned parties those conflicts of interest that cannot reasonably be avoided or escaped.

4. Confidentiality and Accuracy of Information

- (1) Information given by bidders and providers in the course of procurement processes or the performance of contracts shall be true, fair and not designed to mislead.
- (2) Providers shall respect the confidentiality of information received in the course of performance of a contract and shall not use such information for personal gain.

5. Gifts and Hospitality

Bidders and providers shall not offer gifts or hospitality directly or indirectly, to staff of a procuring and disposing entity that might be viewed by others as having an influence on a government procurement decision.

6. Inducements

- (1) Bidders and providers shall not offer or give anything of value to influence the action of a public official in the procurement process or in contract execution.
- (2) Bidders and providers shall not ask a public official to do anything which is inconsistent with the Act, Regulations, Guidelines or the Code of Ethical Conduct in Business.

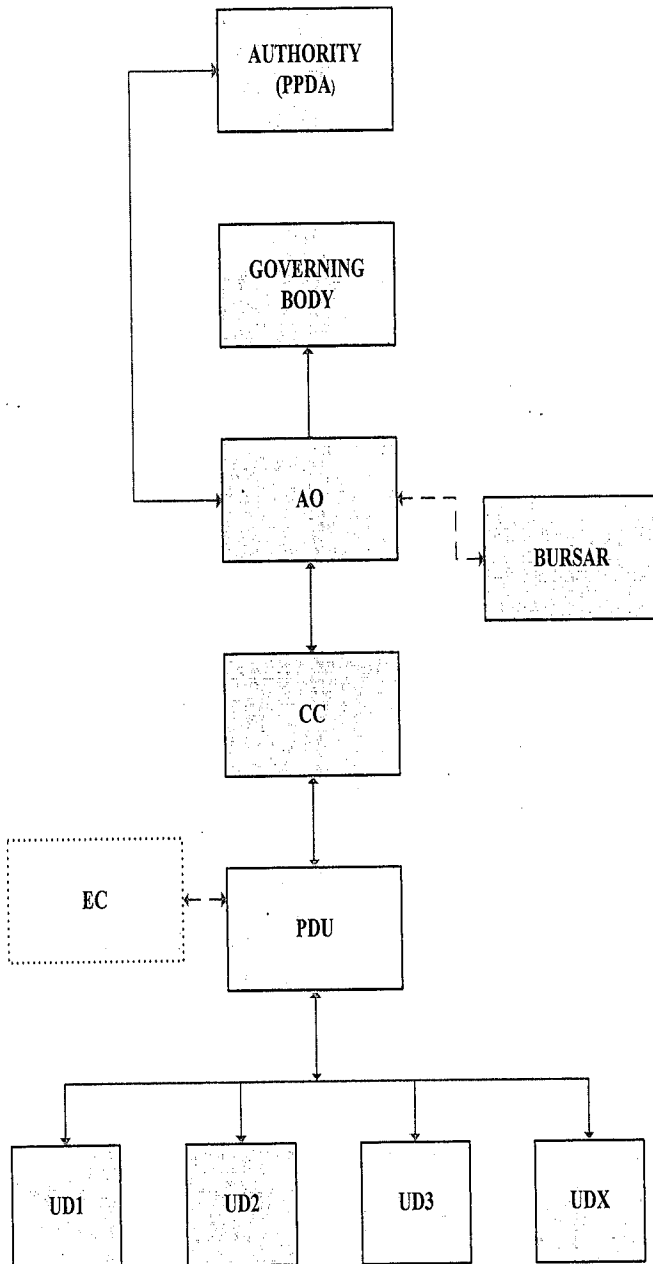
7. Fraudulent Practices

Bidders and providers shall not-

- (a) collude with other businesses and organizations with the intention of depriving a procuring and disposing entity of the benefits of free and open competition;
- (b) enter into business arrangements that might prevent the effective operation of fair competition;

- (c) engage in deceptive financial practices, such as bribery, double billing or other improper financial practices;
- (d) misrepresent facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring and Disposing Entity;
- (e) unlawfully obtain information relating to a procurement process in order to influence the process or execution of a contract to the detriment of the PDE;
- (f) withholding information from the PDE during contract execution to the detriment of the PDE.

**ANNEX 2 - Chart A: Standard Procurement and Disposal Structure of a
Procuring & Disposing Entity**



Key:

- AO – Accounting Officer
- PDU – Procurement and Disposal Unit
- EC – Evaluation Committee
- CC – Contracts Committee
- UD1 – UDX : User Departments

ANNEX 3 - Procedural Steps for Micro Procurement

Procurement Activity	Form to Use	Responsible Person
Initiate procurement requirement and pass completed form to the PDU	Form 5	UD
Obtain three quotations from bidders on the PDEs pre-qualification list	-	PDU
Compare the three quotations to identify the lowest priced responsive bid	Form 16 – Table 3	PDU
Issue an LPO to the best evaluated bidder	-	PDU
Hand over copy of signed contract to the UD	-	PDU
UD to manage the contract	-	UD

ANNEX 4 - Procedural Steps for Quotations Method

Procurement Activity	Form to Use	Responsible Person
Initiate procurement requirement and pass completed form to the PDU	Form 5	UD
Submit to CC for approval of method, shortlist of bidders, bid document and EC	Form 5	PDU
Issue bidding documents, receive bids, close bids and open bids	Form 8, 11 and 12	PDU
Submit bids to EC for evaluation	-	PDU
Evaluate bids and determine the lowest priced responsive bid which will be the best evaluated bid and make recommendation for award	Form 14, 16 or 17	EC
Seek approval of award and the draft contract to the Contracts Committee	-	PDU
Issue a notice of best evaluated bid ten days before signing the contract	-	PDU
Submit contract document to the AO for signing	-	PDU
Hand over copy of signed contract to the UD	-	PDU
UD to manage the contract	Form 49	UD

ANNEX 5 - Procedural Steps for Restricted Domestic Bidding

Procurement Activity	Form to Use	Responsible Person
Initiate procurement requirement and pass completed form to the PDU	Form 5	UD
Submit to CC for approval of method, shortlist of bidders, bid document and EC	Form 5	PDU
Issue bidding documents, receive bids, close bids and open bids	Form 8, 11 and 12	PDU
Submit bids to EC for evaluation	-	PDU
Evaluate bids and determine the lowest priced responsive bid which will be the best evaluated bid and make recommendation for award	Form 14, 16 or 17	EC
Seek approval of award and the draft contract to the Contracts Committee	-	PDU
Issue a notice of best evaluated bid five days before signing the contract	-	PDU
Submit contract document to the AO for signing	-	PDU
Hand over copy of signed contract to the UD		PDU
UD to manage the contract	Form 49	UD

ANNEX 6 - Procedural Steps for Open Domestic Bidding

Procurement Activity	Form to Use	Responsible Person
Initiate procurement requirement and pass completed form to the PDU	Form 5	UD
Submit to CC for approval of method, bid document and EC	Form 5	PDU
Advertise bid notice, issue bidding documents, receive bids, close bids and open bids	Form 8, 11 and 12	PDU
Submit bids to EC for evaluation	-	PDU
Evaluate bids and determine the lowest priced responsive bid which will be the best evaluated bid and make recommendation for award	Form 14, 16 or 17	EC
Seek approval of award and the draft contract to the Contracts Committee	-	PDU
Issue a notice of best evaluated bid five days before signing the contract	-	PDU
Submit contract document to the AO for signing	-	PDU
Hand over copy of signed contract to the UD		PDU
UD to manage the contract	Form 49	UD

ANNEX 7- FORM 5

Regulation 3(5), 12 (3), 13(3), 14(4), 15(4),
17(2), 44 (4)

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003

REQUEST FOR APPROVAL OF PROCUREMENT

PART I: REQUEST BY USER DEPARTMENT FOR APPROVAL OF PROCUREMENT

Procurement Reference Number			
Code of Procuring and Disposing Entity	Supplies/Works/Non-consultancy services	Financial year	Sequence number

Particulars of Procurement	
Subject of Procurement	
Procurement Plan Reference	
Location for Delivery	
Date Required	
Details relating to the Procurement	

Item No.	Description <i>(Attach specifications, terms of reference or scope of works)</i>	Quantity	Unit of Measure	Estimated Unit Cost	Market price of the procurement
Currency: _____ Estimated Total Cost: _____					

(1) Request for Procurement (Member of user department) (2) Confirmation of request (Head of user department)

Name: _____

Title: _____

Signature: _____

Date: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Availability of funds to be confirmed prior to approval by Accounting Officer:

Vote/head No	Programme	Sub-programme	Item	Balance remaining

(3) Confirmation of funding and approval to procure
(Accounting Officer)

Name: _____
Title: _____
Signature: _____
Date: _____

PART II: REQUEST BY PROCUREMENT AND DISPOSAL UNIT FOR APPROVAL OF PROCUREMENT METHOD

Submission by the Procurement and Disposal Unit		Decision by Contracts Committee	Conditions/Justification for decision
	Date of submission to Contracts Committee	Date/reference of Contracts Committee meeting	
1.	Recommended method of procurement and justification		
2.	Names of shortlisted provider (s) and justification for selection		

3.	Bidding document. Persons involved in preparation of proposal document (<i>Names and positions</i>)				
4.	Names of persons recommended to constitute the Evaluation Committee and the justification (<i>Names and positions</i>)				
5.	Cost of the bidding document, if any				
6.	Any other information				

Documents attached:

- 1. Bidding Document

Declaration by Procurement and Disposal Unit

The information contained in this form and the attached documents is complete, true and accurate and in accordance with the Public Procurement and Disposal of Public Assets Act, 2003.

Name: _____
Position: _____
Signature: _____
Date: _____

Declaration by Contracts Committee

The information contained in this form is a true and accurate record of the decision of the Contracts Committee meeting held on the above date.

Name: _____
Position: _____
Signature: _____
Date: _____
Name: _____
Position: _____
Signature: _____
Date: _____

Chairperson Contracts Committee

Secretary Contracts Committee

ANNEX 8 - QUARTERLY REPORT ON PROCUREMENT

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS ACT, 2003
QUARTERLY REPORT ON PROCUREMENT AND DISPOSAL CONTRACTS

(Insert Name of Procuring and Disposing Entity here)

Quarter of Reporting	
Financial year	

PART I: PROCUREMENT CONTRACTS AWARDED (except Micro Procurement)						
Procurement Reference Number	Subject of procurement	Method of procurement	Provider	Date of award of contract	Market price of the procurement	Contract value (Currency and amount)
				TOTAL		

PART II: PROCUREMENT CONTRACTS AMENDED OR VARIED						
Procurement Reference Number	Subject of procurement	Indicate Amendment or variation	Provider	Date of amendment or variation	Value of A/V (currency and amount if applicable)	Revised contract value and currency if applicable

PART III: PROCUREMENT CONTRACTS COMPLETED					
Procurement Reference Number	Subject of procurement	Provider	Date of completion	Total amount paid and currency	Contract value (Currency and amount)
			TOTAL		

No	Procurement reference number	Subject of procurement	Provider	Invoice and date of delivery/completion	Contract value (Currency and amount)
Total value of micro procurements of the Procuring and Disposing Entity					

PART V: QUARTERLY REPORT ON DISPOSAL						
Disposal reference number	Subject of disposal	Method of disposal	Name of buyer	Date of award	Reserve price	Contract price (Currency and amount)
TOTAL						

Declaration

I hereby certify that the above information is a true and accurate record of the procurement and disposal contracts undertaken by the within the quarter.

Name: _____

Signature: _____

Date: _____

Accounting Officer

**ANNEX 9 - FRAMEWORK CONTRACT AGREEMENT FOR
PROCUREMENT OF GOODS AND SERVICES**

THIS AGREEMENT is made this Day ofbetween
..... (School/Institution)
(hereinafter referred to as “the Purchaser”) of P. O. Boxof the one part
and(hereinafter referred
to as “the supplier”) of P. O. Box of the other part.

WHEREAS the Purchaser is desirous that the following goods and or ancillary
services should be provided by the Supplier (brief description of goods and services)
and has accepted a tender by the Supplier for the supply of those goods and services
for the following prices for a period of

S/No.	Description of goods and services	Unit measure	Unit Price	Minimum Order Quantity

NOW THEREFORE THIS CONTRACT WITNESS AS FOLLOWS:

1. Payment

The Supplier shall raise the invoice for payment after every
..... call off orders.

2. The Purchaser has agreed to pay for the goods and services under this
agreement within days of the submission of an invoice for
payment with the delivery note.

3. Delivery

The Supplier shall deliver the goods at a place
specified by the Purchaser. However, the Supplier shall notify the Purchaser of
the time of the said delivery at least days prior to delivery,
and at that time the Purchaser and the Supplier shall discuss the details of the
method of delivery. Such delivery shall be deemed to be completed after the
inspection and endorsement of the delivery note by the purchaser.

4. Warranty

The Supplier shall warranty that the goods supplied under this contract shall be of wholesome condition for use or consumption and/or shall have no defect arising from design, materials or workmanship or from any act or omission of the Supplier other than those that may develop under normal use of the supplied goods in the conditions prevailing in Uganda.

This warranty shall remain valid for a period of months after the goods have been delivered to and accepted by the Purchaser. The Purchaser shall within 10 days of delivery of the goods or discovery of complaint, notify the Supplier of any claims arising under this warranty.

5. Prices

Prices charged by the Supplier for the Goods and/or services performed under the contract shall not vary from the prices quoted by the Supplier in its tender, under the framework contract with the exception of any price adjustments authorized by the Contract Committee of the Purchaser.

7. Contract Amendments

No variation in or modification of the terms of the contract shall be made except by written amendment signed by the parties.

8. Assignment

The Supplier shall not assign, or sub contract in whole or in part, its obligations to perform under this contract except with the Purchaser's written consent.

9. Delays in Supplier's Performance

If at any time during performance of the contract the Supplier should encounter conditions impeding timely delivery of the goods, the Supplier shall promptly notify the Purchaser in writing of the fact of the delay, its likely duration and its cause.

The Purchaser shall evaluate the situation and may extend the Supplier's time for performance, by amendment of the contract.

10. Termination for Default

The Purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the Supplier, may terminate this contract in whole or in part:

- a) If the Supplier fails to deliver any or all of the goods within the period specified in the contract or within the extension thereof granted by the purchaser,
- b) If the Supplier fails to perform any other obligation under the contract.

IN WITNESS OF THIS agreement the parties to this agreement set their hands and seal this agreement on the day and the year first above written.

SIGNED SEALED AND DELIVERED

by (Purchaser)

Authorized Signature

WITNESS

Signature

SIGNED SEALED AND DELIVERED

by (Supplier)

Authorized Signature

WITNESS

Signature