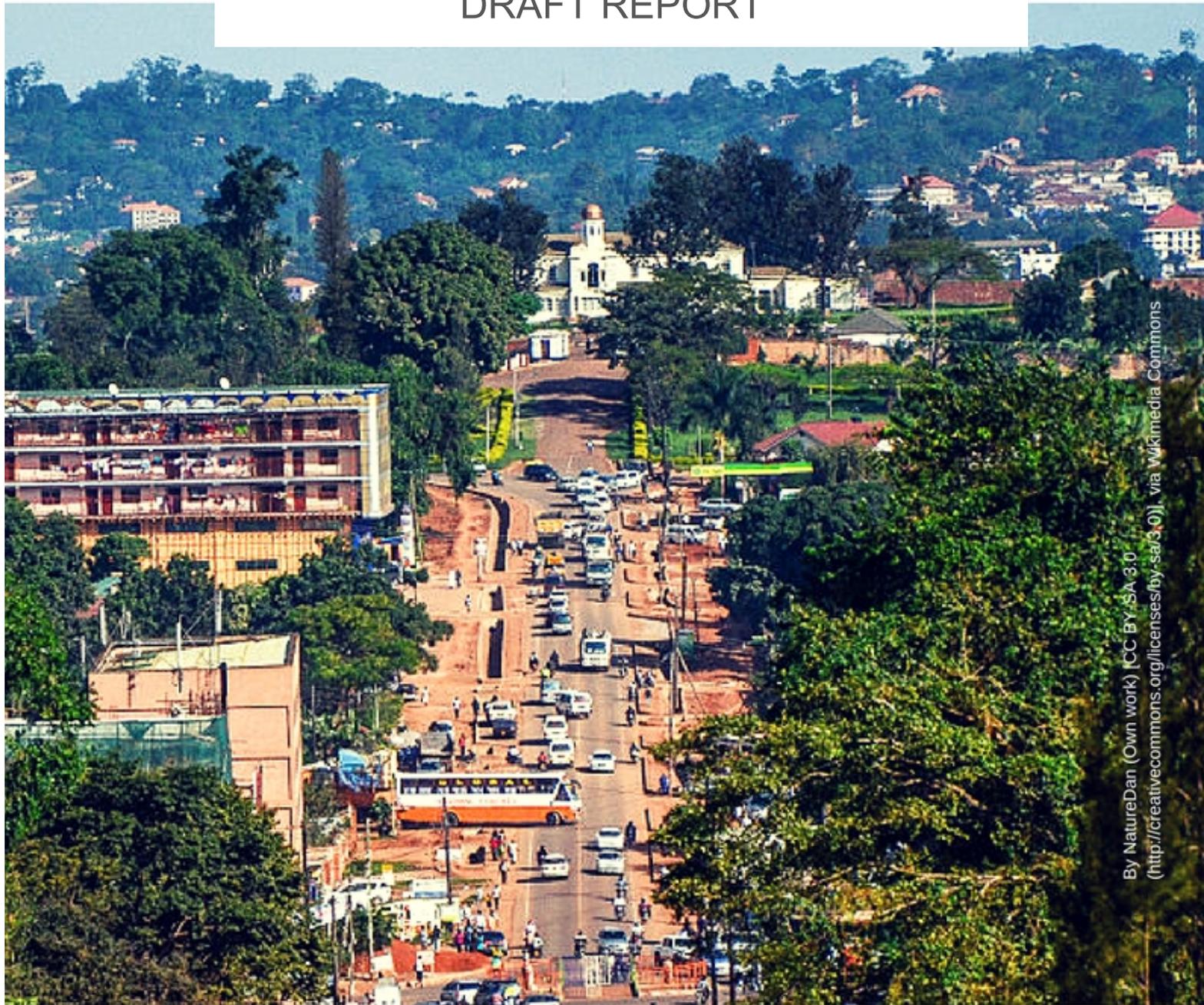


INCREASING THE UNDERSTANDING OF PROCUREMENT CORRUPTION IN UGANDA

DRAFT REPORT



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Acronyms



AO	Accounting Officer
BEB	Best Evaluated Bidder
BOQs	Bill of Quantities
CC	Contracts Committee
CG	Central Government
CID	Criminal Investigation Department
CM	Contract Manager
COI	Commission of inquiry
CSO	Civil Society Organisation
DFID	Department for International Development of United Kingdom
DPP	Directorate of Public Prosecution
EC	Evaluation Committee
FIA	Financial Intelligence Authority
GCC	General Condition of Contract
GOU	Government of Uganda
IFMS	Integrated Financial Management System
IG	Inspectorate of Government
IPPU	Institute of Procurement Professionals of Uganda
LG	Local Government
LPO	Local Purchase Order
MDAs	Ministries Departments and Agencies
MoFPED	Ministry of Finance Planning and Economic Development
OAG	Office of Auditor General
OP	Office of the President
OPM	Office of Prime Minister
PDEs	Procuring and disposing entities
PDU	Procurement and Disposal Unit
PPDA	Public Procurement and Disposal of Public Assets Authority
PPDA Act	Public Procurement and Disposal of Public Assets Act 2003
PSC	Public Service Commission
SG	Solicitor General
SOR	Statement of Requirements (Specifications/ Terms of Reference)
SUGAR TAF	Strengthening Uganda's Anti-Corruption Response Technical Advisory Facility
TOR	Terms of reference
UD	User Department
UPF	Uganda Police Force
VFM	Value for Money

1. Introduction

According to the 3rd Public Procurement Integrity Survey, as reported in the PPDA Annual Report 2015-16, 71.8 per cent of respondents believed there to be corruption in public procurement. Just under 60 per cent of service providers reported that they had bribed public officials to influence tenders and 54 per cent of respondents reported that the value of bribes was over 10 per cent of the contracted procurement value.

Given the available data, it is difficult to arrive at a figure for the total amount lost due to procurement corruption. Nevertheless, if in fact more than 10 per cent of the total procurement value is lost due to corruption the sums involved are staggering. Worse still, these are funds that could have meant improved infrastructure and services for the people of Uganda. This means that there is a need for greater understanding of the nature of procurement corruption in Uganda, and efforts to come mitigate it need to be stepped up.

1.1. Objective

The objective of this study is to fill some of the knowledge gaps on procurement corruption, to support the formulation of appropriate responses to control it. This study sheds light mainly on the nature and form of corruption, in order to allow relevant entities to address vulnerabilities to corruption in the procurement cycle, further strengthen the anti-corruption chain, and coordinate more closely across this chain.

1.2. Methodology

The method of collecting data relied primarily on an assessment of the procurement corruption cases sampled from PPDA and IG, together interviews conducted with relevant stakeholders. The interviews allow for triangulating the findings of the assessment of procurement corruption cases. This study was conducted using a participatory approach, where PPDA and IG were involved and contributed actively throughout the study.

For the purpose of this study, an act or omission in the procurement process that was suspected or proven to be a corrupt or fraudulent practice was categorised as procurement corruption under the PPDA Act 2003 or the Anti-Corruption Act 2009. To select cases from the PPDA, a set of criteria to identify potential corruption cases of corruption in PPDA case files was agreed with PPDA. IG already had a category of procurement corruption cases, so no further criteria were required. PPDA and IG were requested to provide a list of corruption cases over the last three financial years, from which samples were drawn for detailed review about procurement corruption.

IG provided 269 cases from across all regions. Due to limitations resulting from the scope of the study, only cases from regional offices that could be reached within a day's travel from Kampala were considered, namely Jinja, Mukono and Masaka. In addition cases handled by the IG Kampala offices were used with a total 106 cases. From these, 20 cases were sampled for further review.

PPDA provided 129 cases comprising investigations (64 cases), administrative review (30 cases) and procurement audit findings (35 cases). Out of these, 20 cases were sampled for further review – 14 of which were investigations cases and 8 of which were procurement audit findings.

Table 1: Sample of procurement corruption cases from IG and PPDA

PERIOD - FY	Office/Source	No. of cases submitted	No. of cases sampled
2014/15, 2015/16, 2016/17	IG Jinja office	21	4
2014/15, 2015/16, 2016/17	IG Masaka office	26	4
2014/15, 2015/16, 2016/17	IG Mukono office	8	4
2014/15, 2015/16, 2016/17	IG-III Division	31	6
2014/15, 2015/16, 2016/17	IG Special Division	20	2
Sub-total IG		106	20
2014/15, 2015/16, 2016/17	PPDA Investigations	64	12
2014/15, 2015/16, 2016/17	PPDA Procurement audit findings	35	8
Sub-total PPDA		99	20
Total PPDA and IG		205	40

Categories of interviewees were selected in consultation with IG and PPDA, based on relevance and knowledge of the procurement cycle and procurement corruption. A total of 24 interviewees were selected. They included staff at PPDA and IG that carry out the detection and investigation of procurement corruption cases, public officials who play key roles in the procurement cycle, providers, civil society organisations and the Institute of Procurement Professionals of Uganda (IPPU). Responses to interviews were anonymised to allow interviewees to freely express their perceptions regarding procurement corruption.

Table 2: List of stakeholders interviewed

Stakeholders interviewed	Number interviewed
Procuring and disposing entities (PDEs) focussing on Procurement and Disposal Units <ul style="list-style-type: none"> • Accounting Officers • Contracts/Evaluation Committee members • Accountants and Internal auditors • MoFPED 	12
Providers	3
Civil society organisations	1
PPDA and IG staff focussing mainly on Auditors and Investigators	6
IPPU (Institute of Procurement Professionals of Uganda)	1
Total	24

For the purpose of this study relevant procurement documents such as the PPDA Act and Regulations, Anti-Corruption Act 2009, and PPDA and IG annual performance reports were also reviewed.

1.3. Structure of report

Section 2 of this report provides an overview of the public procurement framework in Uganda, including the legal as well as institutional frameworks. Section 3 sets out the main findings and analysis of the information collected through the case reviews and interviews. The final section, Section 4, provides summary of the main findings.

2. Overview of Public Procurement Framework in Uganda

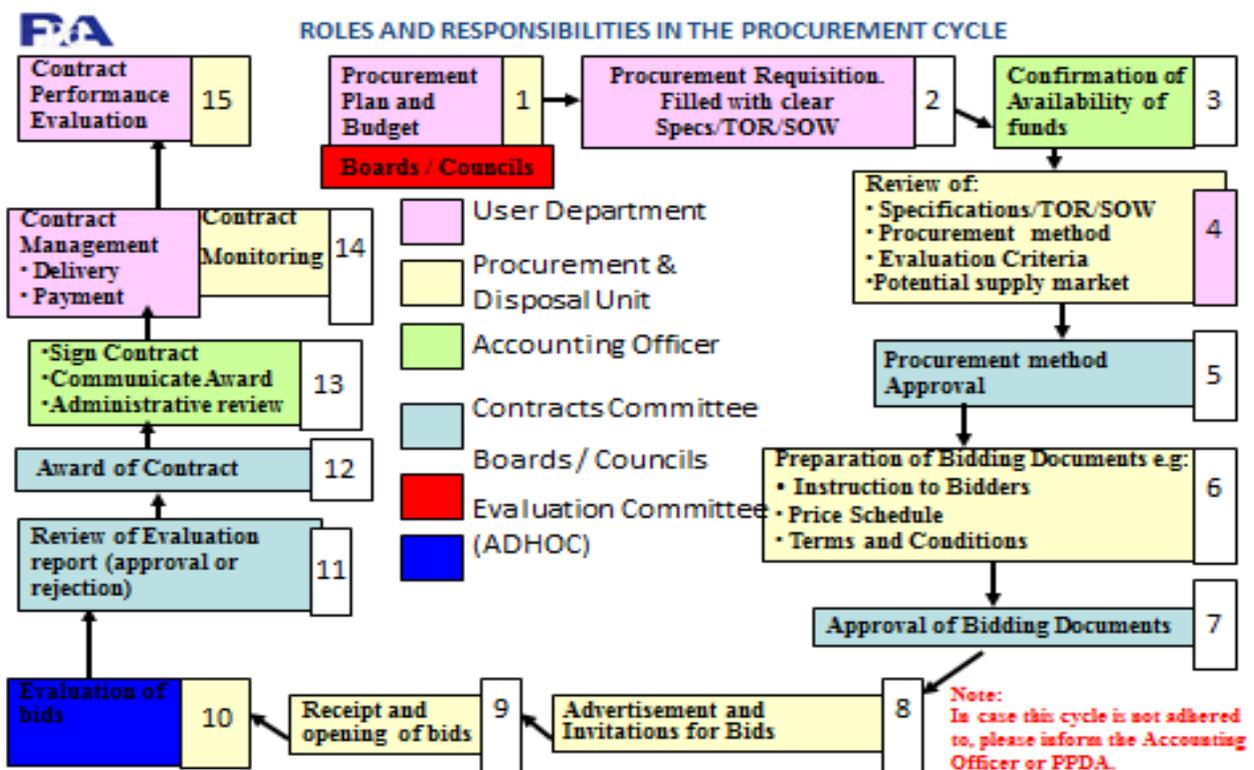
2.1. Legal Framework for management of procurement

Major procurement reforms in Uganda were initiated 1997. This resulted in the enactment of the Public Procurement and Disposal of Public Assets Act, 2003 (PPDA Act) came into force in February, 2003 (PPDA Act). The PPDA Act was amended in 2011. However, the amendment only came into force in March, 2014. The Local Governments (Amendment) Act, Act 2 of 2006 that harmonised the procurement and disposal for local government came into force in February, 2006.

The PPDA Act regulates Central Government, Local Government, Statutory Bodies and Public Institutions and provides for public procurement regulatory oversight, the Public Procurement and Disposal of Public Assets Authority (PPDA).

Procurement regulations, forms, guidelines and standard bidding documents are issued by PPDA and are part of the legal framework documentations. The procuring and disposing entity (PDE) as defined under the PPDA Act is a government institution such as a ministry, statutory body, district, municipal council.

A PDE has responsibility to manage all the procurement activities. This includes the preparation of statements of requirements, procurement planning, bidder selection, and award and execution of contracts. Each PDE has dedicated offices that implement the functions of the procurement including: Accounting Officer (AO), Contracts Committee (CC), Procurement and disposal unit (PDU), User department (UD) and Evaluation Committee (EC). The roles and responsibilities of the key stakeholders in a PDE are summarised in the chart below:



2.2. Public procurement cycle

The procurement cycle involves four major phases.

The Pre-procurement phase focuses on planning and budgeting that is managed by policy makers and user departments. The Procurement process is mainly managed by procurement staff and user department staff. The Approval phases are mainly managed by CC and AO. Finally, the Contract implementation phase is mainly managed by UD.

The major procurement phases of the cycle are further broken down into key activities as detailed below that is commonly called the procurement cycle:

Pre-procurement phase

1. Budgeting/planning- Preparation of budget /procurement plans and approval
2. Initiation and specification or terms of reference (SOR) preparation- detailed preparation of statement of requirements (SOR) based on budget/procurement plan
3. Procurement method determination- choice of method of procurement to use
4. Bidding document preparation/ invitation for bids- preparation of invitation documents including evaluation methodology/criteria and draft contract
5. Approval of method/bidding document/shortlist- Approval for procurement to proceed

Procurement process phase

1. Management of bidding process- sourcing that includes advertisement, pre-bid/proposal meetings, receipt of offers, and opening of bids/proposals
2. Evaluation of bids/proposals- includes assessment of bids/proposals and where applicable carrying out due diligence and negotiations

Approval phases

1. Approval of evaluation report/draft contract/Negotiations - Approval of recommendations to award contract
2. Contract award - Approval of draft contract and signing of awarded contract

Contract implementation phase

1. Contract execution- contract performance by provider
2. Management of the procurement payment – initiation, processing, approval and dispatch of payment to provider
3. Post contract performance activities - includes warranty and defects liability management

2.3. Principles of public procurement

The PPDA Act under sections 43-53 clearly stipulates principles of procurement that must be adhered to, in the carrying out of procurement and disposal in Uganda by all stakeholders. They include; non-discrimination, transparency, accountability and fairness, competition, confidentiality, economy and efficiency, ethics, preference and reservation, open competitive bidding and public accessibility.

Corruption and collusion in the procurement process disregards and undermines these principles and practices. Along with challenges of inefficiency, procurement corruption is

complex and embedded in the systems and occurs across all the procurement phases and areas of responsibility.

Anti-corruption institutions require access to information on the detailed actions across the sequential stages of the procurement cycle revealing insights into the vulnerabilities and risks in the system across the stages. These insights will identify the means used by internal and external players to circumvent the regulated practices and protocols.

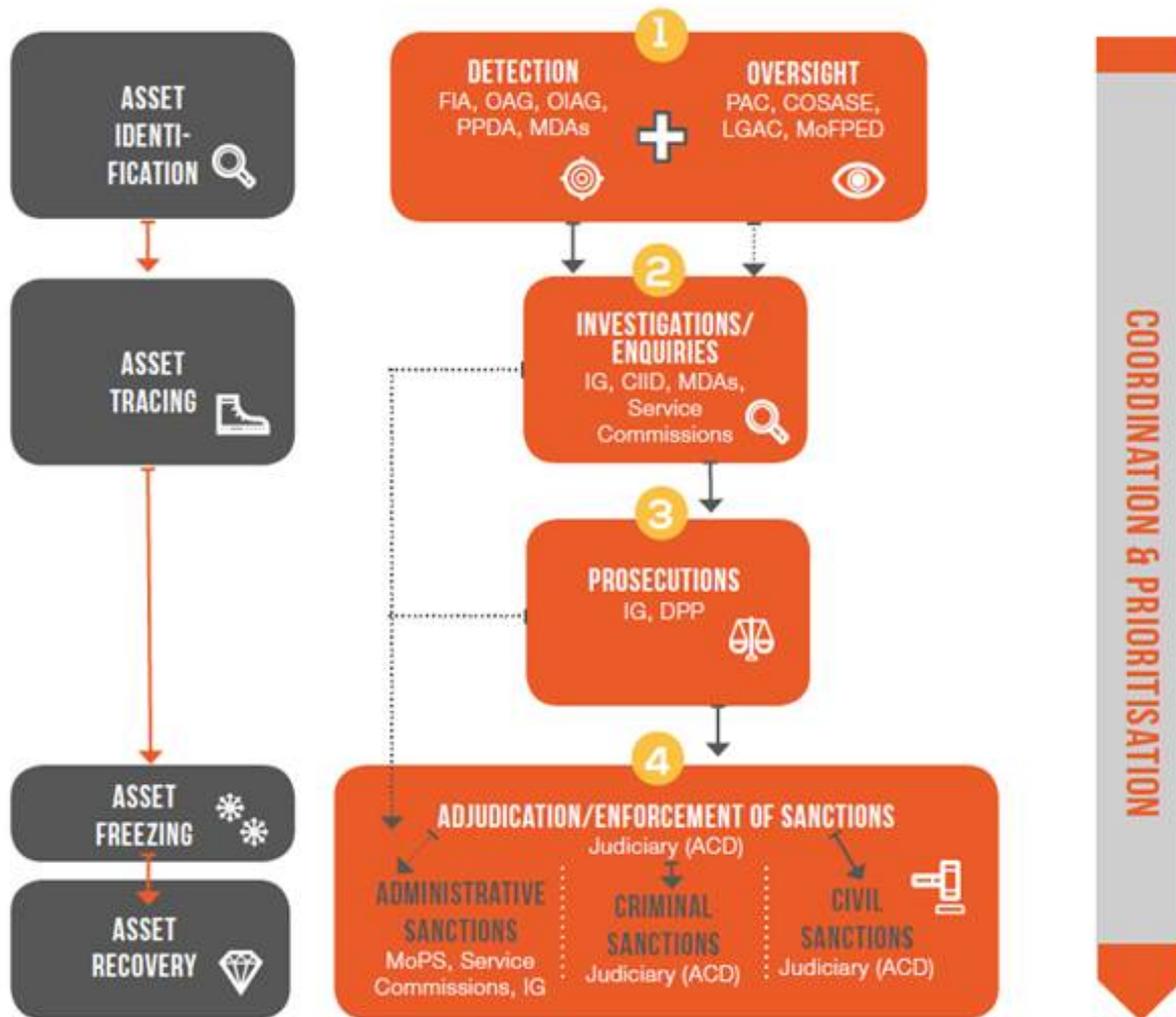
These institutions are listed below.

2.4. Key Institutions mandated to deal with procurement corruption

The key government institutions in the prevention against procurement corruption include:

- I. The Inspectorate of Government (IG)
- II. Public Procurement and Disposal of Public Assets Authority (PPDA)
- III. Office of the Auditor General
- IV. Uganda Police Force
- V. Judiciary- particularly the anti-corruption division
- VI. Ministry of Finance Planning and Economic Development
- VII. Ministry of Justice and Constitutional Affairs
- VIII. All procuring and disposing entities (government institutions- both in central and local government)

The anti-corruption response chain mandates each of these institutions to focus on detection, investigation, prosecution and adjudication of corruption and their linkages. The division of responsibility is illustrated below.



Source: SUGAR TAF

Effective anti-corruption responses are dependent on officials in these institutions carrying out their mandates efficiently and optimising coordination mechanisms. The study focussed on procurement corruption cases and targeted PPDA and IG who carry out activities of detection of suspected acts and omissions in procurement to understand more about procurement corruption. The following two sub-sections take a more detailed overview of these two institutions.

2.5. Overview of the PPDA

The PPDA has national level oversight functions in regard to all procurement and disposal in Uganda. The objectives of PPDA are broad and include ensuring the application of fair, competitive, transparent, non-discriminatory, and value for money procurement and disposal standards and practices.

The functions of PPDA are specified Section 7 of the PPDA Act and include:

- I. advising Central Government, local governments and other procuring and disposing entities on all public procurement and disposal policies, principles and practices;
- II. monitoring and reporting on the performance of the public procurement and disposal systems in Uganda and advise on desirable changes;
- III. instituting:
 - procurement or disposal audits during the bid preparatory process;
 - contract audits in the course of the execution of an awarded bid; and
 - performance audit after the completion of the contract in respect of any procurement or disposal, as may be required; and
- IV. undertaking procurement and disposal research and surveys nationally and internationally.

To fulfil these functions, the PPDA has wide ranging powers to request and obtain pertinent information; summons witnesses and examine them under oath; investigate contracts and undertake audits; respond to complaints, and suspend providers in the any public procurement or disposal process. The PPDA executive structure comprises a Board of Directors. The Board includes an Executive Director with 6 directorates.

In its annual report of 2015/16 the PPDA highlights its key achievements.

- a) 114 procurement audits of the targeted 140 were conducted, this included 15 high spend entities
- b) By awarding contracts to domestic industry and so increase their competitiveness. The total percentage was 99 per cent, although the value was 58 per cent.
- c) A high number of procurement plans were submitted by PDEs. At the Local government (LG) level 104 (83 per cent) complied with submissions, while at Central government 131 (81 per cent) complied with submissions.
- d) With reference to contract management and performance, PPDA suspended 24 providers. Here the proportion of contracts rated satisfactory through audits was 90 per cent against the target of 50 per cent. In addition, the number of entities followed up as a result of PDDA recommendations was 109 (91 per cent) against a target of 120 entities; with 72 per cent of recommendations being implemented against a target of 80 per cent.

The PPDA Government Procurement Portal is used successfully for invitations to bid, best evaluated bidder notice, and electronically posted contract notices. The target of 10,000 for each of the three aspects has been exceeded by over 100 per cent.

In the reporting period 2015/16 there was also an increased percentage in entities awarded highly satisfactory audits. The target of five per cent was exceeded by almost double. Here

9.5 per cent out of 114 PDEs received highly satisfactory audits which indicates enhanced performance of public procurement beyond compliance.

Internally the PDDA also shows favourable performance, notably there have been no cases of internal corruption detected, reported or investigated. The PDDA also reflected that it was on track to attaining its partnership and collaboration goals.

The key challenges facing the PPDA include delays in amendments to the Local Government PPDA Regulations and a limited budget for training to increase staff competencies in oversight of procurement.

The major planned activities for PPDA in past year align to their mandate, with specific emphasis on monitoring, and overseeing high value entities.

2.6. Overview of the IG

The Inspectorate of Government (IG) was established under Article 223 of the Constitution of the Republic of Uganda. The quality and practice of governance is central to this office. Key aspects include adhering closely to the rule of law, promoting good and efficient governance in public office, including enforcing the Leadership Code of Conduct. The IG also seeks to eliminate corruption and abuse of authority and public office. The IG also seeks to promote awareness of good governance among members of the public.

Reports on IG performance to Parliament (Jul-Dec, 2016) indicate success in combatting corruption through investigating complaints, recovering assets, savings to the state coffers. In addition the IG established a Directorate of Special Investigations which is a highly specialized, skilled and well-equipped unit to investigate organized, syndicated and high-profile cases of corruption. Some successes are reflected in the prosecutions the IG has brought before the courts.

The major challenges facing the IG link directly to the prevalence and complexity of corruption in the public and private sector. The evolving nature of corruption is that, "it now encompasses grand syndicated corruption where controls are deliberately circumvented in a systematic way". This is particularly concerning. To deal with this threat to good governance, the IG seeks to increase the number of investigations and prosecutions, increase asset recovery results, and also advance the capacity of its specialised staff.

The findings of the study show that the constraints frequently highlighted include the need to strengthen capacity at IG and PDEs. These are persistent shortfalls that affect the efficiency and effectiveness of IG in the fight against procurement corruption.

3. Key findings and analysis of information collected

As detailed in the methodology section in Chapter 1, the study's findings are based on field research and case reviews, triangulated with key interviews and secondary documentation. The case review is based on forty cases of suspected procurement corruption; twenty cases from the PPDA and twenty from IG.

Eight PDDA cases were picked from audit findings in allegations and/or omissions reports. The balance of the information is extracted from thirty-two case reports. Interviews were conducted with twenty-four selected stakeholders from a range of agencies. Not all responded to all questions and where this is the case it is indicated.

The findings on the forms of corruption and schemes of corruption from the procurement cases reviewed were further grouped into four corruption categories namely; conflict of interest, fraud, political influence peddling and bribery/kickback/"commission".

As noted in Chapter 1, for purposes of this study a person commits a corrupt act or omission as described in Section 2 of the Anti-Corruption Act. The words bribe, kick back and "commission" are used interchangeably in the study.

The corruption acts or omissions in cases or interviews that were suspected as bribery/kickback/"commission" make up the largest and most obvious corruption actions that were assessed from the cases or interviews and they include the following:

- influence peddling
- financial loss
- irregular subcontracting
- irregular bidding
- evaluation of bids
- irregular pricing
- delays to initiate procurement
- poor quality of contract performance
- lack of or ineffective contract supervision
- lax financial controls and administrative systems

3.1. Findings on vulnerabilities to corruption in the procurement cycle

Incidents of vulnerability and risk to corruption and omission was reviewed in the sample of cases. To deepen the study's understanding of the stage in procurement that show greater levels of vulnerability, interviews were conducted to elicit stakeholder perceptions on vulnerabilities to corruption in the procurement cycle.

Each case was reviewed to identify the highest observed or potential procurement risk using the rating scale from none to very high. Rating at each stage was limited to identify incidents of vulnerability or risk in the case. Where there was no record or risk, no rating was given.

The table below summarises these findings.

Table 3: Rating of procurement corruption risk level per stage in the procurement cycle - cases

No.	Key Stage in the procurement and contract management process	Rating level of procurement corruption risk					
		Total number of times risk identified per stage	No risk	Low Risk	Medium Risk	High Risk	Very High Risk
1	Budgeting/Planning	4	0	0	0	1	3
2	Initiation and specification or TOR preparation	3	0	0	2	0	1
3	Procurement method determination	3	0	0	0	0	3
4	Bidding document preparation/ Invitation for bids	3	0	0	0	1	2
5	Approval of method, bidding document, shortlist, etc.	3	0	0	3	0	0
6	Management of bidding process including advertising, prequalification (if applicable) invitation of bidders, clarifications and amendment of bidding documents, bid opening	3	0	0	1	0	2
7	Evaluation of bids including clarifications, correction of arithmetic errors, determination of evaluation sub-criteria carrying out post-qualification, negotiations and due diligence on bidders	20	0	0	0	12	8
8.	Approval of evaluation report and contract awarded by Contracts Committee, other stakeholders and Accounting Officers	2	0	0	0	0	0
9.	Contract execution including preparation of contract implementation plans, contract supervision/follow up, dispute management and evaluation of contract performance, termination etc.	7	0	0	0	1	6
10.	Management of the procurement payment processes including, payment initiation, processing, approval, payment release and timeliness of payment	4	0	0	0	2	2
11	Post contract performance phase		0	0	0	0	0

The findings from case reviews indicate that procurement corruption risks are spread across the stages of the procurement cycle. Given that these cases are of corruption, the scores in the “no” and “low” rating are expected. It is interesting to note that most significant levels of vulnerability and risk are identified at the Evaluation of Bid, and Contract Execution stages. It is at these stages that the process of acquiring products or services transition from internal to interfacing with external providers.

At the bid evaluation stage, as with the execution and management of payment stages, the findings point to vulnerabilities and risks. From both the PPDA and the IG mandates rigorous

oversight including detection, investigation and prosecution become critical vehicles in anti-corruption.

In their interviews stakeholders were asked to rate the vulnerability/risk levels at each of the eleven key stages in procurement process. The findings on vulnerabilities to corruption in the procurement cycle are summarised and the results shown in the table below.

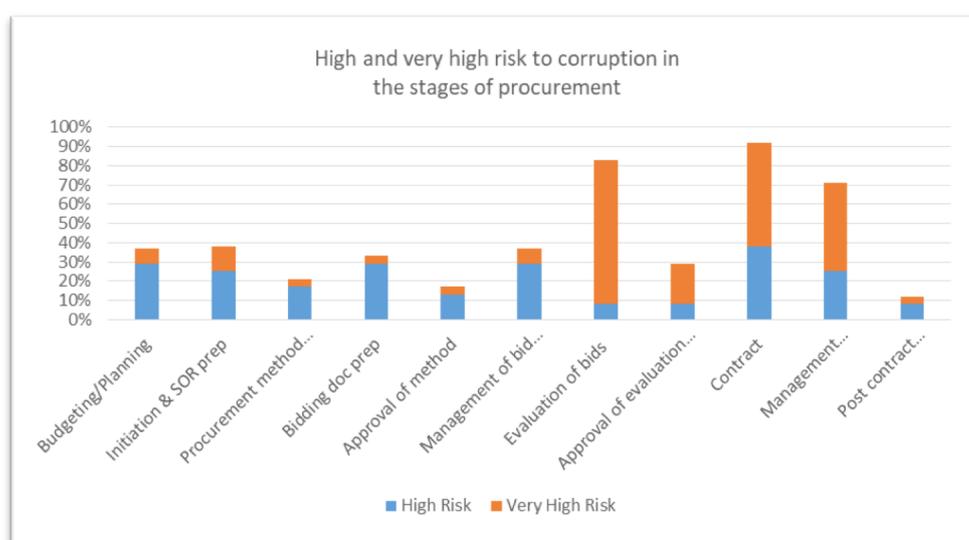
Table 4: Rating of procurement corruption risk level per stage in the procurement cycle- interviews

Key Stage in the procurement and contract management process	Composite response rating of perceptions of procurement corruption vulnerability/risk				
	No risk	Low Risk	Medium Risk	High Risk	Very High Risk
Budgeting/Planning	4%	42%	17%	29%	8%
Initiation and SOR preparation	0%	21%	42%	25%	13%
Procurement method determination	4%	50%	25%	17%	4%
Bidding document preparation/ In	0%	33%	33%	29%	4%
Approval of method, bidding docu	0%	50%	33%	13%	4%
Management of bidding process	0%	38%	25%	29%	8%
Evaluation of bids	0%	0%	17%	8%	75%
Approval of evaluation report and	0%	50%	21%	8%	21%
Contract	0%	0%	8%	38%	54%
Management of the procurement p	0%	0%	29%	25%	46%
Post contract performance phase	13%	63%	13%	8%	4%

There are several findings that emerge from the perception rating of stakeholders. While all stages of procurement indicate that there is a vulnerability to corruption these do vary from one process to the next. There is a perception that the risk is low to evenly spread at the stages prior to the evaluation of the bids. Here the processes are primarily internal and concern the planning and preparation for advertising the public procurement opportunity.

Yet as the chart below indicates a significant change where the exposure includes external parties, the perception held by 75 per cent of respondents is that the greatest vulnerability to and risk of corruption occurs. It is here that the vulnerabilities to corruption increase. So too, when the two higher risk ratings are combined the vulnerability/risk perception is also notable at contract execution – 92 per cent for high and very high risk. So with the management of procurement payment where the combined risk perception is 71 per cent.

Table 5: Risk per stage of procurement - cases



The findings from the cases are supported by the perceptions of stakeholders. Here the interviews echo the case findings that the stages most vulnerable to corruption in the procurement cycle are evaluation of bids/proposals, contract execution, and management of the payment processes. While the sample size is small, the story it tells provides policy and decision makers with a clear indication of where anti-corruption efforts will be most useful.

3.2. Findings on prevalence of forms of corruption in procurement

The forms of corruption and schemes of corruption from the cases reviewed are grouped in 4 categories namely; “bribery/kickback/commission” conflict of interest, fraud, and political influence peddling.

The corrupt acts or omissions that fall into the category of bribe or kick back are varied.

Table 6: Occurrence of forms of corruption and schemes in Procurement - cases

Corruption scheme/Form	Corruption acts/omissions mainly related to influence external to the PDE.			Entity’s specific suspected corruption acts/omissions			Total Number of acts
	Personal interest not declared or hidden	Bidder misrepresentation of facts e.g. experience	political influence peddling/political handpicking of a provider	Other acts/omissions	Change of evaluation criteria/unfair evaluation	Un-transparent methods of shortlisting bidders/ use of unjustified methods	
Form of corruption	Conflict of interest	Fraud	Political influence peddling	Bribery/kickback/"commission"			
No. of acts/omissions	2	1	1	23	16	4	47
%	4%	2%	2%	49%	34%	9%	100%
%	4%	2%	2%	92%			

In an assessment of cases of bribery /kickback/"commission" have the highest occurrence at 92 per cent in comparison to the other three categories which are significantly lower. It is worth noting that corruption is seldom a single act or incident. Given the specific acts in the list above there is an overlap between acts in first three schemes or forms and acts that fall into the bribery category.

Table 7: Procurement forms of corruption and schemes - interviews

Corruption scheme/ Form	Corruption acts/omissions mainly related to influence external to the PDE			Entity's suspected corruption of connivance		Total responses
Corruption scheme	Collusion among provider & with PDE staff	Personal interest not declared or hidden	Political influence peddling/political	Connivance by internal stakeholders	Other connivance schemes	
Main form of corruption	Fraud	Conflict of interest	Political influence peddling	Bribery/kickback/"commission"		
No.	3	2	2	4	9	24
%	13%	8%	8%	17%	37%	100%
%	13%	8%	8%	54%		100%

Based on interviews with stakeholders and summarised above, here too bribery/kickback/"commission" feature as the most common form of corruption. Responses from stakeholders indicate over half of all forms of corruption are bribery, followed by fraud at 13 per cent and then conflict of interest and political influence peddling each at eight per cent.

Stakeholder interviews reiterated the complex nature of corruption. Several respondents noted that corruption is orchestrated through manipulation of the value chain by internal stakeholders and external, often- syndicated actors from initiation through to the end of the procurement contract. Most corruption schemes include collusion among bidders and influence peddling. This involves collaboration between entity staff and providers as well as politicians. As with the cases, corrupt activities are complex and often involve a series of interrelated and supportive activities with the goal of personally benefitting from public funds.

3.3. Findings on the specific form of corruption in the procurement cycle

To further understand corruption as it occurs in the stages of procurement, information was extracted from the cases that linked the form of corruption with the stage of the procurement cycle. This provides policy and decision makers with an overview of what is happening where and when. This provides information that may be used to identify stage appropriate anti-corruption interventions.

So too in the interviews with stakeholders, information on the specific form of corruption occurring in the stages of the procurement cycle were explored. The findings reflect the ways that individuals may exploit the current vulnerabilities in the procurement system.

Table 8: Specific form of corruption in the procurement cycle-cases

Stage in procurement and contract management	Specific form(s) of corruption (possible corruption actions)
1. Budgeting/Planning	<ul style="list-style-type: none"> Budgeted funds illegally withdrawn Failure or negligence to plan the procurement Poor or deliberate over-estimation of prices
2. Initiation and specification or terms of reference preparation	<ul style="list-style-type: none"> Incorrect statement of requirement Delay to initiate procurement leading to emergencies or use of expired contracts
3. Procurement method determination	<ul style="list-style-type: none"> Use of direct procurement without sufficient justification which undermines competition and limits value for money
4. Bidding document preparation/ Invitation for bids	<ul style="list-style-type: none"> Obscure or inappropriately designed bidding document or draft contract and evaluation criteria
5. Approval of method, bidding document, shortlist, etc.	<ul style="list-style-type: none"> Inappropriate approval of use of the direct procurement method without sufficient justification.
6. Management of bidding process	<ul style="list-style-type: none"> Low bidder response due to suspected corruption Interference in the shortlisting of bidders Award before initiation of competitors and invitation to formalize award
7. Evaluation of bids	<ul style="list-style-type: none"> CC goes beyond their mandate to approve actions outside the evaluation report recommendations Use different evaluation criteria from bidding document Collusion or negligence in inflating bid prices through arithmetic errors increases of bid prices No clear evaluation criteria that unfairly favours a preferred bidder
8. Approval of evaluation report and contract award/Signing of contract	<ul style="list-style-type: none"> Approval of award of contract without adhering to procedures deliberately
9. Contract execution including preparation of contract implementation plans, contract supervision/follow up, dispute management and evaluation of contract performance, termination etc.	<ul style="list-style-type: none"> Non- performance or poor performance and delays on contract deliverables Collusion by provider and contract manager to alter contract specifications Interference and flouting of procedures to make payments Termination of contract and award to another provider outside procedures under the influence of politician Acting out of fear of politicians by PDE staff Negligence due to low capacity of providers and/or staff Poor supervision leading to delays or poor-quality contract performance No audit trail - Lack of contract performance records and poor record keeping
10. Management of the procurement payment processes including, payment initiation, processing, approval, payment release and timeliness of payment	<ul style="list-style-type: none"> Failure or negligence in contract management and supervision Flouting of procedures in law and contractual payment Payment for work not done or completed Financial loss
11. Post contract performance phase	

The findings from the stakeholders on the specific form(s) of corruption for each stage of the procurement cycle and their responses are summarized in the table below. The responses provide rich details on likely corruption actions throughout the procurement cycle. It seems

that corrupt officials and providers use procurement practice and user department expertise in key stages such as planning and budgeting, initiation and preparation of statement of requirements, and evaluation of bids and contract execution.

Table 9: Specific form(s) of corruption under the stage in the procurement cycle- interviews

Key Stage in the procurement process	Specific form(s) of corruption (possible corrupt actions) at each stage in the procurement cycle
Budgeting/Planning	<p>Obfuscation and deliberate misinformation in planning</p> <ul style="list-style-type: none"> • Delay to plan intentionally and bring it as an emergency, • Identify a project to benefit from it and include it in the budget/ plan • Planning for procurements not to be purchased • Include money for malpractice; e.g. 'hide' figures elsewhere to be re-allocated for corruption procurements • Overstating requirements deliberately
Initiation and specification or terms of reference preparation	<p>Obfuscation and deliberate misinformation in statement of requirements (SOR) and preparation</p> <ul style="list-style-type: none"> • Decision making in the hands of few working in the same PDE/office • Lack of preparation and ambiguous SOR – so that one cannot understand and money skimmed off • Overstate the quantities required and use excess for bribery • Inflate market price assessment at initiation, share information on the estimates with all bidders within the market <p>Favouring preferred bidder</p> <ul style="list-style-type: none"> • Tailored SOR to deter competition or to favour certain bidder • Corruption scheme parked in statement of requirements • Negotiations done at SOR development
Procurement method determination	<p>Deliberately flouting procedures combined with limited or no oversight</p> <ul style="list-style-type: none"> • Avoid advertisement • Restricted /selective – the choice of shortlist and favour or negotiations with preferred bidder • Use method that will favour the desired bidder • Spilt values to avoid a certain threshold, to justify a particular method • Unjustified direct procurement or use of less competitive method
Bidding document preparation/ Invitation for bids	<p>Deliberately flouting procedures combined with limited or no oversight</p> <ul style="list-style-type: none"> • Deliberate omission or negligence at design of bid document and contract • Overstating evaluation criteria requirements favouring certain firms • Use of certain media less widely read to avoid competition • Signing for shortlisted bidders or delay to invite under selective method • Giving different bidders different information
Approval of method, bidding document, shortlist, etc.	<ul style="list-style-type: none"> • Approval of a wrong procurement method • Deliberately ignoring inappropriate bidding
Management of bidding process including advertising, prequalification (if applicable) invitation of bidders, clarifications and amendment of bidding documents, bid opening	<p>Non-adherence to evaluation criteria to favour certain bidders</p> <ul style="list-style-type: none"> • Deliberate failure to screen competent companies and shortlisting unreliable firms • Omit key issues raised by a concerned 'unfavoured' bidders not included in the minutes and ignore • Issue pre-bid/proposal minutes too late to frustrate bidders • Announcement of different favourable price from the bidder's quoted bid and leakage of estimates to favoured bidder • Changing favoured bidders document before evaluation starts • Clarifications during bidding period not sent to all bidders including times for

Key Stage in the procurement process	Specific form(s) of corruption (possible corrupt actions) at each stage in the procurement cycle
	bid submissions
Evaluation of bids including clarifications, correction of arithmetic errors, determination of evaluation sub-criteria carrying out post-qualification, negotiations and due diligence on bidders	<p>Non-adherence to evaluation of bid procedures and criteria</p> <ul style="list-style-type: none"> • Collusion by bidders with cooperation of entity e.g. to meet the requirements of 3 quotations • Eliminate a bidder for administrative non-compliance issues yet low priced and technically compliant • Unfair waivers and relaxation of evaluation • Agreement by evaluation committee members to accept and substitute missing documents, Removing bidders' documents, • Doctor scores or rating to suit a particular bidder • Ignoring due diligence out of personal interest • Pressure from superior to favour a certain bidder known to the "boss" • Have the result before evaluation/award and rationalize decision • Bribe winning bidders to before communication of results • Not using reserve price leading to bribery or poor quality • Failure to evaluate unit rate analysis- front loading (e.g. getting money under preliminary works – if you terminate no one can complete the work)- • Pass on forged documentation and alleged experience • Post qualification and due diligence- during travels/visits – expensive gifts/offers • Awarding to lowest bidder and then during execution approve addendums for more money
Approval of evaluation report and contract awarded by Contracts Committee, other stakeholders and Accounting Officers	<p>Non-adherence to standard contracting and accounting procedures</p> <ul style="list-style-type: none"> • Approvals for no work done or shoddy /poor quality • Inspection and Certification of performance- collusion • Less Quality and /or less quantity • Demand for invoice without contract performance • Not adhering to activity schedule for procurement process • CC reject evaluation report recommendations to favour a certain bidder • Approval by other agencies- SG – ask for bribes before clearance • Undue influence from the AO or higher authorities • Evaluation reports submitted during the time of CC sitting or 1 day before the meeting
Contract execution including preparation of contract implementation plans, contract supervision/follow up, dispute management and evaluation of contract performance, termination, etc.	<p>Collusion and mismanagement in contract execution and quality assurance</p> <ul style="list-style-type: none"> • Contract execution issues • Failure to terminate • Unjustified change of key staff to facilitate collusion • Falsification of transactions • Staff not paid or paid lowly • Error in estimation of quantity and contractor hikes rates up and claims for cost overruns • Cost overruns • Unjustified variations to cover omissions/errors • Force accounts is being used, guidelines not followed, output is low • Use admeasurement contracts to increase prices • Changes in scope of work and price variations • Hidden deliverables in contracts • Contract exit strategy not well handled - e.g. vehicles handover, site handover, warranty, etc. • Vague contract terms with no clear milestones or detailed deliverables • PDE terminate contract for some technical feasible reasons for non-payment of bribes • Offer bribes and abandon contracts – not make any profit and after re-tender

Key Stage in the procurement process	Specific form(s) of corruption (possible corrupt actions) at each stage in the procurement cycle
	<p>the prices goes higher</p> <p>Quality assurance issues</p> <ul style="list-style-type: none"> • Contractors being paid before work done • Low quality of work/ Short supply • Shoddy work to cater for bribe • Change of specifications – to lower quality without formal amendments and no change of contract prices • Lack of supervision – under staffing – e.g. lack of clerk of works • Covering of professional negligence – e.g. omission of iron sheets • Lack of provider performance evaluation – shared by PDEs • Delay to work because of rejection of strict supervisors • Poor performers not recommended for blacklisting because of conflict of interest
<p>Management of the procurement payment processes including, payment initiation, processing, approval, payment release and timeliness of payment</p>	<p>Mismanagement and collusion in payment processes</p> <ul style="list-style-type: none"> • Provider not meeting contractual obligations but paid • Retention money paid before contractual time • Inflated costs based on source of funding • Non- payment or delayed payment unless kickback or commission • Duplicate payments for same work done • Cancelling (by an individual) of an electronic LPO that has being implanted and diverting funds – when payment of earlier LPO issued is due no funds as funds have been diverted • Gifts as bribes • Falsification of transactions • Finance staff not complying to financing arrangements • Snag lists not addresses before retention or final payment • Warranty expiring before handover of works constructed • Ignoring and not enforcing certain or not invoking penalty clauses against provider • IFMS is on line and depends on availability of money
<p>Post contract performance phase</p>	<ul style="list-style-type: none"> • False Inspection and Certification of satisfactory performance- collusion • Promising repeat contract/direct contracts without following process • Lack of planning for MO- assets not well maintain • Warranty, defects, liability or performance securities period poorly managed to the advantage of the colluding parties

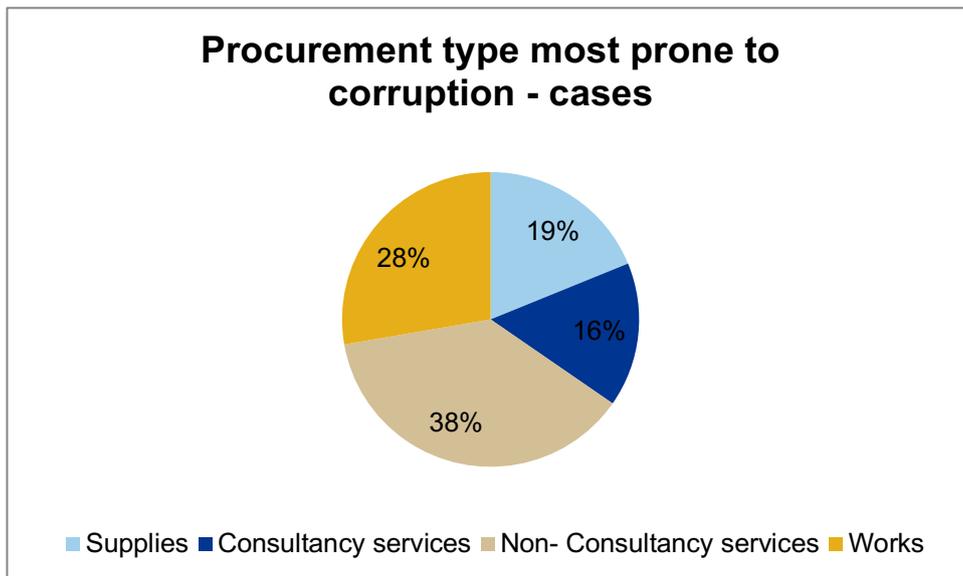
The findings from cases reviewed and interviews reflect the complexity and variety of procurement corruption. The findings suggest that where entity staff and providers collude in developing statements of requirement, inappropriate or unsuitably designed bidding documents or draft contracts, or technical inspection of work, it becomes very difficult to detect the corruption. In such instances it is technically well orchestrated and embedded in the procurement cycle. These findings provide a strong rationale for technically competent practitioners to oversee paper work and deliverables. Independent review mechanisms to detect or deter such corrupt actions become a key component in anti-corruption processes.

3.4. Findings on type of procurement prone to corruption

Reviewing and understanding the types of procurement services adds to a coherent picture of corruption in this context. The four procurement types are drawn from the PPDA Act section 3 and are supplies, consultancy services, non-consultancy services, and works.

The cases were reviewed to identify which type of procurement was more prone to corruption from the four procurement types. The review focused on 32 cases from PPDA and IG.

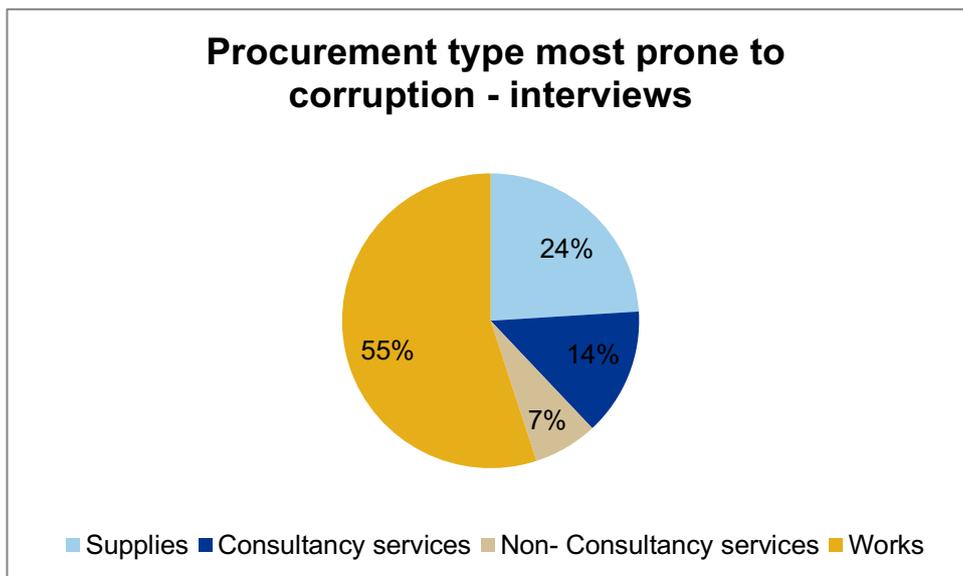
Table 10: Procurement type most prone to corruption - cases



Based on this, the procurement category most prone to corruption is non-consultancy services at 38 per cent, followed by works at 28 per cent and then supplies at 19 per cent.

The stakeholders were asked to identify types of procurement and the propensity of each to corruption.

Table 11: Procurement type most prone to corruption - interviews



Stakeholders identified that works had the greatest propensity to corrupt activities. Of the 24 stakeholders interviewed, more than half indicated works as been at risk with 55 per cent.

This was followed by 24 per cent identifying supplies, 14 per cent for consultancy services, and lastly non-consultancy services with seven per cent.

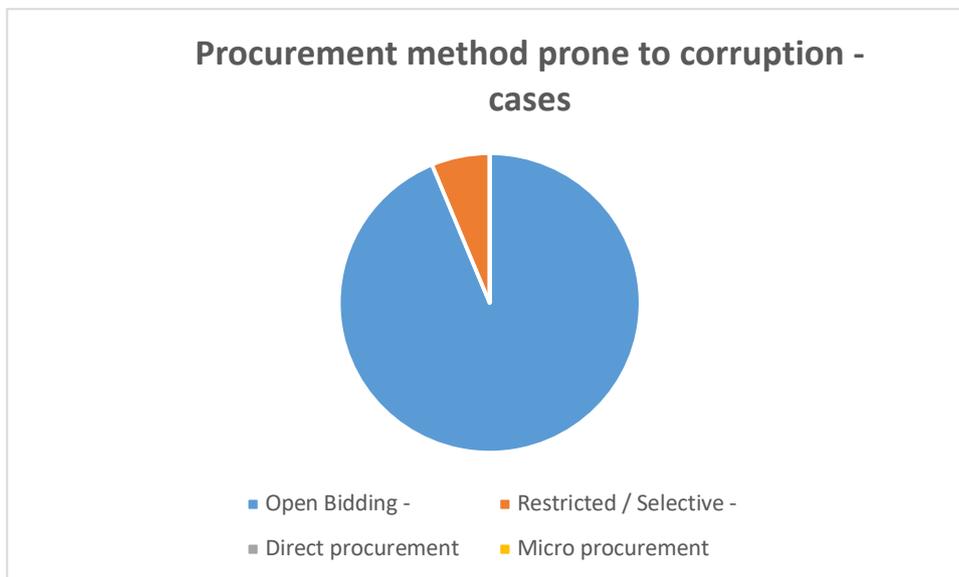
While at first there appears to be a discrepancy between the two sources of information in the type of procurement most at risk to corruption, the context of the case review is notable. Of the 32 cases, 15 are from local government (IG regional offices). Here the main complaints are of revenue collection and park management which are categorised as non-consultancy services. This may explain the focus on the high score in this category of procurement. In addition, the data does not include eight audit cases from PPDA as details were not available. Specifically, two cases out the eight cases of PPDA audit findings identify the corrupt act/omission as the use of direct procurement. This suggests that allowances for context and case specifics need further review to create more accurate information on which forms of procurement may be more prone to corruption.

3.5. Findings on method of procurement prone to corruption

Various factors determine the method of procurement that will be used in the issuing of a bid to procure goods, services, and works. Type of procurement, value, time, scope of the assignment, urgency, and level of expertise contribute to determining the method selected. The procurement method is a further aspect of procurement that provide insights into the vulnerabilities in the overall process. The four methods are Open bidding, Restrictive or Selective bidding, Direct procurement, and Micro-procurement.

The case review of the method of procurement indicated that the most significant corruption occurs in the Open bidding method. Thirty of 32 cases or 94 per cent indicated that open bidding was prone to procurement corruption. It is not evident though whether the cases reviewed were selected to be a representative of the methods used. As such the conclusions that may be drawn need to include this caveat.

Table 12: Procurement method most prone to corruption – cases



The findings based on cases reviewed, suggest that the method of procurement most prone to corruption is open bidding (94 per cent) followed by selective or restricted bidding and direct procurement at 26 per cent.

Findings from stakeholder interviews suggest an even spread of propensity to corruption across the methods. An additional method of procurement - force account - was also identified as prone to corruption in local government level. More specifically, the method of procurement that most prone to corruption is open bidding at 35 per cent, followed by selective or restricted bidding and direct procurement both types at 26 per cent.

As noted in the case review findings, the results may reflect the nature of complaints that are reported to IG and hence investigated by PPDA which are more likely to be from the open bidding method of procurement. From audit findings the direct procurement and micro procurement are more likely to be detected as the PPDA sampling in audit indicates. Both IG and PPDA investigate alleged procurement corruption through complaints. The complaints related to open bidding is expected given its public nature which may mean it is more easily scrutinised than other parties. In terms of value, open bidding carries the highest values, this too means that it is more likely to attract scrutiny and complaints.

Even though the findings show that open bidding has a high propensity to corruption, this does not equate to other methods being less prone to corruption. This gap in the findings suggests that further assessment of cases that involve other methods would be useful to develop a more comprehensive review. The findings also suggest that the PPDA not only wait for the IG to investigate complaints on behalf of the IG, rather to be proactive in seeking potential corruption, including in the other methods. Detecting and providing technically useful information of suspected corruption cases could serve other agencies including PDEs' efforts to deter procurement corruption.

3.6. Findings on sector or institution prone to corruption

During the review of cases and interviews the study sought to determine which sectors or Institutions were more prone to procurement corruption. The sectors are central and local government, office support, and social sector services including roads, water, education, health, energy, and agriculture.

Weaknesses in keeping records of procurement corruption cases meant that the assessment and analysis of information related to sectors or institutions that are prone to procurement corruption is limited. Despite this some narrow findings based on the available information are proposed. From the case reviewed it seems that the sector most prone to procurement corruption is Works at 30 per cent with revenue collection at 23 per cent. The findings are useful to determine current challenges in record keeping. The limited or lack of information to determine the level of government – local or central; and the cases where this information is missing indicates that attention to such processes are important.

Adding to the case review information, the interviews with stakeholders identified that the sector most prone to procurement corruption was also Works. However, the perceptions give a much higher propensity at 71 per cent. This is followed by responses that indicate lesser propensity with "All" at 13 per cent and other sectors at 4 percent respectively.

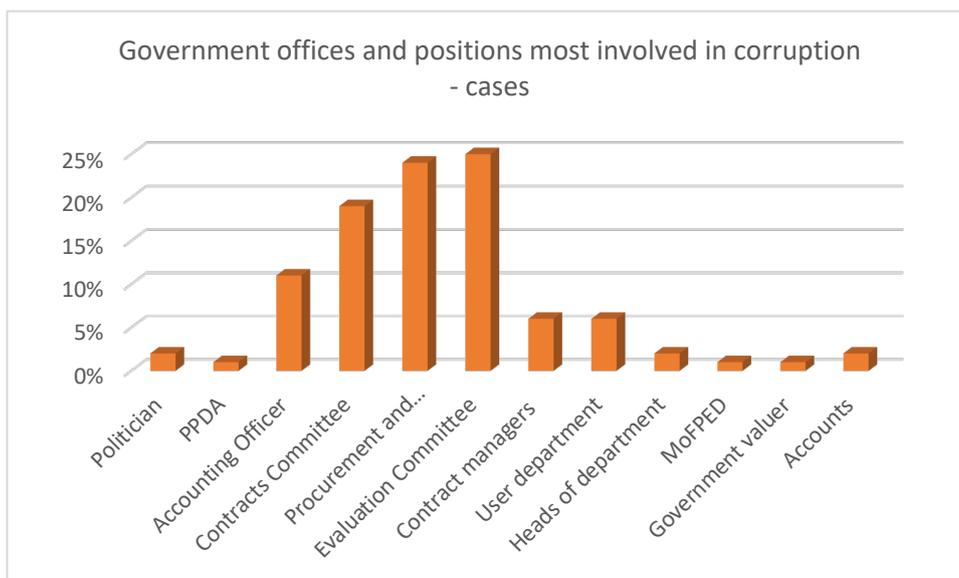
Cautious conclusions point to procurement corruption most notable in Works. This may indicate that large-scale construction and infrastructure development is more complex, longer term, high-value, and multi-phased procurement processes. This complexity could be linked to greater risks to corruption than other sectors. The study also has revealed the lack of record capture and management to highlight several aspects of a particular corruption case hampers accurate analysis. With current and comprehensive records, anti-corruption policy makers and practitioners are likely to be more precise in their ability to track trends,

successes and weaknesses. Without this evidence, motivating for additional funding is also difficult and may stifle better resourced efforts.

3.7. Findings on offices or positions most involved in corruption

The findings on the government positions or offices that are suspected of most involvement in corruption was assessed. The total number of times an office or position was suspected across the cases are tallied as reflect in the table below.

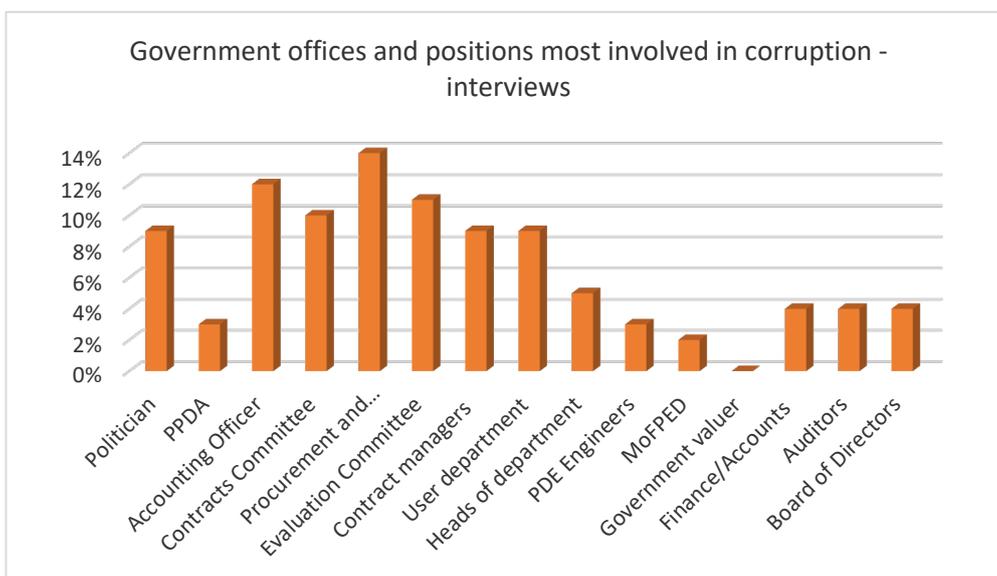
Table 15: Government offices and positions most involved in corruption - cases



These findings indicate that both the Evaluation Committee members at 25%, and Procurement and disposal Unit officials at 24% are most suspected of being involved in corruption from the cases reviewed. The Contracts Committee at 19% and Accounting Officer at 9% are also notable. This indicates that the vulnerabilities and risks to corruption are most likely at these intersections.

The same positions and offices were reviewed in the perception interviews with stakeholders.

Table 16: Government offices and positions most involved in corruption - cases



The results from interviews show that the highest totals for procurement corruption are found at the Procurement and disposal Unit at 14 per cent, Contracts Committee at 12 per cent, Evaluation Committee at 11 per cent. The Contract managers, User department, and Accounting Officer each feature 16 times across the 24 interviews.

From both the case review and the interviews, the positions in a Procurement and Disposal Entity (PDE) that are suspected to be most involved in corruption are Procurement and disposal Unit (PDU), User department (UD), Evaluation Committee (EC) and Accounting Officer (AO). It is important to note that the EC is an ad hoc committee and is formed for each specific procurement bid. The EC is comprised of PDU and UD staff and supervised by PDU. The Contract managers are from UD and are supervised by UD staff. In addition, the CC is comprised of UD staff.

The totals from the findings suggest that the established positions that are suspected to be most involved in procurement corruption are Procurement and disposal unit staff and User department staff. Any effort to address procurement corruption should focus on these two departments.

The PPDA Act defines a procurement specialist as a professional who has the knowledge and experience in the practice of procurement. In addition, the Act requires that such specialists are certified or registered by a professional body.

The findings suggest vulnerabilities that may be addressed by adhering to the professional requirements of procurement. It is critical that key staff of PDU as well as UD are registered with such professional bodies. The establishment and support of these bodies as a development and support, and also an account-holding entity are critical in anti-corruption strategies.

3.8. Findings on the schemes of corruption in the procurement

Procurement corruption schemes are varied and constantly innovating in efforts to manipulate processes for personal gain. Understanding these and how they are perpetuated is a key aim of the study. The review of cases and the stakeholder responses highlight weaknesses along the procurement stages. A notable trend is that evaluation, contract execution stages, EC, PDU and CC offices, and positions are found to greatest propensity to vulnerability and risk and to the highest rates of corrupt activity.

The research findings indicate that unfair or altering evaluation criteria is the most prevalent theme accounting for over one third of schemes. This raises questions for the oversight function of the PDDA. The main question here is “how can a scheme hatched earlier in the cycle or by EC go through the review process by PDU and CC, and finally be award by the AO and being implemented by UD undetected at each of the procurement stages or “check points”?”.

The basis of the PPDA Act Sections 24-38 is that the different functions of each of the key stakeholders within a PDE is meant to maintain checks and balances to avoid procurement malpractices. In addition, where this is not the case it should be easily detected in the system by a range of stakeholders.

The findings on specific form(s) or aspects of corruption under each stage in the procurement cycle may also suggest that different role players undertake particular functions in the multi-part corruption schemes. This is because the different stakeholders within the PDE who should ideally be able to check on each other to ensure no corruption scheme goes

undetected appear to act differently hence prevalence of corruption acts or omissions in the entire procurement cycle.

Stakeholders' identified four (4) schemes or aspects of corruption namely:

- I. Connivance by internal stakeholders to collude and protect each other.
- II. Syndicated chain of activities and players from initiation to end of contract
- III. Collusion of bidder – agree to share portions of bids amongst stakeholders
- IV. Influence peddling- collaboration between the internal entity, external providers, and politicians.

The principle of independence of performance of functions of stakeholders within a PDE is clearly stated in the PPDA Act Section 38, *“The Accounting Officer, the Contracts Committee, the Procurement and Disposal Unit, the User Department and the Evaluation Committee shall act independently in relation to their respective functions and powers”*. This appears to be insufficient in response to cunning internal and external players who understand the system and the opportunities for corruption so well that they continue with limited deterrence and risk of punishment.

The PPDA Act is designed to provide for the principles of ethics and transparency in public procurement. Yet the findings consistently suggest that those expected to safeguard the system are too often party to procurement corruption. It follows that in schemes where staff connive to commit acts or omissions, there will be serious challenges to effective detection, investigation, reporting, and administrative sanctions that aim to deter and disrupt corrupt activities. So too recommendations of suspected cases may be less potent than needed to reducing and preventing corruption.

The limitations described above may be exacerbated by the provision in PPDA Act Section 92. Here staff of a PDE and the PPDA who are found guilty of corrupt acts or omissions in their work but who have acted in good faith are not prosecuted. This may send an ambiguous message to staff with intentions of perpetuating corruption in PDEs. This needs to be clear, and also include providers who do act in good faith, so that this form of legal protection is not discriminatory and is used appropriately.

Therefore, in trying to answer the question of how such schemes are perpetuated, it is reasonable to deduce from the findings so far that either there is complete connivance by all, some or a few influential stakeholders within the procurement process in an entity; or that some stakeholders act negligently while others take advantage and are the architects of corruption within an entity.

This may call for among other innovative means, the review of PPDA Act and regulations to find legal and effective ways of making stakeholders individually accountable. This will reduce the reliance on several internal committees that increase bureaucracy and inefficiency without adequately dealing with corruption in procurement and solving procurement inefficiencies.

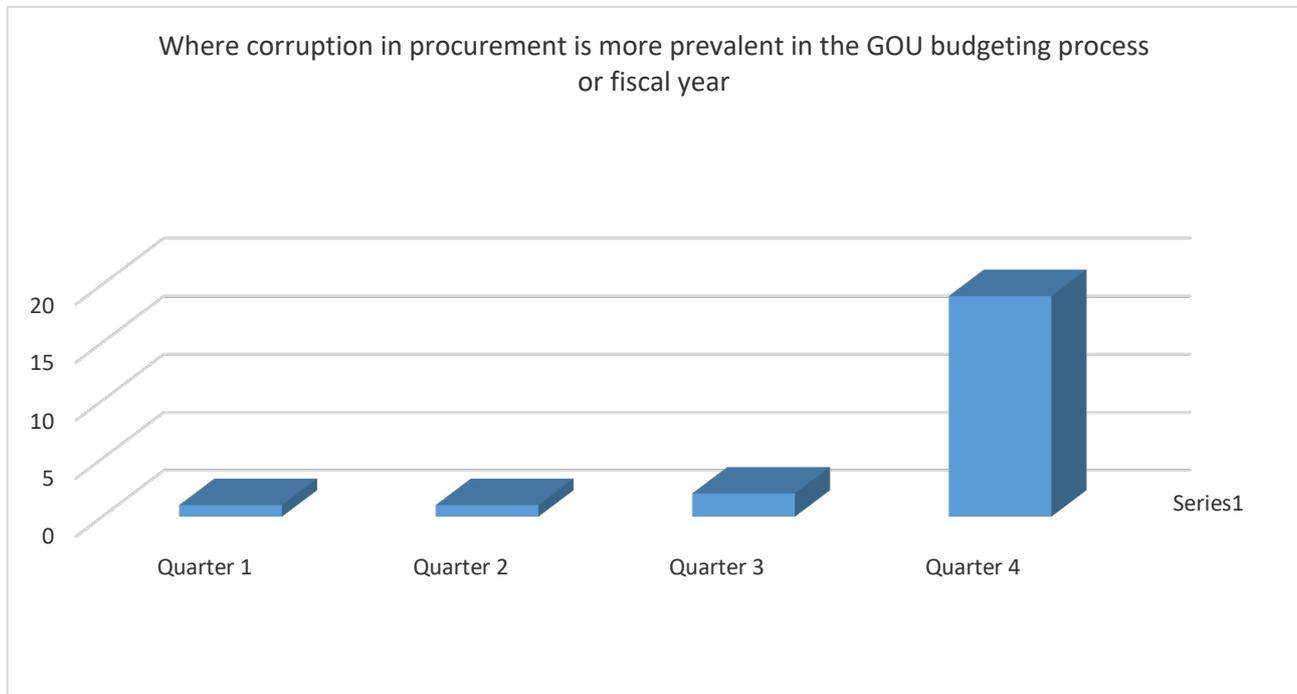
3.9. Findings on particular periods for corruption from interviews

Stakeholders were asked about particular windows of opportunity in the GOU budgeting process or fiscal year when corruption in procurement is more prevalent.

Most responses - 19 out of 24 - indicated that the last quarter of the financial year (FY) is likely to be more prone to corruption. The reasons that some of the stakeholder gave is that public officers collude to spend money before it is taken back to central budget or treasury to

the consolidated funds. This rush to allocate and disburse funds, whether deliberately creating pressure or not does result in weaknesses in the management of funds including for procurement.

Table 17: Where corruption in procurement is more prevalent in the GOU budgeting process or fiscal year



According to PPDA annual report 2015/16, the root cause of low budget absorption is poor planning by PDEs and the late initiation of procurements. Here the audit findings for the procurement performance indicators for a sample of 114 PDE was averaged at 57.7%. This includes a procure ratio score of 27%. The Procure Ratio is the actual procurement time divided by planned procurement (in days) that was the lowest performance score of all the 8 PPDA performance indicators. This is serious performance matter that may result in loopholes for corrupt practices. These are difficult to detect. This indicates system and management weaknesses. The electronic procurement system being rolled out in 2018 by the PPDA may mitigate weaknesses in procurement planning.

3.10. Findings on non-financial forms of loss from interviews

During Anti-corruption week in December 2017, the IG stated,

“In an environment where corruption prevails, public resources are redirected to the pockets of the corrupted few individuals which deepens inequality by diverting money sorely needed for health care, education and other essential services. Corruption affects the poor since they are the ones most in need of the public goods and services, but cannot afford to pay bribes in order to access them”.

Stakeholders, including providers, were asked to estimate the percentage of a contract price (other than bribe) that may be charged by a provider to a government entity due to corruption associated with anticipated or known delayed payment of providers. The responses were categorised in the table below as entity level loss and national level impact. It is possible to deduce from this that the broad is felt by both the government and people of Uganda.

Table 18. Non-financial forms of loss - interviews

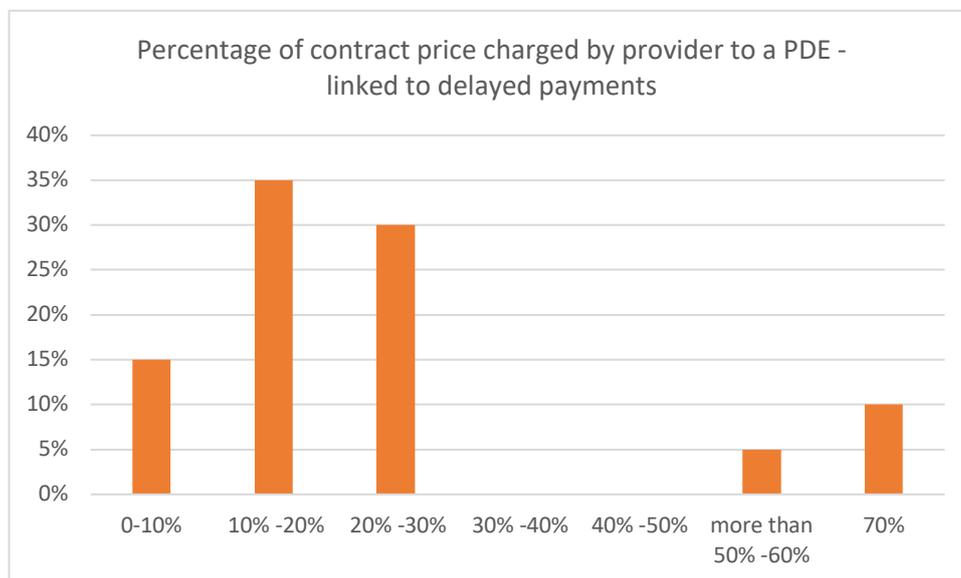
Entity level loss	National level impact
Poor or delayed service delivery	
Loss of reputation and credibility	
Wasting time, logistical, over-ordering, theft Decreased quality Human resource loss	Implementation capacity and productivity loss Loss of loyalty to public as allegiance is to paymaster Stunted economic growth and development Loss of moral integrity Normalisation of corruption and acceptance of bribery Hampers economic development and investor confidence

This overview reiterates the IG’s statement. In corruption and collusion everyone loses, with those most in need of government services being the most severely impacted.

3.11. Findings on percentage of contract price lost to corruption due to delayed payment

Delaying payment to providers has serious consequences for their businesses. This practice undermines efficient management and implementation and can have severe consequences that may result in business entities failing and even job losses as people are not paid in time for their work. During the interviews stakeholders were asked to estimate the percentage of a contract price added by a provider to a PDE official due to anticipated or known corruption associated with delayed payment of providers (excluding the percentage for bribes). Here 20 out of 24 stakeholders gave responses. A summary of the findings is shown in the table below:

Table 19: Percentage of contract price charged by provider to a PDE - linked to delayed payments



From the above graph, the findings from interviews of stakeholders indicate an estimate of the amount charged by providers as part of the contract over anticipated or known delayed payments. The majority of responses estimate a loss at the lower end of the scale. Eighty per cent of respondents indicated 30 per cent or lower for the value of the contract price added due to corruption associated delays in payment.

According to studies conducted in Uganda such as the recent PPDA National Integrity Survey of January 2016, bribe percentage of the contract price charged by a provider is between 10-

20 per cent of contract price. Adding this to the average estimates of 15-25 per cent charged by providers, a reasonable combined total for inflation due to corruption per contract price is between 25 and 45 per cent. This unnecessary cost is born by PDEs and government and is in addition to other non-financial costs.

3.12. Findings on number of suspected cases detected by PPDA /IG in last three years

The study sought information on the number of suspected procurement corruption cases in PDEs that were detected by both the PPDA and the IG through audits, investigations, or complaints in the last three financial years. The information was obtained from lists of suspected corruption cases linked to procurement from both the PPDA and IG over a 3-year period.

There were 396 cases of suspected procurement corruption for both the PPDA and the IG over the three-year period from 2014/15, to 2015/16, and 2016/17. The IG identified 269 suspected procurement corruption cases and the PPDA identified 127. For the PPDA this included groups of multiple cases of corruption. In the 8 audit cases reviewed, the groups comprised a total of 1195 suspected incidents of procurement corruption. Thus, the real number of cases is much larger than it appears.

These findings point to the possibility that with greater budgetary and capacity support a greater number of suspected procurement corruption cases from audit findings may be detected. This would also feed into IG prosecution processes; along with other anti-corruption agencies and implementing agencies for administrative sanctions.

Based on the categorisation of corruption cases as agreed with the PPDA during the study, the number of cases that would be liable for criminal prosecution would increase rapidly. Here accurate and up-to-date records are essential. The resultant increase in cases could result in an overload or bottleneck in prosecutions on a part of the IG. Innovative and practical ways of prosecuting or sanctioning corruption arising from audit findings would support anti-corruption efforts.

Even in cases being reported and investigated there is need to connect the law breached with corresponding sanctions. This will guide the responsible authorities to select appropriate responses. Added to this clearer, more detailed investigation and audit guidelines are needed. These should cross reference relevant PPDA or IG legal recourse for each act/omission. This will support officials seeking to detect and disrupt corrupt activities.

In a review of the total number of audits completed of PDEs about 30 per cent are audited per year. However, as the PPDA focusses on high spend PDEs the values of estimated procurement translate to a 70 per cent coverage of procurement disbursement and implementation nationally. Even with the focus on high-value PDEs, there is a risk of laxity and loopholes for corruption at PDE level. The lack of adequate staff and funds accounts for the PPDA not auditing all PDEs every year.

Most procurement corruption complaints where a breach of procurement procedures is suspected by the IG are referred to the PPDA for more detailed investigations. Appropriate actions are recommended by the PPDA. In the 20 cases reviewed 11 that were referred to the PPDA to conduct out investigations. The system for recording and tracking referral cases including action taken, feedback to IG on implementation of recommendations, and case retrieval mechanisms is not well developed. Currently investigation reports are posted on the PPDA website and reported on in the annual reports.

3.13. Findings on actions by PPDA/IG to procurement-related corruption

Stakeholders were asked to comment on actions by the PPDA and the IG in response to complaints of corruption, including audits. Of the 24 stakeholders 15 responded. The comments were mixed. Positive comments recognized the blacklisting of providers by the PPDA, and investigation of own staff by the IG. More negative comments highlighted low confidence of the agencies to address the procurement corruption.

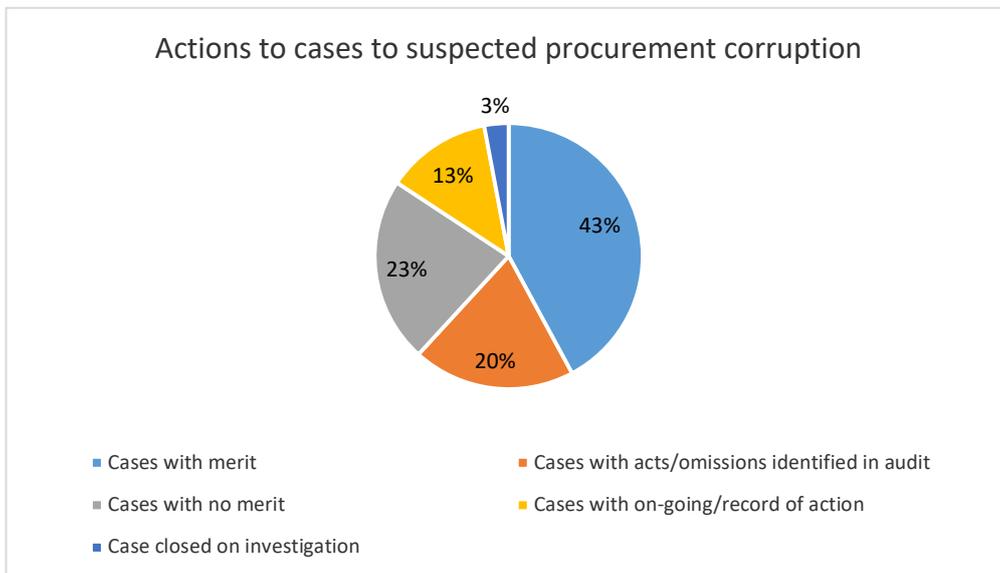
Some of the more critical comments included:

- Black listing of providers should also apply to public officials
- After investigations the PPDA does not have power to prosecute
- Certain recommendations by the PPDA and IG not well implemented
- There is suspected procurement corruption at the PPDA that appears to compromise their oversight mandate.

Most comments focused on the need for capacity improvements at the PPDA and the IG to more robust responses and follow through. The lack of an electronic database for capturing procurement corruption cases was noted as a specific capacity challenge.

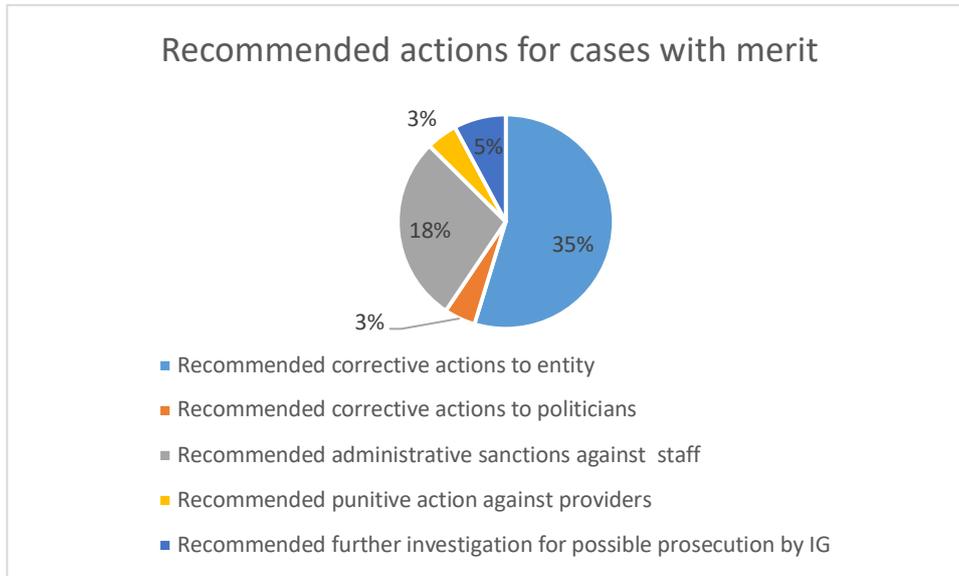
The charts summarise the actions prompted from audit or complaint. The first chart below shows actions in response to 40 suspected cases in which the PPDA dealt with 30 cases and the IG with 10.

Table 20: Actions to cases of suspected procurement corruption



The second chart shows the kinds of recommendations made in the cases with merit. Most of recommended actions were to the entity compared to those against the staff involved in the acts and omissions or even the providers. 14 cases of the 25 recommend corrective actions to entities, and 7 of 25 cases were administrative sanctions against staff. Only 1 of the 25 recommended punitive action against the provider.

Table 21: Recommended actions for cases with merit

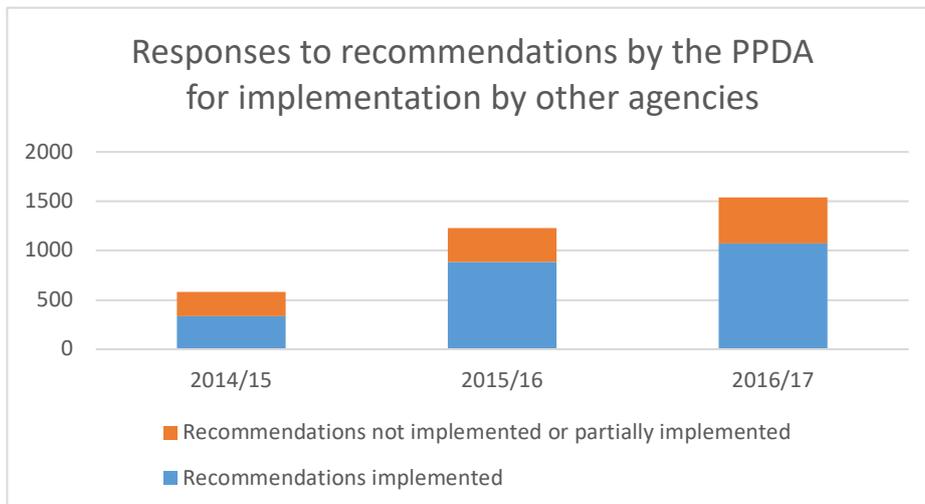


It is important to note that it is through the PPDA or IG investigations and audits that such malpractices were unearthed. This indicates the potential of the PPDA to conduct technical procurement investigations and audits to provide a basis for deterrent sanctions through the IG, the PDE or other agencies. Increasing the scope and scale of the PPDA's technical investigations and reports is necessary for effective prosecutions and any other administrative sanctions. With the aim of deterring and disrupting corruption, enhancing the detection capability of the PPDA to strengthen their anti-corruption impact seems desirable.

3.14. Findings on follow up actions based on PPDA recommendations

Anti-corruption efforts are often eroded when recommendations are disregarded in one way or another. To understand this in the context of the study, the PPDA follow up reports on recommendation over the last of three financial years were reviewed. The PPDA follow up reports review actions by the implementing agencies' implement the PPDA recommendations.

Table 22: Responses to recommendations by the PPDA for implementation by other agencies



The follow up reports reveal some of the challenges faced by the anti-corruption agencies regarding the implementation of recommended actions. From the summary graph there seems to be an upward trend over the three years to make and respond to recommendations. There is a jump of close to a thousand recommendations made between 2014 and 2017. Several factors may be attributed to this including the possibility that a number of cases may be carried over from one year to the next and so the duplicated cases are not accounted for here.

There also appears to be a steady increase in the number of recommendations that are implemented. The ratio in 2015/16 and 2016/17 indicates a significant number being implemented. This may point to the value and authority of the PPDA; although further research would need to determine other contributing factors to this apparent trend.

The information also reveals that that the time periods from making the recommendation to follow up are protracted. For instance, the procurements awarded in 2013/14 were audited/ investigated in 2014/15 and then the follow up of recommendations made by the PPDA for implementation by other agencies made in 2015/16.

The reasons for not implementing the recommendations are described as follows in the reports,

“The failure to implement most of the recommendations is as a result of laxity on the part of the Accounting Officers and the Procurement and Disposal Units; and failure of the user departments to play their roles in public procurement”.

Another reason noted in PPDA reports was the failure by Accounting Officers to take disciplinary action against officials in their PDEs. It is not clear why responsible officers may fail to implement recommendations and disregard PPDA recommendations. It may also be due to the fear of taking tough action against some staff or the need to protect colleagues with whom they are engaged in the corruption with, or weaknesses in performance management.

In the PPDA Act Section 9(2) it states that

“A competent authority shall respond in writing to the Authority’s (PPDA) recommendations under subsection (1)(b) within a period prescribed by regulations made under this Act”.

The regulation that would give effect to this might not yet be in place, or it is being used to enforce failure to implement administrative sanctions and corrective measures. Furthermore, the PPDA Act Section 9(3) provides a mechanism for a PDE to respond to the PPDA recommendations where they do not agree with the findings and recommendations.

Ideally, all necessary regulations should be completed, readily available, that relevant parties are aware of their content. Should there be gaps these require attention.

3.15. Findings on types of companies involved in procurement corruption

For the 40 cases reviewed information on companies, providers and their corporate structures was not available. The exception is in cases of blacklisting providers. Here the PPDA reports details of blacklisted firms and individuals. These are posted on the PPDA website.

It is also important that staff involved in perpetuating procurement corruption are recorded in cross reference to cases. This would allow investigators and prosecutors to track and monitor persistent and serious breaches and reduce prospects for repeat offenders. The need to track

persistent and serious breaches of PPDA Act are provided for under section 9 and it appears there are currently no such records on staff that have perpetuate such acts/omissions persistently for deterrent actions.

3.16. Findings on effectiveness of responses by PPDA/IG to procurement-related corruption from interviews

Stakeholders with intimate knowledge of anti-corruption were asked to comment on the effectiveness of current responses by the PPDA and IG to procurement-related corruption. Key points from the interviews included:

- Audits and investigations are carried out but reports are just recommendations
- Timely debarment from business, prosecution and asset recovery
- Comprehensive annual audits undertaken of all PDEs
- Greater collaboration exists between PPDA, OAG and IGG to fulfil their mandate
- Greater civil society organizations (CSO) involvement and promotion of the public scrutiny of some aspects of the procurement process and records)
- Capacity building needs regarding expertise and workload should be assessed and addressed
- IG has arrested and prosecuted successfully, even its own staff

Stakeholders' responses on the effectiveness of the PPDA and IG to procurement-related corruption by 11 stakeholders include the following:

- PPDA has allowed CSOs access to the GOU procurement portal and consequently organisations are analysing the data to improve the fight against corruption.
- PPDA and IGG are detached from incidents and the protracted time span from incident to recommendation and sanction is problematic
- PPDA and IG not effective at all in detecting procurement corruption.
- Oversight agencies appear "righteousness" but fall short of being fully effective

Although the general comments are at times unspecific there seems to be significant levels of frustration with the PPDA and the IG. However, a number of respondents noted some achievements including debarment from business, prosecution and asset recovery, IG arrest and prosecution its own staff, collaborative arrangements among anti-corruption agencies, and the involvement and promotion of the public scrutiny by CSOs. These were highlighted as very effective measures.

More critical comments suggest that while PPDA and IG are doing substantial work, they are not as effective in dealing with procurement-related corruption as expected.

The critical responses indicate a detachment from incidents, protracted time periods. This was perceived to, "giving room for people to commit corrupt practices". With the focus is on the procurement process compliance some respondents felt that this provided opportunities for official to commit undetected significant omissions or corruption schemes.

4. Conclusions

Through the review of cases and interviews with stakeholders, this study provides some insights into numerous aspects of the forms of procurement corruption and the schemes through which it is perpetrated throughout the procurement cycle. It also details the area, offices and positions most prone to corruption.

Procurement corruption has serious financial and non-financial consequences impacts on the Ugandan society and economy. This study finds that procurement costs are increased, mainly due to bribes and other forms of corruption such as delayed payment.

These findings expose a multi-faceted, complex, and hard-to-detect web of activities and allegiances across the stages of procurement. These findings are sufficient to alert authorities to that the need for using the legislation and systems more effectively to detect and disrupt corruption in government procurement.

Among the institutions with a mandate to fight corruption, PPDA and IG have a crucial role in detecting and investigating procurement corruption. Both institutions have been making significant headway, despite the challenging context. However, as authority to handle procurement has been largely delegated to the Procurement and Disposal Entities (PDE), efforts to address procurement corruption should also be a priority for the PDEs themselves and not only PPDA and IG.

A consistent challenge, as this study suggests, is that vulnerabilities to corruption are present, to varying degrees, at all stages of the procurement cycle. Based on the cases assessed and interviews, the greatest vulnerabilities are in the evaluation and contract execution stages.

With vulnerabilities at all stages in the procurement cycle, it is then not surprising to find that internal stakeholders all stages are prone to corruption. However, some are more at risk than others. This study finds that, within the PDE, the Evaluation Committee (primarily made up of the Procurement and Disposal Unit [PDU] and User Departments [UD]), the PDU, and contract managers (primarily made up of UD) are most frequently involved when there is suspicion of procurement corruption.

The involvement of external stakeholders in suspected corruption schemes throughout the procurement cycle indicates that there is a level of collusion between internal and external actors. This suggests that the various procurement roles within PDE's are not able to effectively serve as checks and balances of each other. Effective prevention of procurement corruption should thus, in addition to the functions performed by PPDA and IG, include efforts to strengthen internal controls within PDEs.

The introduction of an electronic procurement system in Uganda is expected to contribute to reduced vulnerabilities to corruption at the level of PDEs. It would also likely address the challenge faced by poor procurement planning, resulting in a flurry of procurement at the end of the financial year accompanied by increased vulnerabilities to corruption.

While this study found a high proportion of corruption to have taken place through the open bidding process, this is unlikely to be a reflection of open bidding being more prone to corruption. Rather, it seems that it is the very openness that results in complaints being made, which in turn result in further investigation. Corruption where other procurement methods are used is also likely to be more difficult to detect, given current capacities. Furthermore, with PPDA's audit planning being mainly value driven, it is more likely than not that audits will be conducted on large tenders typically procured through open bidding. Expanding the criteria

for audits, including all PDEs, is likely to increase the number of cases of corruption from other procurement methods.

This study found that few cases of suspected corruption led to punitive action being taken. To deter corruption in procurement it is necessary that stronger action is taken, when appropriate. PPDA would also benefit from having the ability to sanction institutions not implementing corrective measures.

Procurement staff are not able to red flag repeated omissions of possible corruption. This is an obstacle to detecting procurement corruption acts and schemes. Introducing clear criteria for suspicious or corrupt behaviour would help them to flag these issues as part of PPDA's audits and may also bring more cases to light. Furthermore, even if corruption cannot be proven repeated omissions of gross misconduct of staff can serve as grounds for dismissal or other administrative sanctions. The PPDA and the IG also do not have commonly agreed criteria for what constitutes suspicion of corruption or a protocol for tracking of suspected case between them. Having this would likely increase coordination and collaboration between the two.

Similarly, strengthening information management systems within and between the institutions to manage suspicions of corruption and case files may help intelligence gathering and strengthen any administrative sanction process or prosecution undertaken.