



HANDBOOK FOR JOINT TRAINING MODULE 4: FIGHTING CORRUPTION IN PUBLIC INFRASTRUCTURE DEVELOPMENT

**HANDBOOK FOR JOINT TRAINING MODULE 4:
FIGHTING CORRUPTION IN PUBLIC
INFRASTRUCTURE DEVELOPMENT**

HANDBOOK FOR JOINT TRAINING MODULE 4:
FIGHTING CORRUPTION IN PUBLIC INFRASTRUCTURE DEVELOPMENT.
A publication of the Office of the Auditor General (OAG), Inspectorate of
Government (IG), and Public Procurement and Disposal of Public Assets Authority
(PPDA).

Produced by The Africa Leadership Institute with support from GIZ.

Technical advisor: Hon. David Pulkol,
Lead Consultants: Mesharch W. Katusiimeh, Jeff Wadulo, Dr. Gerald Werikhe,
Rael Cheptoris, Tobias Onweng & Angella Martina

All rights reserved.
AFRICA LEADERSHIP INSTITUTE
Plot 7 Kulubya Close, off Prince Anne Drive Bugolobi
P. O. Box 25898, Kampala | website: www.aflinstitute.net

Designed by Some Graphics Ltd

Contents

Acronyms	iii
Acknowledgments.	iv
The Handbook	v
MODULE 4: FIGHTING CORRUPTION IN PUBLIC INFRASTRUCTURE DEVELOPMENT.	1
4.1 TOPIC 1: PROCUREMENT LAWS AND GUIDELINES	2
4.1.1 Introduction	2
4.1.2 Learning Objectives	2
4.1.3 Procurement Laws and Regulations	2
4.1.4 Amendment of the Administrative Review Process	3
4.1.5 Amendment of the Functions and Powers of the PPDA Authority	4
4.1.6 Concepts in Procurement laws and regulations	5
4.2 TOPIC 2: CONTRACT SPECIFICATIONS & CONTRACT MONITORING . .	11
4.2.1 Introduction	11
4.2.2 Learning Objectives	12
4.2.3 What's the meaning of Contract specifications and contract monitoring?	12
4.2.4 Opportunities for CSOs in engagement in monitoring.	15
4.2.5 Conclusion.	15
4.2.6 The Case of the Stadium Construction in rural Uganda	15
4.3 TOPIC 3: WRITING MONITORING REPORTS AND RECOMMENDATIONS .	17
4.3.1 Session Introduction:	17
4.3.2 Learning Objectives	17
4.3.3 Overview of Public Infrastructure Construction in Uganda . . .	17
4.3.4 Importance of reporting results of the assessment of public infrastructure development:	18
4.3.5 Writing a report of assessment of public infrastructure	18

4.4	TOPIC 4: MONITORING IMPLEMENTATION OF RECOMMENDATIONS . .	20
4.4.1	Session Introduction.	20
4.4.2	Learning Objectives	20
4.4.3	Presentation	20
1.4.5	Importance of a follow-up on the implementation of recommendations	21
1.4.6	Preparation for making a follow-up of the implementation of services improvement	21

Acronyms

AFLI	Africa Leadership Institute
CSOs	Civil Society Organisations
DEI	Directorate for Ethics and Integrity
GIZ	The Deutsche Gesellschaft für Internationale Zusammenarbeit
IG	Inspectorate of Government
KCCA	Kampala Capital City Authority
OAG	Office of the Auditor General
PDEs	Procuring and Disposal Entities
PPDA	Public Procurement and Disposal of Public Assets Authority
TAAC	Transparency, Accountability, and Anti-Corruption
UGX	Uganda Shillings

Acknowledgments

This Handbook was drafted by the Africa Leadership Institute (ALI) with support from GIZ and with significant contributions from the Joint Stakeholder Engagement Committee of the collaborating Anti-corruption Agencies in Uganda, who provided important inputs and reviews. The team from ALI included: Mesharch W. Katusiimeh, David Pulkol, Jeff Wadulo, Rael Cheptoris, Tobias Onweng, Gerald Werikhe and Angella Martina.

The Joint Stakeholder Engagement Committee included: Mr. Gerald Gwaira, Mr. Ronald Tumuhairwe, Mr. Jude Natamba, Ms. Joan Ayikoru, Gloria Namugera, Dorren Kyazze, Farouk Kayondo, Susan Anibaya and Martin Waiswa.

We also thank the several CSOs and citizens who participated in the situation analysis on the existence of CSO materials on TAAC for the useful feedback that informed the shaping and content of this handbook.

The Handbook

This is one of the four (4) Joint Training Handbooks that has been consultatively developed as reference material for facilitators to train Civil Society Organizations (CSOs) in Uganda on Transparency Accountability and Anti-Corruption (TAAC). The Handbook contains detailed material for the facilitator's reference for **Module 4** in the Joint CSO Training Manual on TAAC developed for the same purpose. The handbook can also be used for training other CSOs in similar contexts.

The handbooks consolidate all topics relevant to the work of all anti-corruption agencies into four documents. However, each handbook can be used independently as may be needed for each module. After the delivery of every topic, the facilitators can refer learners to the handbook to obtain more or detailed information on the topic. Each Module has a handbook for more detailed and comprehensive information on the topics.

Handbook Structure

The Handbook has four topics:

TOPIC 1: PROCUREMENT LAWS AND GUIDELINES

TOPIC 2: CONTRACT SPECIFICATIONS & CONTRACT MONITORING

TOPIC 3: WRITING MONITORING REPORTS AND RECOMMENDATIONS

TOPIC 4: MONITORING IMPLEMENTATION OF RECOMMENDATIONS

Instructions to users

This handbook brings together 4 topics and how they address the issue of corruption. Please use this handbook as a reference to the training instructions in **Module 4** of the **Joint CSO Training Manual on Transparency, Accountability, and Anti-Corruption (TAAC)**.

Introduction: This gives background information to the topic.

Presentation: This is the content or subject matter of the topic and can be presented in form of a PowerPoint or notes.

MODULE 4: FIGHTING CORRUPTION IN PUBLIC INFRASTRUCTURE DEVELOPMENT

Introduction

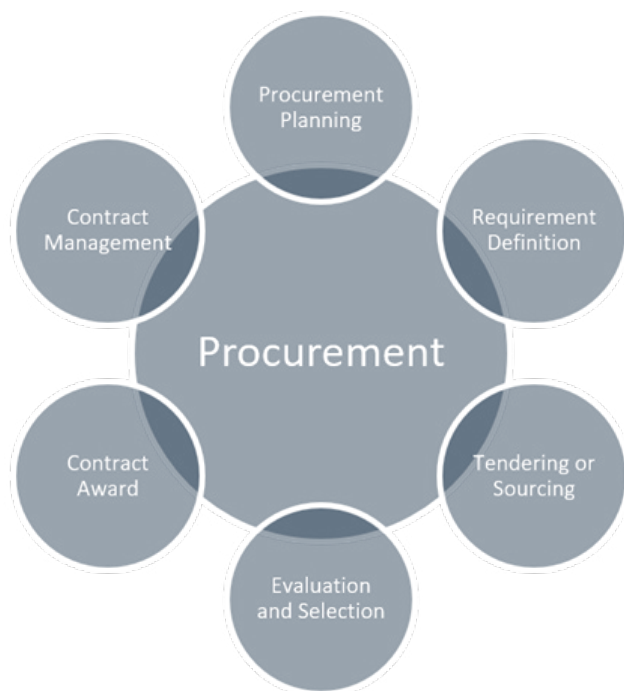
Developing public infrastructure is one of the most challenging issues in developing countries. Although raising resources for the same is a challenge, making good use of the available financial resources is a greater challenge. This is so because of among other factors leakages in the procurement process. In the public sector, the procurement budget usually towers all other expenditures as a percentage of the national budget. For instance, in Uganda, in FY 2009/10 government earmarked at least 41% of its total budget (UGX 7.3 trillion) to be spent on procurement within the public sector. If there are no sufficient regulations and monitoring by independent entities, leakages can lead to wastage. Therefore, in this module, efforts are made to ensure that participants understand the procurement laws and regulations in Uganda, as well as contract/implementation monitoring.



4.1 TOPIC 1: PROCUREMENT LAWS AND GUIDELINES

4.1.1 Introduction

Topic one entails understanding the procurement laws and guidelines in the Ugandan context. Understanding laws will empower participants with legal knowledge to monitor public sector procurement better.



Logistics Operation Guide: <https://log.logcluster.org/display/LOG/Procurement>

4.1.2 Learning Objectives

At the end of studying materials in this topic, participants should be able to:

1. Understand the principal law of procurement in Uganda
2. Be able to understand the key terminologies used in procurement in the public sector.
3. Be knowledgeable about the various procurement guidelines and regulations issued by the PPDA in Uganda.

4.1.3 Procurement Laws and Regulations

The Public Procurement and Disposal of Public Assets Act, 2003 (Act 1 of 2003): Attempts to strengthen the Public Procurement Sector regulation through establishment of a comprehensive law in Uganda was initiated in 2003 with the enactment of the Public Procurement and Disposal of Public Assets Act, 2003 (Act 1 of 2003). The law established the Public Procurement and Disposal of Public Assets Authority (PPDA) with the mandate of regulation to ensure compliance with the procurement law, do capacity building on procurement

in public institutions and promote transparency and competition. It established the various structures of the PPDA such as the Board and its powers, the appointment of the Executive Director and staff among others.

The PPDA (Amendment) Act, 2021: Recent Amendments

In recognition of the continuously changing public procurement environment in Uganda and in an effort to make the procurement dispute resolution mechanism effective, the Public Procurement and Disposal of Public Assets Act (PPDA Act) has been amended. Originally enacted as the PPDA Act, No. 1/2003, it was first substantially amended in 2011 by the PPDA (Amendment) Act, No. 11/2011 (although there was a 2006 amendment effected by the Local Governments (Amendment) Act, No 2/2006). The procurement law has substantially been amended for the second time by the Public Procurement and Disposal of Public Assets (Amendment) Act, No 15/2021. The amendment Act commenced on July 2, 2021, upon being gazetted in the Uganda Gazette of that date.

Briefly, the 2021 amendment Act has amended the 2003 principal Act to:

- 1) Remove the Authority from the administrative review process.
- 2) Provide for the appointment of a Registrar of the Tribunal.
- 3) Provide for marginalized groups under reservation schemes.
- 4) Provide for the powers of the High Court in procurement proceedings.
- 5) Provide for the aggregation of procurement requirements.
- 6) Provide for the functions of the Authority and the Board of Directors of the Authority.
- 7) Provide for electronic records and communication.
- 8) Amend the Kampala Capital City Act and Local Governments Act with respect to procurement and for related purposes.

4.1.4 Amendment of the Administrative Review Process

The amendment Act (section 34) repeals sections 90 and 91 of the principal Act which had provided for administrative review by the PPDA Authority. Administrative review is statutory relief availed to an aggrieved bidder for any omission or breach of the Act or regulations or provisions of a bidding document by a procuring and disposing entity.

Initially, the administrative review process had three (3) stages of review, as follows:

- 1) At the first stage, an application for administrative review was made to the Accounting Officer of the entity within 10 working days from the date of circumstances leading to the complaint.

- 2) At the second stage, the complaint was made to the PPDA Authority within 10 working days from the receipt of the notification on the decision of the Accounting Officer.
- 3) The third and final stage entailed lodging the application with the PPDA Appeals Tribunal within 10 working days from the date from which the decision of the Authority was made. Notably, appeals on questions of law and facts from decisions of the PPDA Appeals Tribunal could be made to the High Court within 30 days after being notified of the decision of the Tribunal.

The amendment Act (section 34) has now done away with the second stage of administrative review by the Authority. There are only two stages now—administrative review by the Accounting Officer and by the Tribunal. A bidder who is aggrieved or whose rights are affected by the decision of an Accounting Officer can apply to the PPDA Appeals Tribunal for administrative review. In case of allegations of conflict of interest against the accounting officer or partiality by the procuring or disposing entity, the bidder applies directly to the Tribunal for determination of the complaint, omission, or breach.

The aggrieved bidder must give written notice to the Accounting Officer of the intention to make an application to the Tribunal. Further, under the amendment, the Tribunal now has 15 working days to issue a decision from the date of receipt of an application for review unlike before when it had to do so with 10 working days. As regards appeal to the High Court, the amendment Act (Section 41) amends section 91M of the principal Act to restrict appeals to questions of law only.

4.1.5 Amendment of the Functions and Powers of the PPDA Authority

One of the most consequential amendments is the change in the functions and powers of the PPDA Authority (as provided under sections 7 and 8 of the principal Act). The amendment Act (section 5) amends the functions of the Authority (as provided under section 7(1)(a) of the principal Act) to include advising procuring and disposing entities on the application of the Act, the regulations, and any guidelines made under the Act.

Additionally, the amendment Act (section 6) amends the powers of the Authority, in the exercise of its regulatory function (section 8(1)(a)-(c) of the principal Act), to include the power to require information, documents, records, and reports with respect of a procurement or disposal process; call for the production of books of accounts or documents; and institute procurement and disposal contract as well as performance audits. The amendment Act further (in amending section 8(1) (e) of the principal Act) gives the Authority power to investigate and act on complaints received on a procurement or disposal process from members of the public that are not subject to administrative review or review by the Tribunal.

Recognition of Electronic Records and Communication.

The amendment Act (section 45) introduces a new provision section 95B to the principal Act that permits the use of electronic records and communication (in respect of information or document) by the PPDA Authority, an entity, or a bidder during a procurement or disposal process. This amendment is a clear manifestation of the COVID-19 times and a recognition of the existing restrictions on movements that have called for a much-needed acceptance and reliance on electronic means of communication. Procurement and disposal processes can now be conducted electronically from start to finish unlike before.

Appointment of Registrar (and other officers and employees) of the PPDA Tribunal.

The amendment Act (section 37) amends section 91G of the principal Act to require the Registrar to be appointed by the Tribunal in consultation with the Judicial Service Commission. It also permits the Tribunal to appoint other officers and employees as may be necessary for the effective discharge of the functions of the Tribunal.

Procurement Regulations for Kampala Capital City Authority and the Local Governments

The principal Act provides under section 96(1) for the Minister, on approval of Parliament, to issue regulations for the better carrying out of the objectives and functions of the Act. Under section 96(2), the Minister is also responsible for issuing regulations for procurement and disposal of a procuring and disposing entity outside Uganda. The amendment Act (section 47) introduces a new section 96A in the principal Act to provide for the making of the regulations for the Kampala Capital City Authority (KCCA) and local governments without the need for Parliament's approval but in consultation with the line Ministers for KCCA and local governments.

The recent amendments to the PPDA Act 2003 have addressed the challenges faced by the principal legislation in the management of time and unnecessary delays occasioned by the lengthy administrative review process. The PPDA Authority issued a circular on 7th July, 2021 directing all Accounting Officers to comply with the amendments. It is therefore important for all procurement law practitioners and prospective participants in the public procurement and disposal processes to take note of these recent developments in Uganda's procurement law.

4.1.6 Concepts in Procurement laws and regulations

This section introduces participants to concepts in the procurement laws and regulations. Understanding them empowers trainees with knowledge to apply them in the monitoring of procurement processes.

“Accounting Officer”: means the Accounting Officer of a procuring and

disposing entity so appointed by the Secretary to the Treasury, and for the avoidance of doubt includes the Accounting Officer of a Local Government or a statutory body.

“Authority”: means the Public Procurement and Disposal of Public Assets Authority established in section 5 of PPDA Act 2003.

“Award”: means a decision by a Tender Board established under the Local Governments Act, 1997 or Contracts Committee provided for in paragraph (b) of section 24, or any other subsidiary body of a procuring and disposing entity to which a Contracts Committee or a Tender Board may delegate powers of adjudication and award within a specified financial threshold, 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.

“Bid Notice”: means any advertisement by which eligible providers are invited to submit written offers to provide or acquire works, services, and supplies, or any combination of them in case of procurement and disposal respectively;

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

“Bribery”: The promise, offer, or giving of any benefit that improperly affects the actions or decisions of a public official. A bribe may be given to a public servant (direct), or another person or entity (indirect). A bribe may consist of money, inside information, gifts, entertainment, sexual or other favors, a job, company shares, etc.

“Contract”: means an agreement between a procuring and disposing entity and a provider, resulting from the application of the appropriate and approved procurement or disposal procedures and proceedings as the case may be, concluded in pursuance of a bid award decision of a Contracts Committee or any other appropriate authority.

“Corrupt practice”: includes the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement or disposal process or contract execution.

“Corruption”: The Inspectorate of Government Act 2002 defines corruption as “abuse of public office for private gain and includes but is not limited to embezzlement, bribery, nepotism, influence peddling, theft of public funds or assets, fraud, forgery, causing financial or property loss, and false accounting in public affairs.”

“Disposal” It means the divestiture of public assets, including intellectual and proprietary rights and goodwill, and any other rights of a procuring and disposing entity by any means, including sale, rental, lease, franchise, auction, or any combination however classified other than those regulated by the Public Enterprise Reform and Divestiture Statute, 1993.

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

“Diversion of funds”: Use of public funds on items other than that which are budgeted and/approved. Example: Money meant for Repair of roads used in paying allowances.

“Embezzlement”: Theft of resources by persons entrusted with authority and control over these valuable resources.

“Extortion”: This is intentionally gaining some advantage, material or immaterial, from another person or entity by placing illegitimate pressure in the form of threats or intimidation to force him/her to hand over the benefit. This coercion can be under the threat of physical harm, violence, or restraint and may even be a threat that a third party will suffer injury. The accused must intend his/her words to be interpreted and act as a threat(s). S/He must also intend to gain some advantage as a result of the threat while knowing that the threat is illegal. For example, a person is threatened with arrest unless s/he pays a border official to enter the country.

“Favouritism”: The provision of services or resources according to personal affiliations such as family ties, party affiliation, tribe, religion, sect, and other preferential groupings. Example: A public servant provides extraordinary services, commissions, jobs, and favors to political allies, family, and friends, while ordinary members of the public do not receive this special treatment.

“Foreign provider” means a provider whose business is not registered in Uganda.

Fraud: Fraud is deliberately deceiving another person in order to damage them – usually, to obtain property or services unjustly. Fraud can be accomplished through the aid of forged objects. In the Criminal Law of Jurisdictions, it is called “theft by deception”.

“Fraudulent Practice”: fraudulent practice includes a misrepresentation of facts to influence a procurement or disposal process or the execution of a contract to the detriment of the procuring or disposing entity and includes collusive practices among bidders before or after bid submission designed to establish bid prices at artificial non-competitive levels and to deprive the procuring and disposing entity of the benefits of free and open competition.

“Guidelines”. “Guidelines” means directives issued by the Authority under section 97 of this Act, Industry Standards.

“Industry standards” means those standards defined and codified by internationally recognized providers’ associations and professional bodies in the respective fields and includes best practices.

“Listed Provider”: “listed provider” means a provider registered by the Authority in accordance with this Act; National Provider.

“National provider” means a provider registered in Uganda and wholly-owned and controlled by Ugandans.

“Nepotism”: Ensuring that family members are appointed to the public service or that family members receive contracts from state resources. Similar to conflict of interest and favoritism. For example, a head of department appoints his/her brother’s child to a position even if more suitable candidates applied for the same position.

“PPDA”: Public Procurement and Disposal of Public Assets Authority (PPDA) is a regulatory body in the public procurement and disposal sector in Uganda under PPDA Act No. 1 of 2003.

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

“Procurement”: “procurement” means acquisition by purchase, rental, lease, hire purchase, license, tenancy, franchise, or any other contractual means, of any type of works, services or supplies or any combination.

“Procurement and Disposal Unit”: “Procurement and Disposal Unit” means a division in each procuring and disposing entity responsible for the execution of the procurement and disposal function.

“Procurement Process”: “procurement process” means the successive stages in the procurement cycle including planning, choice of procedure, measures to solicit offers from bidders, examination, and evaluation of those offers, award of contract, and contract management.

“Procuring and Disposal Entity”: This refers to a statutory body, department of the central government, local government and any other body or unit established and mandated by the government to carry out public functions.

“Provider” means a natural person or an incorporated body including a consultant, contractor, or supplier licensed by a competent authority to undertake business activities using public funds.

“Public funds”: means monetary resources appropriated to procuring and disposing entities through budgetary processes, including the Consolidated 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.

“Resident Provider”: This refers to a provider registered in Uganda who is not a national provider.

“Services” means any object of procurement or disposal other than works and supplies, and includes professional, non-professional and commercial types of services as well as supplies and works which are incidental to, but not exceeding the value of those services.

“Solicitation documents” These refer to bidding documents or any other documents inviting bidders to participate in procurement or disposal proceedings, and includes documents inviting potential bidders to pre-qualify, and standard bidding documents.

“Specifications” 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, the use of which shall be mandatory in all bidding documents.

“Supplies”: “supplies” means goods, raw materials, products, equipment 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 those supplies where the value of the works or services does not exceed the value of the supplies.

“Tender” “tender” means “bid”.

“User Department”: “User Department” means any department, division, branch, or section of the procuring and disposing entity, including any project unit working under the authority of the procuring and disposing entity, which initiates procurement and disposal requirements and is the user of the requirements.

“Works”: This refers to 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, turnkey projects, build own and operate projects, build operate and transfer projects or any arrangement of this nature, or any other form of private and public partnerships or joint development activities, all or any of which may include management, maintenance, testing, commissioning and training; as well as supplies or services incidental to those works where the value of the incidental supplies or services does not exceed the value of the works.

- 1) PPDA Administrative Review Regulations, 2014
- 2) PPDA Contracts Regulations, 2014.
- 3) PPDA Disposal of Public Assets Regulations, 2014.
- 4) PPDA Evaluation Regulations, 2014
- 5) PPDA Force of Account Mechanism Regulations, 2014
- 6) PPDA Procuring and Disposing of Entities outside Uganda Regulations, 2014
- 7) PPDA Procuring and Disposing Entities Regulations, 2014.
- 8) PPDA Procurement of medicines and medical supplies Regulations, 2014.

- 9) Public Procurement and Disposal Public Assets Regulations 2014.
- 10) Rules and methods for procurement of supplies, works, and non-consultancy services.

References:

1. The PPDA Act 2003.
2. The PPDA (Amendment) Act 2021
3. The 2nd Public Procurement Integrity survey 2009.
4. The PPDA procurement Regulations 2014.

.

4.2 TOPIC 2: CONTRACT SPECIFICATIONS & CONTRACT MONITORING

4.2.1 Introduction

In 2019, the Public Procurement and Disposal of Public Assets Authority (PPDA) organized the 11th Public Procurement Review Forum under the theme of “Strengthening non-state actor participation in Monitoring Public procurement contracts for increased social accountability”. It's from this that PPDA with support from the GIZ developed the framework to formalize and govern the collaboration between the Civil Society Organizations (CSOs), PPDA, and the Procuring and Disposing Entities (PDEs). This topic is about contract specifications and contract monitoring in the procurement cycle. It is intended to strengthen the participants' role in monitoring public procurement contracts.



Source: <https://ircgroupglobal.com/>

4.2.2 Learning Objectives

After studying materials on this topic, participants should be able to:

1. Understand the meaning and importance of contract specifications.
2. Be able to understand the tenets of a good procurement process.
3. Be knowledgeable and with the ability to effectively monitor the public contracting process.

4.2.3 What's the meaning of Contract specifications and contract monitoring?

Contract Specification: A specification details the requirements of the procurement. It is the basis of all offers and therefore the foundation for a contract. A specification becomes an essential contract management document that is used to ensure that the chosen supplier provides what is specified. It must therefore be clear and accurately define what is expected from a supplier regarding the outputs or the functional and performance requirements.

What makes a good specification?

A well-structured specification should: foster supplier interest; better engage with the market; facilitate a competitive environment; encourage innovation; apply a high standard in the delivery of requirements; be clear and simple and avoid onerous or unnecessary requirements. Being one of the first steps in the procurement process, vague contract specifications can be a hindrance to participation in procurement.

Contract monitoring: Contract monitoring is a process of ensuring that a vendor adequately performs a contracted service. Deficiencies in contract monitoring are related to violations of good management principles. Inadequate monitoring is often the result of the following:

- Poorly established criteria for evaluating vendor performance;
- Perception of oversight as a responsibility to develop a partnership rather than enforce rules, regulations, or contract provisions;
- Focus on rules and regulations rather than outcomes;
- Failure to conduct follow-up reviews to ensure that corrective action was taken;
- Failure to identify the risk and level of review necessary for each vendor.

4.2.3.1 Components of an Effective Contract Monitoring System

The components of an effective contract monitoring system are detailed below.

- 1) **Training in Contract Monitoring:** Training in contract monitoring increases the likelihood that individuals will monitor contracts reliably by giving them the appropriate background knowledge related to contracts.
- 2) **Written Policies and Procedures:** Written policies and procedures serve as a guide to agencies and their personnel in ensuring a consistent, high-quality contract monitoring process.
- 3) **Contingency Plans:** Agencies without contingency plans risk interruption of services when vendors default on their obligations and may pay additional costs for taking back services.
- 4) **Communicating Clear Expectations to Vendors:** Creating a detailed Statement of Work, having performance measures in the contract, and holding a post-award meeting with the vendor contribute to the vendor's understanding of what is required under the contract.
- 5) **Contract Administration Plan:** A contract administration plan is a cursory view of planned and completed activities and can be utilized throughout the contract period as a status report.
- 6) **Organized Contract Files:** Files should be organized so that someone could reconstruct and understand the history of the contract in the absence of the contract administrator. Contract files should hold all the information necessary to know what was expected and received under the contract.
- 7) **Payments Linked to Satisfactory Performance:** For contracts that involve monthly or quarterly payments, agencies should require a vendor to submit programmatic reports in advance of or concurrent with its invoices.
- 8) **Regular Programmatic Reports from Vendor:** The contract should require the vendor to provide specific programmatic information on a scheduled basis to determine if performance measures are being met.
- 9) **On-site monitoring visits:** These are most effective when based on a specific methodology or a checklist of review tasks. On-site monitoring visits may not be necessary for all contracts.
- 10) **Access to Records/Right to Audit Clauses:** Agencies have a responsibility to verify the information that the vendor reports to them and to ensure that funds are expended properly. The contract must include an agreement that the agency has access to and can audit those records.
- 11) **Measuring Customer Satisfaction:** Utilizing methods to measure customer satisfaction helps to improve vendor performance because the feedback can be used to notify the vendor when specified aspects of the contract are not being met.
- 12) **Dispute Resolution Procedures:** The agency should have procedures in place for the monitoring officials to notify the agency's procurement office if a dispute arises.
- 13) **Closeout Procedures:** Formal, written closeout procedures are recommended

at the completion stage of the contract so that important elements are not overlooked. The use of a checklist of closeout procedures helps to assure that all actions have been completed.

- 14) **Post-Contract Review:** At the end of a contract period, agencies should evaluate the vendor's performance and their method of monitoring the vendor. Agencies should also consider conducting a programmatic review and a financial audit.

4.2.3.2 The role of monitoring Public Procurement

Monitoring of Public Procurement has the following functions:

- 1) Ensuring compliance with the procurement laws
- 2) Assessing the way, the procurement system is developing and the direction it is taking.
- 3) Providing meaningful information that is crucial for policymaking.
- 4) Identifying the need for changes in the system.
- 5) Analyzing potential effects of alternative solutions.
- 6) Setting long-term priorities and evaluating if they have been achieved.
- 7) Prevention of procurement leakage and ensure value for money.

4.2.3.3 Forms of Monitoring

Audit of Compliance: It involves verifying whether the legal provisions of public procurement have been complied with. These may include; the qualification of bidders, selection of the best bidder, failure to publish a procurement notice by a procuring entity, etc. It is aimed at enhancing an ideal procurement system that promotes: non-discrimination; transparency, accountability, and fairness; maximization of competition and ensuring value for money; confidentiality; economy and efficiency; and promotion of ethics.

Performance Audit/Measurement: This seeks to answer the fundamental question of whether the procurement system and operations were ultimately delivered in accordance with the set objectives. It looks at effectiveness and efficiency and relies on the collection and analysis of an array of data.

Sources of information include:

- 1) Notices relating to the procurement (tender advertisements, contract notices, contract award notices).
- 2) Transparency notices: Public notices by Procuring entity about the intention to procure through limited tender.
- 3) Individual reports.
- 4) Regular reports by contracting authorities and delivered to PPDA.

4.2.4 Opportunities for CSOs in engagement in monitoring.

CSOs can get engaged in monitoring at various levels that include:

- 1) **Procurement planning** -Although this is solely the role of the procurement entity, CSOs can make efforts to have access to verify if the procurement was within the plan.
- 2) **Market price Index.** The law provides that standard goods, services, and works should be provided at the prevailing market prices but some over prices can monitor this.
- 3) **Invitation to tender:** Public opening is integral to transparency and monitoring.
- 4) **Tender advertisement:** The law makes it mandatory for procurement entities to advertise tenders for the procurement of goods, services, and works. One can monitor to see if they meet legal requirements or the correct specifications.
- 5) **Evaluation of bids:** whether there was no collusion or confidentiality was breached.
- 6) **Procurement records:** Any member of the public or institution has a right to review records after the tender was awarded or procurement proceedings terminated.
- 7) **Publication of contracts**
- 8) **Contract administration:** CSO members can be co-opted on a contract administration for complicated or specialized procurements.

4.2.5 Conclusion

Monitoring is a meaningful exercise only if conducted over a defined time period and using the same methodologies or similar methodologies.

4.2.6 The Case of the Stadium Construction in rural Uganda

A district in Uganda has had problems with a large modern stadium for big meetings and other events such as sports and games among others. Its request to the Ministry of Education and Sports for funding of a modern stadium was accepted. Several billions of Uganda shillings were subsequently released to a District Local Government to construct a huge stadium of high standards in this district.

A few years down the road, when the auditors from the Office of Auditor General and Parliament's Local Government Accounts Committee visited the district and went to the stadium site, they were shocked to find only two toilets. The visitors told the District Chairperson and the CAO that there was nothing to discuss since it was a clear case of corruption. They advised that either the District Local Government urgently constructs the stadium according to

specifications in the contract or it refunds the money to the Ministry of Finance.

Questions:

- 1) *What type of corruption does the case show?*
- 2) *What factors contribute to this form of corruption?*
- 3) *How can it be avoided?*

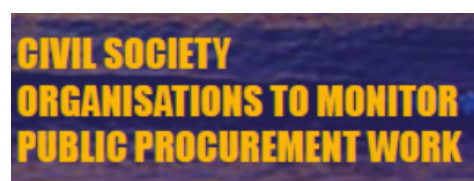
References:

1. Kipkemboi Cherono -Monitoring of Public Procurement by Civil Society Organizations-
https://www.tisa.or.ke/images/uploads/Monitoring_Public_Procurement_by_CSOs.pdf
2. Procurement Digest 2019, Publication on Procurement activities, <https://www.ppda.go.ug/download/PPDA-MAGAZINE.pdf>
3. PPDA-Report on factors hindering participation in public procurement 2019. https://www.ppda.go.ug/download/Study-on-Barriers-Hindering-Participation-in-Public-Procurement-_2.pdf
4. Russell W. Hinton -Best Practices in Procurement: Components of an Effective Contract Monitoring System.
https://sao.georgia.gov/sites/sao.georgia.gov/files/imported/vgn/images/portal/cit_1210/44/61/140551558Best%20Practices_Contract%20Monitoring.pdf

4.3 TOPIC 3: WRITING MONITORING REPORTS AND RECOMMENDATIONS

4.3.1 Session Introduction:

The purpose of the training session is to make participants understand how to write reports after monitoring the development of public infrastructure that may include roads, bridges, and public buildings, among others. The session will further enable the participants to internalize how to present reports to the Local Government about the Government and Agencies responsible for the management of public infrastructure that has been assessed.



4.3.2 Learning Objectives

By the end of studying materials on this Topic participants will be able to:

- 1) Understand the importance of reporting the results of the assessment of public infrastructure construction.
- 2) Know how to present an assessment report or make feedback to the Local Government or Agency responsible for public infrastructure that has been assessed.

4.3.3 Overview of Public Infrastructure Construction in Uganda

Public infrastructure construction in Uganda is dogged with many challenges comprising weak procurement rules which lead to awarding infrastructure projects to incompetent contractors; contractor monitoring being handled by unqualified, incompetent, and inexperienced professionals; lack of contractors and contract supervisor's appraisal system; delay of contractors' payments which affects timelines in services delivery; lack of a strong internal project monitoring and evaluation mechanisms.

The rationale for the assessment of public infrastructure development is to

provide: an independent report that will inform learning opportunities in the improvement of public infrastructure and services delivery to the intended beneficiaries. The findings will assist the Agency responsible for the Public Infrastructure, District Local Governments, Ministries of Works, and Local Government, to improve the socio-economic status of the disadvantaged communities in both urban and rural Uganda.

The specific objective of the assessment is to: a) assess the effectiveness, efficiency, relevance, and sustainability of public infrastructure; b) measure progress toward results, and; c) provide findings, conclusions, and recommendations to facilitate decision-making in regard to the improvement of quality of public infrastructure. The purpose of public infrastructure is to increase access to services provided through these facilities.

This is given the country context characterized by the following factors:

- 1) The weakness of local government systems;
- 2) The poor access to services, including roads and other public infrastructure;
- 3) The difficult economic situation facing the country;
- 4) The high levels of poverty across the country.

Community monitoring of public infrastructure will collect quantitative and qualitative data and observations to assess whether the facilities are being constructed as planned and budgeted to hold responsible government agencies accountable. Once data has been gathered, the results are produced in a report and communicated to the District Local Government and Agency responsible for a specific public infrastructure (Uganda Road Authority in case of roads). Copies of the report are submitted to the Resident District Commissioner responsible for the supervision of the District Local Government and other stakeholders to elicit support to the community in ensuring that identified gaps in infrastructure construction are addressed.

4.3.4 Importance of reporting results of the assessment of public infrastructure development:

- 1) Communicating results of community monitoring of infrastructure information on the extent to which the constructors have undertaken work according to specifications and quality standards
- 2) It allows technical mistakes made to be rectified to avoid loss of facilities and services it will provide.
- 3) Through budget tracking, the community can check the flow of resources to a particular facility and compare it with the quality of the infrastructure being constructed.

4.3.5 Writing a report of assessment of public infrastructure

- 1) Provide the introduction of the report which outlines the objective of the

report and why the report is being written

- 2) Provide the problem that motivated the assessment of public infrastructure
- 3) Clearly outline the main and specific objectives of the assessment
- 4) Describe the tools used such as the Community Scorecard or specific methods employed in the assessment which may include key informant interviews, focus groups discussions, verification of funds and materials used in the construction of public infrastructure
- 5) Outline how data was analyzed
- 6) Draw conclusions based on the findings
- 7) Make recommendations to make construction produce value for money, high-quality facilities that are completed in time

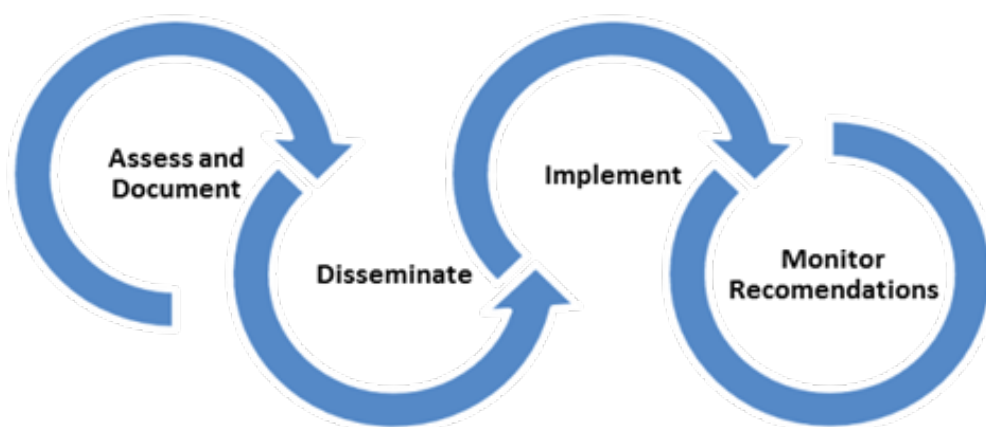
References

1. Community-Based Monitoring, Reporting, and Verification Workshop Report, DRC, 2017. https://www.forestpeoples.org/sites/default/files/documents/Brazzaville%20-%20EN_2.pdf
2. PPDA, Procurement Digest – A Quarterly Publication on Procurement Activities, Oct-Dec 2019. <https://www.ppda.go.ug/download/PPDA-MAGAZINE.pdf>

4.4 TOPIC 4: MONITORING IMPLEMENTATION OF RECOMMENDATIONS

4.4.1 Session Introduction

This session discusses the importance of monitoring the extent to which the recommendations of assessment of Public Infrastructure Construction made by Community Monitors are being implemented. Sometimes recommendations made are not implemented resulting in poor quality infrastructure. Monitoring whether the feedback by communities to District Local Government or Agency responsible is being implemented puts the relevant Government agencies on their toes and ensures that services are being improved as recommended by the Community Monitors in the assessment report.



4.4.2 Learning Objectives

By the end of studying materials in this topic, participants will be able to:

1. Understand the importance of monitoring the implementation of recommendations by Community Monitors for public infrastructure.
2. Know how to prepare for a meeting to follow up on the implementation of recommendations for public infrastructure improvement.
3. Effectively participate in a meeting to discuss services improvement.

4.4.3 Presentation

Monitoring implementation of recommendations in regard to public infrastructure construction starts with feedback by community members to the relevant government agency. The feedback meeting enables the community

services users who have assessed the public infrastructure to engage with the government agency responsible for public infrastructure. The interaction will provide an opportunity to discuss infrastructure construction gaps and make a plan of action to address them. The results of the feedback especially the action plan are important in following up on recommendations of the Community Monitors. This plan of action will be the starting point in following up the implementation of the actions recommended by the community in regard to infrastructure improvement.

1.4.5 Importance of a follow-up on the implementation of recommendations

- Ensures that the Public Infrastructure constructed follows specifications and is of high quality and completed in time as the constructors and supervisors know that someone is watching the construction process.
- Puts pressure on the service provider to ensure that the public infrastructure developed is of high quality.
- Makes services provider take community monitors seriously.
- Raises the importance of community in monitoring generating value for money.

1.4.6 Preparation for making a follow-up of the implementation of services improvement

- Agree with service providers on a date for follow-up of public infrastructure improvement as recommended in the community monitoring report.
- Agree with participants to the meeting that will include the representative of District Local Government, Department responsible for the services assessed, Government agency responsible for infrastructure, RDC, NGOs/CSOs providing similar services, and representatives of service users in addition to community monitors, among others.
- Hold a meeting where a service provider outlines improvements made on the public facility and identify areas that require further improvement.
- Discussion of the assessment report.
- Develop a plan of action to address gaps in infrastructure development.

Inspectorate of Government

Head Office.

Jubilee Insurance Centre, Plot 14, Parliament Avenue

P.O. Box 1682, Kampala

+256 414 344219/259738/255892/251462 (General Lines)

+256 414 347387 (Hotline)

Fax: +256 414 344 810

Office of the Auditor General

Audit House Plot 2C

Apollo Kagwa Road,

P.O Box 7083, Kampala

Tel: +256 -41- 7 336 000, Fax: +256 414 345 674

info@oag.go.ug

www.oag.go.ug

Public Procurement And Disposal of Public Assets Authority (PPDA)

Head Office UEDCL Towers

Plot 39 Nakasero Road

P.O.Box 3925, Kampala, Uganda.

Tel. +256 414 311128, +256 414 311162, +256 414 311100.

www.ppda.go.ug.