



**THE REPUBLIC OF UGANDA**

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC  
ASSETS (AMENDMENT) ACT, 2020.**



**THE REPUBLIC OF UGANDA**

I SIGNIFY my assent to the bill.

.....  
*President*

*Date of assent:*.....

THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS  
(AMENDMENT) ACT, 2020

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THE REPUBLIC OF UGANDA

**THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC  
ASSETS (AMENDMENT) ACT, 2020**

**An Act to amend the Public Procurement and Disposal of Public Assets Act; to provide for the functions of the Authority and of the Board of Directors of the Authority; to provide for electronic records and communication; to provide for the aggregation of procurement requirements; to provide for marginalised groups under reservation schemes; to remove the Authority from the administrative review process; to provide for the appointment of a registrar of a Tribunal; to provide for the powers of the High Court in procurement proceedings; to amend the Kampala Capital City Act and the Local Governments Act with respect to procurement and for related purposes.**

*Date of Assent:*

*Date of publication:*

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY

**1. Commencement**

This Act shall commence on publication in the gazette.

**Act**                      *Public Procurement and Disposal of Public Assets (Amendment) Act*                      **2020**

PART II—AMENDMENTS OF PART I OF PRINCIPAL ACT

**2. Amendment of section 2 of the Public Procurement and Disposal of Public Assets Act**

Section 2 of the Public Procurement and Disposal of Public Assets Act in this Act referred to as the principal Act is amended—

- (a) in subsection (1) (b) by inserting immediately after the word “co-financing” the phrase “ or pre contract financing by providers”; and
- (b) by repealing subsection (2).

**3. Amendment of section 3 of principal Act**

Section 3 of the principal Act is amended—

- (a) by substituting for the definition of the word “Authority” the following—

“Authority” means the Public Procurement Regulatory Authority;”
- (b) by substituting for the definition of the word “award” the following—

““award decision” means a decision made by a Contracts Committee in accordance with section 28 (1) (a);”;
- (c) in the definition of “consultancy service”, by substituting the phrase “practitioner who is” with “consultant or consulting firm.”;
- (d) by substituting for the definition of the term “consultant” the following—

““consultant” means an individual who provides consultancy services to a procuring and disposing entity;”;



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- (e) by inserting immediately after the definition of “consultant” the following—

““consulting firm” means a company, corporation, organisation or partnership that provides consultancy services to a procuring and disposing entity;”;

- (f) by substituting for the definition of the words “Contracts Committee” the following—

““Contracts Committee” means the Contracts Committee of a procuring and disposing entity;” and

- (g) in the definition of “procuring and disposing entity” by—

- (i) repealing the phrase “or department” appearing in paragraph (a);

- (ii) substituting for paragraph (c) the following—

“(c) a body established by an Act of Parliament, which receives public finances from the Consolidated Fund and related special finances expended through the capital or recurrent budgets, whatever form these may take”.

**4. Insertion of new section 4B in principal Act**

The principal Act is amended by inserting immediately after section 4A the following –

**“4B. The role of the Ministry**

(1) The Ministry shall advise Government on all public procurement and disposal policies, principles and practices.

(2) The Minister may in writing give directions to the Authority, on policy related matters and the Authority shall give effect to those directions.”

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PART III—AMENDMENTS OF PART II OF PRINCIPAL ACT

**5. Amendment of section 5 of principal Act**

Section 5 of the principal Act is amended by substituting for sub section (1) the following;

“(1) There is established an autonomous body to be known as the “Public Procurement Regulatory Authority, in this Act referred to as the “Authority”.”

**6. Amendment of section 7 of principal Act**

Section 7 of the principal Act is amended in subsection (1) by substituting for paragraph (a) the following—

“(a) advise procuring and disposing entities on the application of this Act and regulations and guidelines made under the Act;”

**7. Amendment of section 8 of principal Act**

Section 8 of the principal Act is amended—

(a) by substituting for subsection (1) (a), the following—

“(1) In the exercise of its regulatory function under section 7 (j) the Authority shall have power to—

(a) require any information, documents, records and reports in the respect of a procurement or disposal process;

(b) by substituting for subsection (1) (e) the following—

“(e) to investigate and act on complaints received on procurement and asset disposal proceedings from procuring and disposing entities, bidders, contractors or the general public that are not the subject of administrative review;”

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**8. Amendment of section 9 of principal Act**

Section 9 of the principal Act is amended in subsection (1) by repealing the words “or serious.”

**9. Amendment of section 10 of principal Act**

Section 10 of the principal Act is amended—

- (a) in subsection (1), by substituting for the phrase “execute the functions and powers of the Authority specified in sections 7 and 8 of this Act”, the phrase “be the governing body of the Authority and which shall be responsible for the general direction and supervision of the Authority”; and
- (b) in subsection (2), by substituting for the word “Notwithstanding” the words, “In addition to”.

**10. Amendment of section 15 of principal Act**

Section 15 of the principal Act is amended in subsection (1) by—

- (a) repealing paragraph (a); and
- (b) repealing the phrase “and the Complaints Review Committee” appearing in paragraph (b).

**11. Repeal of section 15A of principal Act**

Section 15A of the principal Act is repealed.

**12. Amendment of section 17 of principal Act**

Section 17 of the principal Act is amended—

- (a) in subsection (1) by substituting the word “three” with the word “five”; and
- (b) by repealing subsection (3).

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**13. Amendment of section 21 of principal Act**

Section 21 of the principal Act is amended by inserting immediately after subsection (1), the following new subsection—

“(1a) The Authority shall cause to be prepared and submitted to the Auditor General and the Accountant General, for each financial year, within two months after the end of the financial year, the statement of accounts of the Authority.”

**14. Replacement of section 22 of principal Act**

For section 22 of the principal Act, there is substituted the following—

**“22. Annual report**

(1) The Authority shall, as soon as is practicable and not later than nine months after the end of each financial year, submit to the Minister, an annual report of—

- (a) the activities and operations of the Authority conducted during the financial year to which the report relates including the audited accounts of the Authority; and
- (b) the performance of procuring and disposing entities in the procurement and disposal processes during the financial year to which the report relates.

(2) The Minister shall, within two months of receipt of the annual report, submit the report to Parliament, with a statement the Minister may consider necessary.”

**15. Repeal of section 23 of principal Act**

Section 23 of the principal Act is repealed.

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PART IV—AMENDMENTS OF PART III OF PRINCIPAL ACT

**16. Amendment of section 26 of principal Act**

Section 26 of the principal Act is amended—

- (a) in subsection (1), by inserting immediately after paragraph (f) the following—
  - “(fa) certifying that the price of the works, services or supplies to be procured conform to the prices in the guidelines issued by the Authority;
  - (fb) the following activities, for the purposes of disposal of the public assets of a procuring and disposing entity—
    - (i) assessing and verifying the public assets identified by a user department or by the Board of Surveys, for disposal;
    - (ii) causing the assets verified under subparagraph (i) to be valued in accordance with regulations made under this Act; and
    - (iii) approving the reserve price of the public assets to be disposed of;”;
- (b) by repealing subsection (4);
- (c) by substituting for subsection (5) the following—

“(5) An Accounting Officer shall not sign a contract for a procurement where the price quoted by the best evaluated bidder is higher than the price in the guidelines issued by the Authority.”

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**17. Amendment of section 28 of principal Act**

Section 28 of the principal Act is amended—

- (a) in subsection (1) (a) by substituting for the words “award of contracts” the words “making award decisions”; and
- (b) by repealing subsection (1) (ca).

**18. Amendment of section 29 of principal Act**

Section 29 of the principal Act is amended—

- (a) by numbering the existing provision as (1);
- (b) by substituting for the words “award contracts” in paragraph (c), the words “make award decisions”; and
- (c) by inserting immediately after subsection (1) the following—

“(2) A decision under this section shall be made within ten working days upon receipt of a submission from the procuring and disposal unit.”

**19. Amendment of section 41 of principal Act**

Section 41 of the principal Act is amended by inserting immediately after subsection (2) the following—

“(3) The records of a procuring and disposing entity may be maintained in a manual form or an electronic form.

(4) Where the records are maintained in an electronic form, the procuring and disposing entity shall provide or enable access, reading and printing of the records, as may be necessary.”

PART V—AMENDMENTS TO PART V OF PRINCIPAL ACT

**20. Amendment of section 56 of principal Act**

Section 56 of the principal Act is amended by—

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- (a) substituting for the headnote, the words “Standard forms”; and
- (b) inserting immediately after subsection (4), the following –

“(5) The standard forms and documents may be in a manual form or an electronic form.

(6) Where the standard forms and documents are in an electronic form, the procuring and disposing entity shall provide or enable access, reading and printing of the standard forms and documents, as may be necessary.”

**21. Amendment of section 57 of principal Act**

Section 57 of the principal Act is amended—

- (a) in subsection (1), by inserting immediately after the words “shall be in writing”, the words “and may be transmitted electronically”; and
- (b) by inserting immediately after subsection (3), the following—

“(4) The requirement in subsection (1) that communication may be transmitted electronically includes a requirement to provide or enable access, reading and printing of the communication.”

**22. Amendment of section 58 of principal Act**

Section 58 of the principal Act is amended by inserting immediately after subsection (2), the following—

“(2a) For the purposes of aggregation of procurement requirements as provided for under subsection (2), the Secretary to the Treasury shall for each financial year, using the procurement plans submitted by the procuring and disposing entities, determine the procuring and disposing entities with procurement requirements that qualify to be aggregated.

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- (2b) The Secretary to the Treasury shall communicate to the concerned procuring and disposing entities giving instructions on how the requirements that are aggregated are to be reflected in the procurement plan of the procuring and disposing entity.
- (2c) The procurement of aggregated requirements shall be in accordance with guidelines issued for that purpose.
- (2d) A procuring and disposing entity that is to undertake a procurement over a period of more than one financial year shall prepare a multi-year procurement plan for that procurement, using guidelines issued for that purpose.”

**23. Amendment of section 59B of principal Act**

Section 59B of the principal Act is amended in subsection (2) by—

- (a) inserting at the end of paragraph (b), “including registered small and medium enterprises and business ventures”; and
- (b) inserting immediately after paragraph (c), the following—
  - “(d) promote the participation of registered associations of women, youth and persons with disabilities, respectively.”

**24. Insertion of new section 61A in principal Act**

The principal Act is amended by inserting immediately after section 61 the following—

**“61A. Sustainable procurement**

A procuring and disposing entity shall for each procurement take into account environmental protection, social inclusion and stimulating innovation, as may be prescribed.”



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**25. Insertion of new section 71A in principal Act**

The principal Act is amended by inserting immediately after section 71 the following—

**“71A. Time period for completion of procurement process**  
A procurement process and each stage of the procurement process shall be completed within the period prescribed in the regulations made under this Act.”

**26. Amendment of section 74 of principal Act**

Section 74 of the principal Act is amended by substituting for subsection (1) the following—

**“74. Negotiations**

(1) Negotiations may be carried out between a procuring and disposing entity and the bidder with the best evaluated bid as may be prescribed by regulations made under this Act.”

**27. Replacement of section 75 of principal Act**

For section 75 of the principal Act, there is substituted the following—

**“75. Cancellation of procurement and disposal processes and rejection of bids**

(1) A procuring and disposing entity may, on the approval of the Contracts Committee, cancel a procurement process or a disposal process at any time, before a contract is awarded to the best evaluated bidder, as may be prescribed.

(2) A procurement process may be cancelled where—

- (a) the money available for the procurement is not adequate;
- (b) there is a significant change in the technical details or circumstances of the procurement requirement; or
- (c) the circumstances that gave rise to the request for procurement change significantly.

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(3) A procuring and disposing entity may reject a bid during the evaluation stage, as may be prescribed.”

**PART VI—AMENDMENT OF PART VI OF PRINCIPAL ACT**

**28. Amendment of section 79 of principal Act**

Section 79 of the principal Act is amended in subsection (1) by—

- (a) inserting in paragraph (a) immediately after the word “works” the word “consulting services” and substituting for the words “the Fourth Schedule to this Act”, the words “regulations made under this Act”; and
- (b) repealing paragraph (b).

**29. Insertion of new section 86A in principal Act**

The principal Act is amended by inserting immediately after section 86 the following—

**“86A. Electronic reverse auction method**

Electronic reverse auction is a procurement method where bidders competitively make offers for a procurement using electronic means, within a specified time period and the bidder with the lowest price is evaluated within the time period, as the best evaluated bidder.”

**30. Amendment of section 87 of principal Act**

Section 87 of the principal Act is amended in subsection (1) by inserting immediately after paragraph (g) the following—

“(ga) electronic auctioning;”.

**31. Repeal of sections 88 and 88A of principal Act**

Sections 88 and 88A of the principal Act are repealed.

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**32. Insertion of new section 88AA in principal Act**

The principal Act is amended in Part VI by inserting at the end of the Part the following—

*“Methods of procurement of complex, specialised and strategic goods, works and services*

**88AA Procurement of complex, specialised and strategic goods, works or services**

(1) A procuring and disposing entity shall in respect of the procurement of complex, specialised or strategic goods, works or services use the competitive dialogue method or the competitive negotiation method.

(2) The competitive dialogue method or competitive negotiation method shall be used where a procuring and disposing entity is not able, to define the technical specifications and methods appropriate for a procurement or the legal and financial implications of the procurement, at the beginning of a procurement.

(3) The use of the competitive dialogue method or the competitive negotiation method shall be approved by the Attorney General and the Minister, prior to the commencement of the procurement process.

(4) “Complex, specialised and strategic goods, works or services” means goods, works or services that are innovative and high risk and to which the other methods of procurement specified in this Part cannot be applied.”

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PART VII—AMENDMENT OF PART VII OF PRINCIPAL ACT

**33. Replacement of section 89 of principal Act**

For section 89 of the principal Act, there is substituted the following—

**“89. Administrative review by Accounting Officer**

(1) A bidder who is aggrieved by a decision of a procuring and disposing entity may make a complaint to the Accounting Officer of the procuring and disposing entity.

(2) A bidder may also seek administrative review for any omission or breach by a procuring and disposing entity, of this Act, regulations or guidelines made under this Act or any provision of the bidding documents.

(3) A complaint against a procuring and disposing entity shall—

- (a) be in writing and shall be submitted to the Accounting Officer, of the procuring and disposing entity on payment of the fees prescribed;
- (b) be made within ten working days after the date the bidder first becomes aware or ought to have become aware of the circumstances that give rise to the complaint.

(4) The procuring and disposing entity against which a complaint is made shall on request provide the bidder with a report indicating the reasons for the rejection of the bidder and the stage at which the bidder was rejected and the report shall be used only for the administrative review process.

(5) On receiving the complaint, the Accounting Officer shall immediately suspend the procurement or disposal process, as the case may be.

(6) The Accounting Officer shall request the bidders to extend the period of the bid validity and bid security for the duration of the suspension.

(7) The Accounting Officer shall make and communicate a decision, in writing, which shall be addressed to the bidder who makes a complaint, within ten working days and which shall indicate the reasons for the decision taken and the corrective measures to be taken, if any.

(8) Where an Accounting Officer does not make and communicate a decision within ten working days or where a bidder is not satisfied with the decision made by the Accounting Officer under this section, the bidder may make an application to the Tribunal, in accordance with Part VIIA of this Act.

(9) Where a bidder believes that the Accounting Officer has a conflict of interest in respect of the complaint, omission or breach that would be made under this section or that the matter cannot be handled impartially by the procuring and disposing entity, the bidder shall make an application to the Tribunal for determination of the complaint, omission or breach.

(10) Where a bidder intends to make an application to the Tribunal under subsection (8) or (9), the bidder shall give the Accounting Officer notice within five working days after the expiry of the period specified in subsection (3) (b) or subsection (7), as the case may be.

(11) For the avoidance of doubt—

- (a) a procurement or disposal process that is suspended under subsection (5) shall remain suspended until the Tribunal makes a decision, where a bidder makes an application to the Tribunal; and

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- (b) an Accounting Officer shall not enter into a contract with a provider—
  - (i) during the administrative review period;
  - (ii) before the expiry of time period required for giving notice under subsection (10); and
  - (iii) where the matter is referred to the Tribunal, before the Tribunal makes a decision.”

**34. Repeal of section 91 of principal Act**

Section 91 of the principal Act is repealed.

PART VIII—AMENDMENT OF PART VIIA OF PRINCIPAL ACT

**35. Amendment of section 91B of principal Act**

Section 91B of the principal Act is amended —

- (a) in subsection (1) by substituting for the word “four” the word “six”
- (b) in subsection (3) by inserting the words “or any other relevant profession” immediately after the word “law”; and
- (c) by inserting immediately after subsection (3) the following—

“(3a) At least a third of the members of the Tribunal shall be women”.

**36. Amendment of section 91C of principal Act**

Section 91C of the principal Act is amended in subsection (1) by, substituting for the word “three”, the word “four”

**37. Insertion of new section 91CA in principal Act**

The principal Act is amended by inserting immediately after section 91C, the following—

**“91CA Functions of the Tribunal**

The functions of the Tribunal are to—

- (a) hear applications for administrative review of decisions of Accounting Officers made by a bidder who is aggrieved under section 89(7);
- (b) hear and determine applications made under section 89(8) by a bidder who is aggrieved by failure of the Accounting Officer to make a decision within ten working days from date of receipt of a complaint;
- (c) hear applications for review of a decision of the Authority with regard to suspension of providers under section 94 of this Act; and
- (d) perform any other function conferred to the Tribunal by this Act, regulations or any other written law.”

**38. Amendment of section 91G of principal Act**

Section 91G of the principal Act is amended by inserting immediately after subsection (2) the following—

“(3) The registrar shall be appointed by the Tribunal in consultation with the Judicial Service Commission and the Tribunal may appoint other officers and employees as may be necessary for the effective discharge of the functions of the Tribunal.”

**39. Replacement of section 91I of principal Act**

For section 91I of the principal Act, there is substituted the following—

**“91I. Administrative review by Tribunal.**

(1) A bidder who is aggrieved, as specified in sub sections 89(7) and (8), or who claims to have suffered or to risk suffering loss or damage due to an omission or breach by a procuring and disposing entity under section 89 (2), may make an application to the Tribunal against the procuring and disposing entity.

(2) The application shall be made within ten working days—

- (a) from the date of receipt of the decision of the Accounting Officer;
- (b) from the date when the omission or breach by the procuring and disposing entity is alleged to have taken place; or
- (c) from the date of expiry of the period given to the Accounting Officer under section 89(8), where the Accounting Officer fails to make a decision.

(3) The application shall be in writing and accompanied by a prescribed fee.

(4) Upon receipt of an application for administrative review, the Registrar shall notify the Accounting Officer of the pending application for review before the Tribunal and shall ask the accounting officer to suspend the procurement and disposal proceedings till the application for review is completed.

(5) In reviewing a decision before it, the Tribunal may—



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- (a) recommend suspension of any action by the concerned procuring and disposing entity, until the Tribunal makes a decision on the matter; or
- (b) direct the concerned procuring and disposing entity, with respect to anything to be done or redone in the procurement or disposal process;

(6) Upon completion of a hearing, the Tribunal shall make a decision in writing giving reasons for the decision, including its findings on material questions of fact and reference to the evidence or other material on which those findings were based and may do any one or more of the following—

- (a) affirm or vary the decision of the Accounting Officer;
- (b) set aside the decision of the Accounting Officer;
- (c) refer the matter to the Accounting Officer for reconsideration in accordance with any directions or recommendations of the Tribunal;
- (d) annul anything the Accounting Officer has done in the procurement and disposal proceedings, including annulling the procurement or disposal proceedings in their entirety;
- (e) give directions to the Accounting Officer with respect to anything to be done or redone in the procurement or disposal proceedings;
- (f) recommend a termination of the procurement or disposal process and commencement of a new procurement or disposal process;

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- (g) in the case of suspension of a provider, lift the suspension of a provider made by the Authority under section 94 or vary the period of the suspension;
- (h) order that the procurement or disposal process be terminated;
- (i) require the payment of compensation for any costs, reasonably incurred by the bidder who is a party to the proceedings, as a result of an unlawful act or decision of the concerned procuring and disposing entity or of the Authority; or
- (j) recommend disciplinary action against an Accounting Officer, including the suspension of the Accounting Officer.”

(7) For the avoidance of doubt, the following matters shall not be subject to review by the Tribunal—

- (a) a decision by a procuring and disposing entity to reject or cancel any or all bids prior to award of a contract under Section 75;
- (b) a decision of a procuring and disposing entity to discontinue a procurement or disposal process, after receiving submissions from bidders following an expression of interest or a pre-qualification; and
- (c) decision by a procuring and disposing entity to limit the participation of bidders under a preference scheme or a reservation scheme.

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(8) The parties to an application for administrative review shall be—

- (a) a bidder who applied for review of the decision of the Accounting Officer;
- (b) a provider who applied for review of the decision of the Authority suspending the provider under section 94;
- (c) the Accounting Officer of a procuring and disposing entity;
- (d) the Authority, if the application is in respect to suspension of a provider under section 94;
- (e) the bidder notified as best evaluated bidder by the procuring and disposing entity; and
- (f) such other persons as the Tribunal may determine.

(9) The Tribunal shall issue a decision within a period of not more than fifteen working days upon receipt of an application for review.”

**40. Repeal of section 91J of principal Act**

Section 91J of the principal Act is repealed.

**41. Repeal of section 91L of principal Act**

Section 91L of the principal Act is repealed.

**42. Amendment of section 91M of principal Act**

Section 91M of the principal Act is amended by inserting immediately after subsection (2) the following—

“(3) An appeal to the High Court may be made on questions of law only, and the notice of appeal shall state the question of law that forms the appeal.