The Republic of Uganda

Office of the Auditor General

VALUE FOR MONEY AUDIT REPORT ON PROCUREMENT SYSTEM IN LOCAL GOVERNMENTS – A CASE STUDY OF 7 DISTRICTS

Prepared By
Office of the Auditor-General
P.O. Box 7083
Kampala

FEBRUARY, 2011
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<tr>
<td>AAG</td>
<td>Assistant Auditor General</td>
</tr>
<tr>
<td>ACAO</td>
<td>Assistant Chief Administrative Officer</td>
</tr>
<tr>
<td>AG</td>
<td>Auditor General</td>
</tr>
<tr>
<td>AO</td>
<td>Accounting Officer</td>
</tr>
<tr>
<td>BEB</td>
<td>Best Evaluated Bidder</td>
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<td>BFP</td>
<td>Budget Framework Paper</td>
</tr>
<tr>
<td>CAO</td>
<td>Chief Administrative Officer</td>
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<tr>
<td>CC</td>
<td>Contracts Committee</td>
</tr>
<tr>
<td>DP</td>
<td>Direct Procurement</td>
</tr>
<tr>
<td>EC</td>
<td>Evaluation Committee</td>
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<tr>
<td>INTOSAI</td>
<td>International Organisation Of Supreme Audit Institutions</td>
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<td>IPF</td>
<td>Indicative Planning Figure</td>
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<td>LG</td>
<td>Local Government</td>
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<tr>
<td>LGA</td>
<td>Local Government Act</td>
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<td>LGC</td>
<td>Local Government Council</td>
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<td>LGFAR</td>
<td>Local Government Financial and Accounting Regulations</td>
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<td>LGPPDR</td>
<td>Local Government Public Procurement and Disposal of Public Assets Regulations</td>
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<tr>
<td>LLG</td>
<td>Lower Local Government</td>
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<tr>
<td>MoFPD</td>
<td>Ministry of Finance Planning and Economic Development</td>
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<td>MoLG</td>
<td>Ministry of Local Government</td>
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<tr>
<td>OAG</td>
<td>Office of the Auditor General</td>
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<tr>
<td>OPD</td>
<td>Out Patient Department</td>
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<td>PDE</td>
<td>Procurement and Disposal Entities</td>
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<td>PDU</td>
<td>Procurement and Disposal Unit</td>
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<tr>
<td>PPDA</td>
<td>Public Procurement and Disposal of Public Assets</td>
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<td>PPDA ACT</td>
<td>Public procurement and Disposal of Asset Act</td>
</tr>
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<td>PPDA Reg</td>
<td>Public procurement and Disposal of Public Assets Regulations</td>
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<tr>
<td>PS/ST</td>
<td>Permanent Secretary and Secretary to the Treasury</td>
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<tr>
<td>RGC</td>
<td>Rural Growth Centre</td>
</tr>
<tr>
<td>SBD</td>
<td>Standard Bidding Document</td>
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<tr>
<td>SG</td>
<td>Solicitor General</td>
</tr>
<tr>
<td>SORs</td>
<td>Specifications of Requirements</td>
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<tr>
<td>TPC</td>
<td>Technical Planning Committee</td>
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<tr>
<td>UD</td>
<td>User Department</td>
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<tr>
<td>UG. Shilling</td>
<td>Uganda shillings</td>
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<td>ULG</td>
<td>Upper Local Government</td>
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<tr>
<td>VFM</td>
<td>Value for Money</td>
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*Note: The abbreviation **Uganda Shilling** is represented as *UG. Shillings* due to space constraints.*
EXECUTIVE SUMMARY

The enactment of the Local Government Act 1997 (LGA) gives effect to decentralisation as a system of governance and devolution of functions, powers and services to all levels of local governments (LGs) to ensure good governance and democratic participation in, and control of, decision making by the people.

Over 80% of the population of Uganda of 30 million live in rural areas. These areas are served by Local Governments Councils (LGC) which is mandated by the Local Government Act, Chapter 243 of Laws of Uganda, to be the highest political authority in providing decentralised services to the populace.

The Public procurement and Disposal of Public Assets Authority (PPDA) is responsible for the provision of policy, regulations, co-ordination, monitoring, supervision and control of procurements to ensure value for money (VFM) in all government ministries, agencies and local governments. The objective of the audit was therefore to assess the performance of the procurement system in LGCs.

Motivation

According to the PPDA baseline survey report of May 2006, over 60% of the budgets of local Governments are spent on goods and services. However, the procurement of goods and services is reported to be a very high risk area characterised by irregular sourcing of suppliers due to influence peddling, massive complaints of shoddy works, substandard quality of goods and services, inflated cost of inputs and poor management of contract processes, among others.

In the sampled districts of Mukono, Apac, Arua, Kamuli, Moroto, Bushenyi and Bundibugyo Shs. 48 billion was allocated to the sectors of Water, Education, Health, Works and Agriculture in the three years under the study. These sectors arguably have bigger budgets and their work has a big impact on the welfare of the ordinary citizens although they perform below expectations due to poor implementation of government programmes.
It is against this background that the office of the Auditor General thought it was necessary to carry out a value for money study on the procurement process in local governments.

The audit was carried out in the seven districts of Apac, Arua, Bundibugyo, Bushenyi, Kamuli, Moroto and Mukono and focused on the performance of the procurement system over the three financial years: 2007/2008, 2008/2009 and 2009/2010. The audit sampled 109 procurements worth Shs11.4 billion for the study.

**Findings**

- 49% of all the procurements amounting to Shs.5,563,674,878 made in local governments were done without carrying out needs assessments. As a result the projects did not serve the intended purpose.

- 24% of the sampled procurements amounting to Shs.2,750,194,317 were made outside the procurement plans which led to users missing on the benefits expected from prioritized procurements.

- Over 28.6% amounting to Shs.3,254,945,111 of the sampled procurements were entered into without confirmation of funds and this led to uncompleted projects.

- Procurement and Disposal Entities (PDEs) were evaluating limited numbers of bidders averaging 1.23 per subject of procurement which limited competition.

- Not all procurement records were maintained by the PDUs for inspection by competent authorities providing room for manipulation of the process.

- 95% of the districts clearly had spelt out Specifications of Requirements (SORs) in their bidding documents but these were not reflected in the quality of procured goods, works and services.

- Apac and Moroto districts made direct procurements amounting to Shs.350, 365,757 using the direct procurement method in disregard to exceptional circumstances. As a result some of the projects stalled because of incapacity of contractors who were not competitively selected.
• All sampled districts sought the Solicitor General’s approval for contracts above the threshold of Shs.50,000,000 except Mukono for contracts amounting to Shs.2,483,244,097. This exposes the district to the risk of unfavorable terms or possible litigation.

• Not all the 109 sampled Procurements contracts worth Shs.11.4 billion were being monitored by the Procurement and Disposal Unit (PDUs). This compromises the quality of the works and services that was executed.

• Constituting district contracts committees was delayed for a period ranging from six to twenty four months. As a result contracts were not awarded in time, funds remained idle and services were not delivered to the people.

Recommendation
• PDEs should build capacity at user department level and encourage their participation in needs identification.

• PDEs should always prepare comprehensive procurement plans that cover all the district needs and stick to the approved procurement plans. In the event of a genuine change of priorities, the recommended procedure to amend the procurement plan should be followed and the required approval sought.

• PDEs should initiate the procurement process as soon as fund releases are anticipated up to the point of contract award. This will enable them to enter into contracts as soon as funds availability is confirmed. There should be continuous sensitization of all the procurement stakeholders on the benefits of the current procurement system.

• To encourage competition and get competent service providers, PDEs should Comply with the procurement regulations, follow bidding procedures and encourage full participation from potential service providers so as to promote transparency and competition.

• A physical verification of the genuine existence of the service providers should be carried out after the opening of the bids as a matter of procedure before evaluation. This will help
eliminate “Brief case” companies, and single contractors competing for the same contracts under different company names.

- PDEs should ensure that all vacant posts within the PDU are filled with appropriate staff. Similarly, PDEs should carry out sensitization of all district staff involved in procurement on the importance and requirements for procurement documentation.

- PDEs should consistently monitor project implementation to ensure that projects are implemented as per specifications.

- PDEs should avoid the use of the direct procurement method where the situation does not warrant it and ensure that all procurements are planned to minimize emergency cases.

- PDEs should continue to seek approval from the Solicitor General prior to award of contracts above fifty million shillings.

- Accounting Officers should appoint contract managers for every contract in compliance with the regulations. They should also involve PDUs in monitoring and supervision of contracts either directly or through the appointed contract managers.

- Accounting Officers should request the Permanent Secretary of the Ministry of Local Government to facilitate the discussions meant to address the concerns of districts regarding delays in approval of contract committees by the Secretary to Treasury.
CHAPTER 1

INTRODUCTION

1.1 Background
This value for money audit on the procurement system in the districts of Apac, Arua, Bundibugyo, Bushenyi, Kamuli, Moroto and Mukono has been conducted in accordance with Article 163(3) of the constitution of the Republic of Uganda. This mandate is amplified under Section 21(1) of the National Audit Act, 2008 which requires the Auditor General to carry out value for money audits for purposes of establishing economy, efficiency and effectiveness in the operations of any department, Local Authority or Ministry.

1.2 Motivation
Over 80% of the population of Uganda of 30 million live in rural areas\(^1\). These areas are served by Local Government Councils (LGC) mandated by the Local Government Act, Chapter 243 of Laws of Uganda\(^2\) to be the highest political authority in providing decentralised services to the populace. According to the PPDA baseline survey report of May 2006, over 60% of the budgets of local Government Councils are spent on goods and services. However, the procurement of goods and services is reported to be a very high risk area which is characterised by irregular sourcing of suppliers due to influence peddling, massive complaints of shoddy works, substandard quality of goods and services, inflated cost of inputs and poor management of contract processes, among others.

According to the PPDA, there is a high level of inefficiency in the procurement process from initiation to contract award stages affecting lead time and service delivery. 72.8% of sampled entities audited by PPDA did not have procurement plans, while procurements amounting to Shs.114 billions representing 28.5% of the sampled procurements files had incomplete records\(^3\). In the sampled districts of Mukono, Apac, Arua, Kamuli, Moroto, Bushenyi and Bundibugyo Shs.48 billion was allocated to the sectors of Water, Education, Health, Works and Agriculture in the three years under the study. These sectors arguably

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\(^1\) UBOS report 2009
\(^2\) Section 9 of the Local Government Act, Chapter 243 of Laws of Uganda
\(^3\) PPDA final report baseline survey on the procurement system in Uganda, January 2010
have bigger budgets and their work impacts most on welfare of ordinary citizens. However they perform below expectations due to poor management of procurement processes which in turn impact negatively on the implementation of government programmes.\(^4\)

It is against this background that the office of the Auditor General thought it necessary to carry out a value for money study on the procurement process in local governments.

1.3 **Description of the Audit Area**

Article 16 (1) of the constitution provides for the system of local governance in Uganda based on the district as a unit under which there shall be such Lower Local Governments (LLG) and administrative units as Parliament may provide. The enactment of the Local Government Act 1997 (LGA) gave effect to decentralisation as a system of governance which devolved functions, powers and services to all levels of local government councils (LGCs) to ensure good governance and democratic participation in, and control of decision making by the people.

With decentralisation, local governments were given increased roles in the procurement and disposal of goods, works and services in order to provide services to the people, thus entrusting them with large sums of money. There was need for government to put in place structures to ensure proper utilisation and accountability for the resources in the hands of the LGs.

The PPDA was therefore created to foster transparency, competition, accountability, economy and efficiency in procurement and disposal process. The PPDA is responsible for the provision of policy, regulation, co-ordination, monitoring, supervision and control of procurements to ensure value for money in all government ministries, agencies and local governments. The objective of this audit was therefore to assess the performance of the procurement system in LGs.

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\(^4\) Daily monitor, Monday, February 15, 2010, page 3
1.3.1 **Audit Objectives**

The objective of the audit was to assess the performance of the procurement system in the selected districts of Apac, Arua, Bundibugyo, Bushenyi, Kamuli, Moroto and Mukono. The audit sought to ascertain the level of compliance with the PPDA rules and the achievement of value for money in procurements.

1.3.2 **Mandate**

The local authorities (districts) derive their mandate from the following legal provisions:


1.3.3 **Basic Public Procurement and Disposal Principles/Objectives**

The basic principles or objectives of a procurement system are defined in sections 44 to 47 of the PPDA Act and the LG PPDA Regulations 43, and are highlighted below:

- To ensure that there is non discrimination in public procurement.
- To ensure that all procurement and disposals are conducted in a transparent, accountable and fair manner.
- To ensure that all procurements are conducted in a competitive manner to achieve Value For Money (VFM).
- To ensure that there is confidentiality in the conduct of procurement.

1.3.4 **Activities carried out by Local Authorities**

Local Governments procure goods and services while carrying out activities specified in part 2 of the second schedule of the LGA:

- Provision of educational services.
- Medical and health services.
- Provision and maintenance of water supplies.
- Construction, rehabilitation and maintenance of roads.
- Drawing recurrent and development budgets.
- Collection of local revenue.
1.3.5 **Organisational Structure**

Organisational Structure (Procurement) see Appendix 1

1.3.6 **District Funding**

The districts have three main sources of funds: local revenue, central government grants and donor funds. The figures below are a summation of all the components mentioned above. The total funding to the 7 districts is shown in table 1 below:

<table>
<thead>
<tr>
<th>District</th>
<th>2007/08</th>
<th>2008/09</th>
<th>2009/2010</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apac</td>
<td>24,701,109,311</td>
<td>21,189,333,522</td>
<td>24,805,852,824</td>
<td>70,696,295,657</td>
</tr>
<tr>
<td>Arua</td>
<td>25,618,295,819</td>
<td>22,510,319,908</td>
<td>26,222,825,892</td>
<td>74,351,441,619</td>
</tr>
<tr>
<td>Bundibugyo</td>
<td>10,310,626,886</td>
<td>12,778,457,755</td>
<td>13,635,759,679</td>
<td>36,724,844,320</td>
</tr>
<tr>
<td>Bushenyi</td>
<td>31,569,101,299</td>
<td>34,621,464,921</td>
<td>36,125,641,886</td>
<td>102,316,208,106</td>
</tr>
<tr>
<td>Kamuli</td>
<td>19,541,347,041</td>
<td>21,185,943,478</td>
<td>24,382,655,869</td>
<td>65,109,946,388</td>
</tr>
<tr>
<td>Moroto</td>
<td>6,619,582,159</td>
<td>9,309,060,124</td>
<td>12,086,364,045</td>
<td>28,015,006,328</td>
</tr>
<tr>
<td>Mukono</td>
<td>31,070,136,758</td>
<td>33,175,079,750</td>
<td>38,482,911,204</td>
<td>102,728,127,712</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>149,430,199,273</td>
<td>154,769,659,458</td>
<td>175,742,011,399</td>
<td>479,941,870,130</td>
</tr>
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*Source: Audited final accounts of respective districts*

1.3.7 **Scope**

The case study was carried out in the selected districts of Apac, Arua, Bundibugyo, Bushenyi, Kamuli, Moroto and Mukono and focused on the performance of the procurement system over the three financial years: 2007/2008, 2008/2009 and 2009/2010.
CHAPTER 2

AUDIT METHODOLOGY

2.0 Methods of Data Collection
The audit was conducted in accordance with the standards set by the International Organisation of Supreme Audit Institutions (INTOSAI) and the performance audit manual of the Office of the Auditor General (OAG) Uganda. The standards require that performance audit should be planned, conducted and reported in a manner which ensures that an audit of high quality is carried out in an economic, efficient and effective way and in a timely manner.

2.1 Sampling
A sample of procurements were selected over the three years of the study (2007/2008, 2008/2009 and 1009/2010) to review procurement practices. The audit focused on key procurement activities of planning, initiation, evaluation and contract management in accordance with the PPDA Act which applies to all public procurement and disposal activities involving public finances and the Local Government Public Procurement and Disposal of Public Assets Regulations (LGPPDR) which regulate Local Government procurements.

A multi-stage sampling was used and the following considerations were taken into account when selecting the districts:

i. Stratified random sample based on annual budgets. The districts were classified into three strata: the first category was those whose approved annual budgets were fifteen billion or less, followed by those with twenty billion or less and finally those whose budgets were above thirty billion shillings. At least one district was selected from each stratum;

ii. Regional balance on the basis of one district per region;

iii. Each district being an autonomous procurement body, stood an equal chance of being selected;

iv. Procurement performance rankings by the PPDA; and,

v. MoLG annual assessment of minimum conditions and performance measures for local governments, 2008 reviews.
2.2 **Data Collection**

The following data collection methods were used to gather evidence:

**Document Review**

The under-listed documents were reviewed to obtain information relating to procurement activities in the districts:

- PPDA reports for the Financial years 2007/08, 2008/09, 2009/10 to the respective districts studied.
- The final accounts of the respective districts for the years under review (2007-2010).
- Contracts Committee Minutes.
- Procurement and work plans.
- Procurement files for selected procurements that were studied.

**Interviews**

A total of forty nine (49) interviews were conducted with the five sector heads of Health, Education, Water, Works and Production as well as the PDU and the Chief Administrator Officer (CAO) for the respective Local Authorities (LA). User communities at the various districts audited were also interviewed to assess user satisfaction.

**Field Inspections**

The team inspected projects to ascertain the progress and quality of work.
CHAPTER 3

SYSTEM AND PROCESS DESCRIPTION IN THE PROCUREMENT PROCESS

3.1 Roles and Responsibilities of key players

The procurement activities involve various players with different roles to achieve procurement objectives.

The District council

This is the supreme body in a district and is responsible for ensuring implementation and compliance with government policy and good governance, approval of budgets and procurement plans.

The Chief Administrative Officer (CAO)

The CAO is the head of the administration of the district council and the Accounting officer of the district as stipulated in section (65) of the LGA. He/She is responsible for signing contracts, communication of award decisions, confirmation of availability of funds and administrative reviews in the procurement process.

The Contracts Committee (CC)

The contracts committee (CC) is responsible for approval of all procurement procedures which includes approval of contract documents, appointment of members of evaluation committees and approval of procurement methods. It is also responsible for award of contracts and monitoring procurement activities and ensuring that the PPDA Act and best practices in procurement are complied with.

The Procurement and disposal unit (PDU)

The PDU is responsible for the management of all procurement and disposal activities of a procuring and disposing entity (PDE). Its main activities include implementation of the decisions of the contacts committee, planning the procurement and disposal activities of a PDE, preparation of bid documents and management of the bidding process, preparing reports to relevant authorities and maintenance and archiving of records of the procurement and disposal process.
The User Departments

The user departments include all the departments in the districts and the lower local governments which are the final consumers of goods and services. The users make and submit work plans to the PDU. They initiate all procurement and disposal requirements and recommend statements of requirements to the Procuring and Disposal Unit (PDU). They are also responsible for the preparation of contract implementation plans and contract management.

3.2 Process Description

Needs Assessment

Regulation 62 of the LGPPDR and Regulation 22 of the Local Government Financial and Accounting Regulations (LGFAR) 2007 require the preparation of procurement work plans based on identified user needs. To identify user needs, the users need to be involved in the assessment. This should be followed by feasibility studies and the cost benefit analysis, before the procurement planning process begins. The needs assessment, when properly done provides the required input for specification of requirements that are necessary to initiate a procurement process. It also ensures that goods, works and services procured serve the intended purpose of the end users as earlier identified in the needs assessment.

Procurement Planning

Procurement planning is mandatory under section (58) of the PPDA Act and Regulation 96 of PPDA. A PDE is required to plan its procurements and disposal in a rational manner to avoid emergency procurements and to aggregate its requirements. Planning involves drawing annual work plans by user departments and the Lower Local Governments (LLGs), based on approved budgets and submitting them to the PDU so that the procurement budgets are integrated into the overall expenditure programme of the district. All procurements or disposals are approved by the AO prior to the commencement of any procurement or disposal process as per section 59(3) of the Act.

Procurement Requisitioning

Procurement requisitions are initiated by the user departments. Section 59(2) of the PPDA Act and Regulation 65 (1) provides that a procurement or disposal, should only be initiated or continued on the confirmation that funding is available at the time the contract commitment is made. The requisitions should include a clear indication of the works to be
undertaken, services or supplies required and the estimated value and a specific reference number.

**Budgeting**

The planning process is guided by the LG planning and budgeting cycle. The Council is required to have annual work plans and estimates for the forthcoming year approved by 15th June. The Council is also required to submit its budget framework paper (BFP) to the Ministry of Finance, Planning and Economic Development (MoFPED) by 15th January. MoFPED and the district are required to disseminate policy and planning guidelines to LLGs by 30th September. Formal submission of approvals and recommendations to upper local governments (ULGs) and LLGs by the technical planning committee (TPC) should be done by 30th June.

The lower local governments (LLGs) and departments draw up work plans and budgets and submit them to the PDU. The PDU aggregates the plans and budgets into the district budget. The draft budget which is based on indicative planning figures (IPFs) is approved by the district council by 15th June, subject to approval by MoFPED. The MoFPED approves the budgets and after adjusting the IPFs, advises districts to revise their budgets to fit within the approved provisions.

**Development of Specifications/Terms of Reference/Statement of works**

It is the role of the PDU to prepare the statement of requirements (SOR) and terms of reference with input from users. The SORs is a document that contains a full and complete description of the requirements that are the subject of procurement

**Pre-qualification**

It is a requirement under Regulation 22 of the PPDA Act that the authority maintains a register of providers of works, services and supplies. The purpose of the register is to offer PDE reliable and up to date information about the contractors.

**Preparation of Bid documents**

The preparation of bids is done by bidders and the associated costs of bid preparation are borne by them. The bidder receives and checks bids documents for correctness and
completeness. The bid documents comprise parts 1, 2 and 3, detailing bidding procedures, SORs and the contract, respectively.

**Invitation of Bids**
The PDE through the PDU invites bids for the provision of supplies and related services specified in the SORs. The method of selection of a bidder to be invited to bid are either by publication of a bid notice in a newspaper of wide circulation, or through a pre-qualification exercise or by development of a short-list as per Regulation 142 of the PPDA. Bids remain open for the specified period of advertisement which is four and eight working days for open domestic bidding and open international bidding, respectively. For a bidder to participate in public procurement they must meet the eligibility criteria set out in Regulation 45 (1). The CC is required to verify the authenticity of the eligibility documents provided by a bidder [Regulation 45 (4)].

**Receipt and opening of offers**
The methods of receipt of bids are defined in Regulation 70 of the LGPPDR Regulation and include receipt of bids in person and issue of a receipt, or use of a bid box. A PDU is required to keep a record of all bids received. Bidding should close at the precise time on the last day/date specified in the advertisement. A bid received after the latest time and date for submission is declared late, labelled as such and returned unopened to the bidder. The bid closing process is managed by the PDU and witnessed by a representative of the CC.

**Opening of Bids**
Opening of bids by open and selective bidding should take place in a public session, managed by the PDU and witnessed by the CC. The bid box in which bids are kept is unlocked at the appointed time and venue stipulated in the bid documents in the presence of the members of the CC and the bidders and kept in a secure location until evaluation begins.

**Evaluation of Bids**
Evaluation of bids is the responsibility of the Evaluation Committee, an ad hoc committee constituted for every procurement. The committee is approved by the Contracts Committee (CC) and it reports to the PDU.
Unless stated otherwise in the bid solicitation document, an evaluation is conducted in three stages: the preliminary examination to determine the eligibility of a bidder and administrative compliance (Regulation 185), a detailed evaluation to determine the commercial and technical responsiveness of the eligible and compliant bid and financial evaluation to compare costs of the eligible, compliant, responsive bids received to determine the best evaluated bidder. The process aims at determining the best evaluated bid. The outcome of the evaluation process is the Evaluation Report in accordance with section 37 (1) of the PPDA Act and Regulation 168 (1).

The evaluation is conducted in accordance with the methodology and criteria stated in the bid solicitation documents. An evaluation criterion is used to assess compliance with the statement of requirements.

**Procedures Approval**

All procurement and disposal procedures should be approved before commencement of procurement. The procurement plan is approved by the district council; other approvals are done by the Contracts committee (CC).

The powers and functions of the CC are spelt out in section 28 and 29 and include among others, approval of bid and contract documents, authorisation of procurement and disposal procedures and methods of approval of solicitation documents and evaluation requirements.

**Award of contract**

Contracts are awarded by the contracts committee following evaluation and selection of bidders. An award is confirmed by a written contract signed by both the service provider and the PDE after the period specified by the PPDA regulations lapses and confirmation of funding by the Accounting Officer is made.

**Communication of award**

A PDE is required under Regulation 85 to display a notice of the best evaluated bidder within five days of the decision of the CC to award a contract. A notice of best evaluated bidder should be displayed on a PDE’s notice-board or website and sent to all bidders who participated, and remains open for a minimum of ten working days prior to the award of contract.
**Contract Management**

PPDA Regulation 258 provides that after a contract has been placed, contract management shall pass from a PDU to a user department. A contract manager shall prepare a contract management plan using Procurement Plan (PP) Form 60 and submit a copy to the PDU for monitoring purpose. The functions of a contract manager as outlined in Regulation 260 (2) and are: to ensure that a provider meets all performance or delivery obligations and submits all required documents; to ensure that the PDE meets all payment and other obligations; and ensures that there is adequate cost, quality and time control. As part of contract management the head of a user department has to ensure that all items of vehicles and heavy plant owned, operated or maintained by his or her department are recorded in an assets register and exercise such control over the use of the assets to ensure that they are safeguarded against loss or degradation.

**Monitoring and Evaluation**

Contract monitoring and evaluation is the responsibility of all interested parties and includes the users, the accounting officer, the PDU and the CC. Monitoring is done throughout the contract implementation stage.
CHAPTER 4

PRESENTATION, ANALYSIS AND DISCUSSION OF FINDINGS

4.0 Introduction
In this chapter, findings in reference to the audit objectives and questions are presented. The findings are summarized from both primary and secondary source data, presented in tables, percentages and cross tabulations. Procurements worth Shs.11.4 billion were selected for audit for the three financial years under study. The sectoral distribution of the Shs.11.4 billion is: Shs.5.3 billion to procurements in water sector, Shs.3.1 billion to works, Shs.1.4 billion to Education, Shs.1.3 to Health, Shs.0.4 to production and Shs.0.1 to Community Services as illustrated by the pie Chart below.

Pie- chart: 1 showing sectoral distribution of sampled procurements in UG.
Billions of Shillings

![Pie Chart]

The findings are discussed below;

4.1 Procurement Planning

4.1.1 Needs assessment
Regulation 62 of the LGPPDR and Regulation 22 of the LGFAR 2007 require that procurement work plans submitted to PDUs should be based on identified user needs before any project is subjected to a procurement process. This is to ensure that, goods, works and services to be procured serve the intended purpose of the end users.

The audit revealed that all procurements examined in our sample did not have evidence of prior needs assessment by the beneficiaries, as illustrated in table 2 below.
Table 2: Procurements done without needs assessment

<table>
<thead>
<tr>
<th>District</th>
<th>No assessment</th>
<th>Assessment done</th>
<th>Total sampled</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>Amount (Shs)</td>
<td>Number</td>
<td>Amount (Shs)</td>
</tr>
<tr>
<td>Arua</td>
<td>9</td>
<td>807,415,910</td>
<td>7</td>
<td>517,284,017</td>
</tr>
<tr>
<td>Apac</td>
<td>3</td>
<td>339,097,343</td>
<td>12</td>
<td>1,242,30,229</td>
</tr>
<tr>
<td>Busenyi</td>
<td>14</td>
<td>835,353,723</td>
<td>1</td>
<td>13,449,600</td>
</tr>
<tr>
<td>Bundibugyo</td>
<td>5</td>
<td>457,822,558</td>
<td>11</td>
<td>1,630,510,762</td>
</tr>
<tr>
<td>Kamuli</td>
<td>6</td>
<td>1,139,183,092</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Moroto</td>
<td>6</td>
<td>447,166,717</td>
<td>10</td>
<td>1,368,821,963</td>
</tr>
<tr>
<td>Mukono</td>
<td>9</td>
<td>1,537,635,535</td>
<td>6</td>
<td>1,070,682,917</td>
</tr>
<tr>
<td>Total</td>
<td>62</td>
<td>5,563,674,878</td>
<td>47</td>
<td>5,843,059,488</td>
</tr>
</tbody>
</table>

Source; OAG Analysis

Of the total 109 sampled procurements in the 7 districts, 49% totalling to Shs.5.5 billion lacked evidence of the needs assessment. The worst performance was registered in Kamuli with 100% failure while the least failure rate was registered in Apac District with 21%.

The major reason for not carrying out needs assessments included, among others: lack of capacity at the user department level to carry out needs assessment, projects that are imposed on the people and deliberate exclusion of the users in the project identification.

As a result of the above, many negative effects were suffered by the intended users. For instance, in the district of Arua where goats were imposed on the people, 200 (Boar and Mubende breeds) goats supplied for the sole purpose of improving the local breed, registered a high rate of failure among the target farmers. 22% of the procured male Boar goats died within two months of supply, resulting in a financial loss of Shs.8,096,000 due to poor handling by model farmers and deliberate slaughter by others.
There were also cases of miscarriages. All the locally procured female goats at the first and second pregnancy experienced a miscarriage. The miscarriages were attributed partly to the size misfit between the local goats and the exotic Boar goats and partly to poor handling. This may have been a problem of lack of piloting the project before a final roll out.

In Apac and Moroto, 70% of apiaries did not colonise. This was attributed to imposing projects (bee keeping) that were designed generally and rolled out to places where they couldn’t be adopted, which created a mis-match between the foliage and the bees. Because bees thrive in an environment where there are plenty of trees rich in flowers and not in swampy and desert-like conditions of Apac and Moroto, respectively.

The audit further established that the Rural Growth Centre Scheme (RGC)5 set up to provide water supply and sanitation to improve the socio-economic situation and general health conditions through the reduction of water borne diseases in Moroto, Ngoleriet Sub County was not sustainable because the RGC depends on payment of a user fee to meet operations and maintenance cost. According to the civic leaders and the local community, the beneficiaries cannot afford the contribution since they depend entirely on external support for their livelihood. The Local Government did not have a budget for the procurement of diesel required for the daily running of the RGC generator. Consequently, the local community of 5,852 persons, continued to depend on water from dirty and

5 An RGC is a water supply scheme that is motorized and uses power to pump water to the users.
contaminated sources (see photo 2 below) and a few available congested bore holes despite the procurement and installation of a Shs.577,627,780 project in Kangole centre

Photo 2: A lady fetching water from a dirty and contaminated source of water at Nwoikoroti parish in Ngolerieti Sub County in Moroto District

The study also revealed that Seven (7) out of the ten (10) installed boreholes inspected were found to be non-functional. Some of the failures of the project were attributed to fluctuating water tables because the boreholes were imposed in the locality despite water siting results which showed very low water table implying the scheme could not be sustained. Additionally, lack of community participation and ownership of the projects is a factor contributing to project sustainability failures; further still, in Moroto District, fruit seedlings supplied to schools and “farmers” for propagation were eaten by goats or scotched by long spells of draught resulting in project failures.

4.1.2 **Procurements made outside the procurement plans**

Procurement planning is a mandatory requirement under regulation 62 of the Local Government Public Procurement and Disposal of Public Assets Regulations, 2006 (LGPPDRR). The Regulation requires user departments to prepare work plans for procurements based on the approved budgets to be submitted to the PDU to facilitate orderly execution of annual procurement activities.
The audit noted that all the PDEs had prepared Procurement plans as per the PPDA regulations and submitted them to the PDU. However, the study revealed that in some districts, users submitted to the PDU work plans that did not give detailed breakdown of activities of works, services and supplies.

Further, audit established that 24% representing Shs.2,750,194,317 of all the procured items in the sampled procurements were outside the procurement plans. For instance, Bushenyi had 58% of unplanned procurements, representing Shs.488,352,402, which is the biggest percentage of unplanned procurements; while the lowest percentage was noted in Kamuli District at 17%, representing Shs.194,894,000. Details are further presented in table 3 below:

**Table 3: Showing unplanned procurements**

<table>
<thead>
<tr>
<th>DISTRICT</th>
<th>Total sample in Shs</th>
<th>unplanned procurements in Shs</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>ARUA</td>
<td>1,349,754,927</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>APAC</td>
<td>1,581,407,560</td>
<td>303,523,671</td>
<td>19</td>
</tr>
<tr>
<td>BUSHENYI</td>
<td>835,353,723</td>
<td>488,352,402</td>
<td>58</td>
</tr>
<tr>
<td>BUNDIBUGYO</td>
<td>2,088,333,320</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>KAMULI</td>
<td>1,122,383,092</td>
<td>194,894,000</td>
<td>17</td>
</tr>
<tr>
<td>MOROTO</td>
<td>1,774,204,795</td>
<td>299,737,757</td>
<td>17</td>
</tr>
<tr>
<td>MUKONO</td>
<td>2,608,318,452</td>
<td>1,463,686,487</td>
<td>56</td>
</tr>
<tr>
<td>Total</td>
<td>11,359,755,869</td>
<td>2,750,194,317</td>
<td>24</td>
</tr>
</tbody>
</table>

*Source: OAG Analysis of procurements outside the procurement plans*

Among the causes of procurements outside the plan are: poor prioritisation of needs, pledges, and undue influence. Management attributed this to failure to update emergency procurements into the plan and subjecting them to the due process of approval following amendments.

Procurements were carried out without due regard to the annual procurement plan and this did not facilitate orderly execution. As a result, the benefits which should have been derived if the activities had been planned were missed. Some projects were not completed because the limited resources were spread to cover more projects than planned.
4.2 **Procurement requisition: Confirmation of funds**

Regulation 65(1c) LGPPDR requires the Accounting Officer (AO) to confirm in writing the availability of funds before signing any contract.

The study established that not all the procurements in our sample were entered into before the confirmation of availability of funds by the Accounting Officer. The audit revealed that 28.6% of the total sampled contracts were entered into without confirmation of availability of funds by the accounting officers as shown in table 4 below;

**Table 4: Showing Cases of signed contracts without confirmation of funds**

<table>
<thead>
<tr>
<th>DISTRICT</th>
<th>Number</th>
<th>Un confirmed funding (Shs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>ARUA</td>
<td>2</td>
<td>185,856,960</td>
</tr>
<tr>
<td>APAC</td>
<td>24</td>
<td>384,551,186</td>
</tr>
<tr>
<td>BUSHENYI</td>
<td>17</td>
<td>1,119,124,920</td>
</tr>
<tr>
<td>BUNDIBUGYO</td>
<td>1</td>
<td>101,725,558</td>
</tr>
<tr>
<td>KAMULI</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>MOROTO</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>MUKONO</td>
<td>4</td>
<td>1,463,686,487</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>48</td>
<td><strong>3,254,945,111</strong></td>
</tr>
</tbody>
</table>

*Source: OAG Analysis of field data from selected districts*

The contracts entered into without confirmation of funds were worth Shs. 3,254,945,111. In Apac, for example, contracts worth Shs.384,551,186 were awarded to construct pit latrines in twenty four schools. However, at the time of audit no funds had been received from the anticipated source, and yet the contracts had been signed. It is worthy to note that the good practice found in Moroto where procurement process was initiated up to the point of contract award and signing of contracts delayed till the release of funds is confirmed.

According to management, procurements entered into before confirmation of release of funds was attributed to the lengthy and bureaucratic nature of the procurement law that slows down the procurement process. In a bid to follow their procurement plans and to adhere to the procurement law they relied on planning indicative figures and initiated procurements in anticipation.
Lack of compliance was also attributed to failure by PDEs to appreciate the procurement regulations and lack of synchronisation between the PPDA requirements and the release of funds by MoFPED.

Delayed performance of contracts due to non availability of funds denied services to the target beneficiaries and could result in possible litigation for delayed settlement. For instance audit revealed that, in Mukono district, contracts worth Shs.1.4b had stalled due to lack of funds. The study further revealed that failure to complete the construction of twenty two pit latrines in schools in Apac left over 10,000 pupils without pit latrines and at risk of disease outbreak. The abandoned project for the construction of OPD at Wagala in Mukono district left the target population to continue walking a distance of over 10km to the nearest health centre at Lugazi town council.

Photo 3: A picture showing two faces of an abandoned Construction site of an Out Patients Department (OPD) at Wagala Health Centre ii, Nagojjee Sub County in Mukono District. Construction works on the project had started in the financial year 2007/08
4.3 **Bidding Procedures**

The PPDA Act encourages fair competition by having many bidders and maintaining open communication to all bidders.

4.3.1 **Participation by bidders**

Regulation 43 (3 and 4) of the LGPPDR regulations (2006) requires that all procurements and disposal should be conducted in a manner that maximises competition and achieves value for money irrespective of the method of procurement used or the nature of works, services or supplies to be procured. From the sampled procurement, the study revealed that there were a number of procurements where there was no evidence of competition by bidders.

According to the available records obtained from counting the evaluated bids in the PDEs sampled, a total of 129 bids were received, recorded and evaluated for contract awards. This implies that, out of every one procurement sampled, a district on average evaluated approximately one bidder as opposed to having three, as detailed in the table 5 below:

**Table 5: No of received and evaluated bids per district**

<table>
<thead>
<tr>
<th>DISTRICT</th>
<th>No of procurements sampled</th>
<th>No of bids received</th>
<th>Average no of bids evaluated</th>
</tr>
</thead>
<tbody>
<tr>
<td>ARUA</td>
<td>15</td>
<td>21</td>
<td>1.40</td>
</tr>
<tr>
<td>APAC</td>
<td>15</td>
<td>18</td>
<td>1.20</td>
</tr>
<tr>
<td>BUSHENYI</td>
<td>15</td>
<td>23</td>
<td>1.53</td>
</tr>
<tr>
<td>BUNDIBUGYO</td>
<td>15</td>
<td>17</td>
<td>1.13</td>
</tr>
<tr>
<td>KAMULI</td>
<td>15</td>
<td>18</td>
<td>1.20</td>
</tr>
<tr>
<td>MOROTO</td>
<td>15</td>
<td>15</td>
<td>1.00</td>
</tr>
<tr>
<td>MUKONO</td>
<td>15</td>
<td>17</td>
<td>1.13</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>105</strong></td>
<td><strong>129</strong></td>
<td><strong>1.23</strong></td>
</tr>
</tbody>
</table>

*Source: OAG field analysis of sampled procurement files.*

From the interviews carried out and documents reviewed, the low response from bidders was attributed to a wide range of factors, including: manipulation of the bid processes, high cost of business, lack of capacity by the local contractors, connivance among contractors to avoid competition and the remoteness of some districts.
The pie chart below illustrates the factors contributing to low bidder participation based on the analysis of the responses and review of documents in respect of the sampled procurements.

Pie-chart: 2: Showing analysis of grounds for low bidding

Source: OAG analysis
From the chart above, manipulation accounted for over 50% for low involvement of bidders, as potential service providers were put off by the presumption that someone else was already selected for the contract. Connivance between contractors accounted for 9%, as contractors decided to rally around one provider and purposely keeping away from the bidding process.

Documentary reviews and audit verifications revealed instances where the practice was to eliminate bidders so that only one bidder is eventually evaluated and selected. For example, only one bid was received for construction of a 22.2km community access road in Busamuzi Sub County at Shs.584,671,920 and for the construction of 8 hand dug wells at Shs.47,778,750 in Mukono.

In another instance, an advertisement under Open Domestic Bidding for the construction of Koome Gravity Flow Scheme in Mukono district of Shs 843,969,500 was placed on 15 January 2010 in the New Vision News paper, but the district did not wait for the advertisement to run for the full period to 8th February, 2010. Instead a similar notice to 2 bidders through selective bidding was placed by a letter dated 15th January, the same day
the news paper advert ran. The two methods used concurrently effectively undermined the objective of participation.

It was further noted that, by the time of audit, only clearance works had been done on site and yet the district was already into another financial year of 2009/2010. Similar observations were made of the construction of surface piped water system in Kimmi /Koome Sub-county, Bweema Sub-county and Bagaya Sub-county at Shs.59,375,000.

As a result of having a limited number of bidders participating in the procurement process, entities were denied the opportunity of selecting from a wide range of bidders thus limiting competition. This could have resulted into selection of contractors who lacked capacity to complete the works. Some projects could be abandoned when a few contractors take on more responsibilities in more than one entity in different locations, getting overstretched and leading to substandard works.

Examples of substandard works as a result of the above scenario are shown in photos 4 to 7 below:

Photo 4: A picture of Nadunget Seeds School in Moroto District show total failure on fixtures and fittings. This door is totally out of its position.
Photo 5: Shoddy works on walls and paintings of Nadunge t Seeds School in Moroto District

Photo 6: showing the interior of a classroom in the same school with failed floor

Photo 7: A borehole constructed in the financial year 2009/2010 found dry barely four months after construction and before hand over.
4.3.2 Documentation of Bidding Process

Regulation 46 (2) of the LGPPDR, 2006 requires that all procurements and disposal records be maintained by PDU for inspection by competent authorities.

In many instances, documents were photocopied and inserted in the procurement files without being fully filled and endorsed. Audit also established that not all procurement records were maintained by the PDUs for inspection by competent authorities. The study further revealed that on average 68% of the procurement documentation was maintained while 32% was missing. For instance our analysis revealed 0% compliance with the requirement to issue receipts for all the bids received. It further revealed that 56% and 66% of the procurement files examined complied with the requirement of receipt and stamping of bid documents opened and evidence of display of bid records within two working days, respectively as shown below:
Bar chart 1: Showing percentage of compliance with the documentation of bidding procedures

Source: OAG analysis of sampled procurement files

KEY

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Record of bids received</td>
</tr>
<tr>
<td>B</td>
<td>Signing of bids received</td>
</tr>
<tr>
<td>C</td>
<td>Witnessing of bid opening by the Chairperson Contracts Committee</td>
</tr>
<tr>
<td>D</td>
<td>Signing of the bid opening register by all bidders</td>
</tr>
<tr>
<td>E</td>
<td>Evidence of receipt and stamping of bidding documents opened</td>
</tr>
<tr>
<td>F</td>
<td>Issuance of receipts for bids submitted</td>
</tr>
<tr>
<td>G</td>
<td>Signing of the evaluation reports by all Evaluation Committee Members</td>
</tr>
<tr>
<td>H</td>
<td>Evidence of display of bid records within two working days</td>
</tr>
<tr>
<td>I</td>
<td>Evidence of closing of bids at the precise time and date</td>
</tr>
</tbody>
</table>

6 Records show missing procurement documentation out of the 15 samples from each district
The inadequate documentation is attributed to lack of willingness by District staff to adopt the requirements of the PPDA Act, understaffing of the PDU as in the case of Apac, Arua, Moroto and Kamuli, the voluminous documentation involved in procurement process, inadequate storage space and negligence on the part of staff.

Failure to document procedures renders accountability and audit difficult and casts doubt on the authenticity of the underlying transactions; and raises questions of transparency and competition in procurement process. This then provides room for manipulation at the various levels and facilitates corrupt tendencies since the controls are weakened by lack of transparency. It also renders access to key documents difficult for planning and decision making by relevant procurement stakeholders.

4.3.3 **Compliance with terms and condition of Specification of Requirements**

Regulation 48 (2),(3) of LGPPDR requires that tender documents shall have a statement of requirements that define the requirement precisely and in a manner that leaves no doubt or assumption by a tenderer of the procuring and disposing entity’s requirements and to determine how closely and effectively a tenderer can meet these requirements.

The description in the statement of requirements shall be prepared with a view to ensuring that the works, services or supplies are fit for the purpose for which they are being purchased, are of appropriate quality and will ensure value for money.
The study revealed that not all tendered documents had SORs as required by the regulations. 95% of the sampled procurements had statement of requirements (SORs). However, in respect thereof, the delivered works, services and supplies did not reflect compliance with the requirements spelt out in those SORs. It was expected that, at this level of compliance with the specification, the quality of projects implemented would have equally met the user needs as spelt out in the specifications but this was not the case.

This high compliance level was attributed to use of standardised specifications handed down to PDEs from the parent ministries.

A number of projects with clear SORs were found completed but with a lot of defects and a number were failing to meet user needs. A case in point is Apac district where Shs.5,186,000 was given out for a nuclear farmer for establishment of a poultry farm, and to improve the breed of chicken in the area. The funds were however not used for the intended purpose. Instead of the farmer allowing the chicken to hatch the eggs and multiply the stock of the improved breed, he turned the chicken into layers, collected eggs and sold them off. When the chicken stopped laying eggs, all the five exotic cocks and the fifty local chickens were sold off and the project closed. Therefore, the multiplier effect on other targeted six farmers per parish could not be achieved and the overall objective of improving the incomes of the farmers was not attained.

In yet another instance, a two classroom block and an office constructed with clear SOR at Opeta Primary school at a cost of Shs.27,200,000 in the FY 2008/2009 were found to be substandard. The floors of both classrooms had turned into gullies, plaster on all the interior walls had peeled off and the splash apron was falling apart. The investment, if it had been built as per standard SOR, was supposed to last at least 50 years. It was instead wasting away within less than three years, and was not serving the purpose.
Photo 9: A poorly constructed floor and plaster of a classroom at Opeta Primary School in Apac District, barely two years after construction.

Photo 10: A splash apron on the same building (Opeta P/S) that had completely fallen apart, a sign of poor workmanship and use of inferior materials.
The cause of substandard works according to management was due to the district Engineers being overwhelmed with too many projects to oversee with limited facilitation and negligence by some engineers. Lack of community ownership and monitoring of projects was also responsible for unsatisfactory works. Management also cited lack of standardisation of project costing as a cause of poor works. They argued that central government projects were costed at higher values than the same projects in local governments.

4.3.4 Direct procurement

Regulation 40 of LGPPDR requires direct procurements method to be used where exceptional circumstances prevent the use of competition.

The audit revealed that direct procurement method was not used strictly under exceptional circumstances contrary to the regulations. Out of the sampled procurements worth Shs.11,397,645,869 for supplies, works and services, procurements made using direct method were worth Shs.350,365,757. This was found in Moroto and Apac districts as illustrated below;

- Apac District employed direct method for four contracts totalling to Shs. 50,628,000 and all of them were not done in exceptional circumstances.
- Moroto District utilised direct procurement method for five contracts worth Shs. 299,737,757 which could not be considered exceptional. For instance the procurement of contractor for construction of Turutuko-Apeitole road and Kangole -Lotome – Lorengedwat road in Moroto District was through direct procurement. This contractor later failed to complete the contract worth Shs.126,098,517 and subsequently abandoned the site. (See photo 11 below).
According to management direct procurements were as a result of emergency situations but audit attributed it to poor planning and disregard of the procurement law by the districts.

Using direct method of procurement where the situation does not warrant denies the PDE the opportunity to secure competent contractors which would have been achieved through competition. Besides, the citizens are denied the full benefit of the service intended to be derived from the procurement. This leaves the citizens’ conditions unaddressed despite the huge amount paid out by the project.

4.4 **Contract award; Approvals by Solicitor General**

The statutory Instrument supplement No.7 of 1999 requires that contracts above Uganda shillings fifty million should be approved by the Solicitor General (SG). This is intended to ensure that the terms of the agreement are not unfavourable to government.

The study established that not all contracts above fifty million shillings in our sample amounting to Shs.10.4 billion were approved by the Solicitor General. Of the seven districts studied six submitted their contracts to the Solicitor General for approval while Mukono district did not submit contracts amounting to Shs.2.4 billion. Details are shown in the Table 6 below.
Table 6: value of contracts awarded

<table>
<thead>
<tr>
<th>District</th>
<th>Value of contracts above 50m shillings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apac District</td>
<td>1,390,982,096</td>
</tr>
<tr>
<td>Arua District</td>
<td>1,301,127,077</td>
</tr>
<tr>
<td>Moroto District</td>
<td>1,733,136,595</td>
</tr>
<tr>
<td>Kamuli District</td>
<td>940,077,892</td>
</tr>
<tr>
<td>Bundibugyo District</td>
<td>1,820,368,229</td>
</tr>
<tr>
<td>Bushenyi District</td>
<td>657,132,666</td>
</tr>
<tr>
<td>Mukono District</td>
<td>2,483,244,097</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>10,326,068,652</strong></td>
</tr>
<tr>
<td>Total sampled</td>
<td></td>
</tr>
</tbody>
</table>

*Source: OAG Analysis*

The management of Mukono district explained that they opted not to seek Solicitor General's approval citing the long process involved in obtaining the approval. The assertion of Mukono District, however, is contradicted by the full compliance by other districts under study which are geographically located far away from Kampala.

By not complying with this requirement in their contractual arrangement, Mukono district risked subjecting contracts worth Shs.2.4 billion to the risk of loss by government arising out of unfavourable contractual terms and possibility of unnecessary litigations.

4.5 **Contract Management**

4.5.1 **Monitoring and supervision of contracts**

According to Regulation 58 (f) and (g) of the PPDA, the PDU shall monitor contract management by user departments to ensure implementation of contracts in accordance with the terms and conditions of the awarded contract and report any significant departures from the terms and conditions of the awarded contract to the Accounting Officer.

Audit established that all PDUs of the sampled districts did not monitor and report contract management by user departments to the accounting officer as required by the regulations.

All the sampled 109 procurements involving Shs.11.4 billion did not have performance evaluation reports as evidence of monitoring and reporting by PDU in accordance with the above regulation. This was attributed to the Accounting Officers’ failure to recognise the need to facilitate the PDU’s to perform this important role accordingly.
This resulted in PDU’s and contract committees remaining uninformed of poor performing contractors and other service providers yet the information would have been necessary in evaluating contractors and service providers for subsequent pre-qualification. This weakness partly contributes to the continuous award of contracts to poorly performing service providers.

4.5.2 **Constituting contracts committees**

Regulation 15 (1) of LGPPDR, 2006 requires the existence of a contracts committee consisting of five members nominated by the Accounting Officer from among the public officers of the procuring and disposing entity and approved by the Secretary to the Treasury.

Audit established that some districts operated without fully constituted contract committees for periods ranging between 6 to 24 months. Despite Accounting Officers’ effort to nominate people who meet the minimum conditions, the approval of the nominated officers by Secretary to the Treasury has been hard to come. This led some Districts to operate without fully constituted procurement committees for an average length of eight months as shown in the table 5 below:
Table 7: Constituting contract committees

<table>
<thead>
<tr>
<th>Districts</th>
<th>Period of operation without Contract committee (Months)</th>
<th>Period affected</th>
<th>Reasons for absence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apac</td>
<td>24</td>
<td>2007/8-2008/9</td>
<td>Delay in approval of nominees by MoFPED</td>
</tr>
<tr>
<td>Arua</td>
<td>6</td>
<td>July 2009-Jan 2010</td>
<td>“</td>
</tr>
<tr>
<td>Moroto</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Kamuli</td>
<td>1</td>
<td>April 2009-May 2009</td>
<td>Delay in approval of nominees by MoFPED</td>
</tr>
<tr>
<td>Mukono</td>
<td>8</td>
<td>May 2009-Jan 2010</td>
<td>“</td>
</tr>
<tr>
<td>Bushenyi</td>
<td>6</td>
<td>July 2009-Dec 2009</td>
<td>“</td>
</tr>
<tr>
<td>Bundibugyo</td>
<td>12</td>
<td>Nov 2009-Nov 2010</td>
<td>“</td>
</tr>
<tr>
<td>Average period</td>
<td>8</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: Analysis by OAG

All the Accounting Officers interviewed from the seven districts expressed lack of knowledge of the minimum requirements which the Secretary to Treasury would use to disqualify or accept the nominated senior officers.

Non operation of Contract committees for some period contributed to delays in execution of contracts with the consequence of available funds remaining idle and reverting to consolidated fund. This denies citizens the services that would have been delivered by executing the unimplemented contract.

In addition, according to management, although the law allows the Districts to utilize contract committees of neighbouring Districts, the cost implication and the prioritization of procurement business of the neighbours has always been to their disadvantage.
CHAPTER 5

CONCLUSIONS

5.1 **Procurement made without proper needs assessment**
49% of all the procurements amounting to Shs.5,563,674,878 made in the sampled local governments are being done without carrying out needs assessment. As a result, the projects do not serve the intended purpose.

5.2 **Procurement made outside the procurement plans**
24% of sampled procurements amounting to Shs.2,750,194,317 are made outside the procurement plans. This affects the orderly execution of procurements activities and also leads to the users missing the benefits that would have accrued from the prioritized procurements.

5.3 **Confirmation of funds**
In over 28.6% of the sampled procurements amounting to Shs.3,254,945,111, accounting officers are committing the districts in contracts without confirmation of availability of funding. This is leading to lot of uncompleted projects to the districts, and is a potential area for litigation that may be very costly to the districts.

5.4 **Participation by bidders**
From the sampled procurements, audit established that, there were a number of procurements where there was no competition by bidders. Because of the limited number of bidders participating in the procurement process, entities were denied opportunities of choosing from a wide range of service providers.

5.5 **Documentation of the bidding process**
Not all procurement records were maintained by the PDUs for inspection by competent authorities. The study revealed that on average, 68% of the procurement documentation was maintained while 32% was missing. Failure to document procedures casts doubt on the authenticity of the entire procurement process and leaves room for manipulation of the process.
5.6 **Compliance with terms and condition of specification**

Over 95% of the districts clearly spell out SORs in their bidding documents for goods, works, and services contracts. However, some of the outputs from the procured goods works and services are not commensurate with the documented SORs. Therefore, goods, services and works being procured by districts may fall below expected standards and are not reflecting quality procured and paid for.

5.7 **Direct Procurement**

Apac and Moroto districts made direct procurements worth Shs.350,365,757 in total disregard of the conditions that necessitate the use of the direct method as per regulation. As a result, some works and projects have stalled at various levels of completion because the contractors selected did not have capacity.

5.8 **Approvals by the Solicitor General**

All districts sampled except Mukono sought the Solicitor General’s approval for the contracts above the threshold before signing. By not seeking approval from the Solicitor General, Mukono risks subjecting Government to unfavorable contractual terms and exposes it to unnecessary litigations.

5.9 **Monitoring and supervision of contracts**

Audit established that all procurements in the sample worth Shs11.4 billion were not monitored and reported on by PDU to the accounting officer as required by the regulations. This leads to poor quality work and a continuous award of contracts to poorly performing service providers.

5.10 **Constituting contracts committees**

Audit revealed that some districts operated without fully constituted contract committees for periods ranging between 3 to 24 months. Non operation of contract committees delays the procurement process. As a result, district funds continue lying idle. This denies citizens the services that would have been delivered through the procured contract.
CHAPTER

RECOMMENDATIONS

6.1 **Procurement made without a proper needs assessment**

PDEs should build capacity at user department level and ensure user participation in needs identification.

6.2 **Procurements made outside the procurement plans**

PDEs should always come up with comprehensive procurement work plans that cover all the district needs and adhere to the approved procurement plans. In the event of a genuine change of priorities, the recommended procedure to amend the procurement plan should be followed and the required approval sought.

6.3 **Procurement requisition: Confirmation of funds**

- No contracts should be signed by PDEs before confirmation of releases of funds.

- PDEs should initiate the procurement process early enough in anticipation of funds up to the point of contract award. This will enable them to enter into contracts as soon as funds availability is confirmed, as is being done by Mororto district.

- There should be continuous sensitization of all the procurement stakeholders on the benefits of the current procurement system.

6.4 **Participation by bidders**

- To encourage competition and get appropriate service providers, PDEs should stick to the procurement regulations on bidding procedures and encourage full participation from potential service providers so as to promote transparency and competition.

- Physical verification of the genuine existence of the service providers should be carried out after opening of the bids as a matter of procedure before evaluation. This will help eliminate “Brief case” companies, a single contractor competing for the same contracts under different company names. The Ministry of local government together with the Registrar of companies should consider exempting the districts from paying the verification fees to facilitate this exercise.
• Contractors who have failed to execute contracts in previous years should be excluded from participation.

6.5 **Documentation of Bidding Process**

• PDEs should ensure that, all vacant posts within the PDU are filled with appropriate staff.
• They should provide storage space and ensure that documents are properly stored.
• PDEs should carry out sensitization of all district staff involved in procurement on the importance and requirements for procurement documentation.
• Electronic filing should be considered where it is practicable to address the problem of limited space.

6.6 **Compliance with terms and conditions of specification of requirements**

• PDEs should consistently monitor project implementation to ensure that projects are implemented as per specification and any significant departures reported and corrective action taken.
• District Engineers who issue certificates of completion for substandard works should be penalised and disciplined.
• Community ownership and monitoring of projects should be encouraged.
• The costing of similar projects within central and local governments should be standardised.

6.7 **Direct Procurement**

As far as possible PDEs should avoid the use of direct procurement method where the situation does not warrant it and ensure all procurements are planned to minimize emergency cases.

6.8 **Approvals by the Solicitor General**

PDEs should continue to seek approval from the Solicitor General prior to award of all contracts above fifty million shillings.
6.9 Monitoring and supervision of contracts

Accounting Officers should appoint contract managers for every contract in compliance with the regulations. They should also involve PDUs in monitoring and supervision of contracts either directly or through the appointed contract managers.

6.10 Constituting contracts Committees

Accounting Officers should liaise with the Permanent Secretary of the Ministry of Local Government to facilitate discussions meant to address concerns of districts regarding delays in approval of contract committees by the Secretary to Treasury.

The Accounting Officers should consider Regulation 15 Section 3 (a to f) of the PPDAR, 2006 while selecting and assessing a candidate for suitability for appointment to a contracts committee to avoid unnecessary delays that may be caused by such an omission from their part.

John F. S. Muwanga
AUDITOR GENERAL

KAMPALA

21st February, 2011
APPENDICES

APPENDIX 1

Organisation Structure (Procurement)

COUNCILS

CONTRACTS COMMITTEE

ACCOUNTING OFFICER

PROCUREMENT AND DISPOSAL UNIT

USER DEPARTMENTS
RESPONSIBILITIES IN THE PROCUREMENT CYCLE

- Performance Rating
  - Supplier Evaluation
- Procurement unit
  - Contract Management
    - Delivery
    - Payment
  - Contract Monitoring
  - Communicate Awards
  - Procurement Requisition
  - Proc Plan
- User Department
- Accounting Officer
- Contract Committee
- Budget
  - Availability
  - Development of:
    - Specifications/TOR/SOW
    - Procurement Strategy
    - Evaluation Criteria
  - Supplier Sourcing:
    - Sourcing the Market
    - Appraising Suppliers
  - Preparation of Bidding Documents:
    - Instruction to Bidders
    - Price Schedule
    - Terms and Conditions
- Invitations for Bids, Quotations and Proposals
- Procurement Requisition
  - Receipt, Opening and Evaluation of Offers
  - Submission to Contracts Committee
  - Award Contracts
  - Procedures Approval

APPENDIX 2