Tapping the potential?

Procurement, tied aid and the use of country systems in Uganda

A case study from the European Network on Debt and Development (Eurodad) with the Uganda National NGO Forum

Written by Bodo Ellmers
Eurodad
The European Network on Debt and Development is a specialist network analysing and advocating on official development finance policies. It has 58 member groups in 19 countries. Its roles are to:
• research complex development finance policy issues
• synthesise and exchange NGO and official information and intelligence
• facilitate meetings and processes which improve concerted advocacy action by NGOs across Europe and in the south.
Eurodad pushes for policies that support pro-poor and democratically-defined sustainable development strategies. We support the empowerment of Southern people to chart their own path towards development and ending poverty. We seek appropriate development financing, a lasting and sustainable solution to the debt crisis and a stable international financial system conducive to development.
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Uganda National NGO Forum
The Uganda National NGO Forum (UNNGOF) is an independent and inclusive national platform for NGOs in Uganda. Its primary constituency and owners are NGOs in their diversity and configurations. The National NGO Forum Platform is however open to other interest groups within a broadly defined civil society.

The Uganda National NGO Forum’s operational scope is at national level, with a focus on issues and processes that concern NGOs across the board. It recognises the independent existence of national thematic NGO networks and district networks and fora as other important NGO coordinating mechanisms with complementary comparative advantages.
www.ngoforum.or.ug

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If poor countries are to break away from the clutches of poverty, it is important that the aid they currently receive from the international community is disbursed and used in the most effective ways possible. The European Network on Debt and Development (Eurodad) and the Uganda National Non-Governmental Organisations Forum (UNNGOF) have identified public procurement and aid agency procurement as key areas where progress can be made to render aid more effective.

Public procurement - the purchasing of goods and supplies, and the contracting of works by government bodies - usually accounts for between 15 and 30% of GDP in a given country. In developing countries a large chunk of this often comes from development aid. In Uganda a massive 30% of GDP is spent on public procurement. It is the largest share of government spending besides wages, and thus if managed smartly, is a real window of opportunity for the government to promote development and fight poverty.

This study, however, finds that the potential of the Ugandan procurement system is not fully exploited. Reforms in recent years were numerous and comprehensive. Driven by donor-led assessments and guided by donor-defined international best practice, they focused on the functionality of the procurement system for purchasing the inputs needed to provide public services, and on the accountability of the procurement process. Eventually, reforms have led to an impressive legal and institutional framework, but not yet to a significant reduction in corruption or to the smoother delivery of public services, which was ostensibly their main purpose. What remains to be achieved is the optimisation of public procurement for achieving the best developmental outcomes, and the incorporation of social and environmental criteria for promoting sustainable and equitable development.

In the Paris Declaration - the key international agreement on aid effectiveness endorsed by governments globally in 2005 - donors committed to using recipient country public procurement systems, as this has multiple positive developmental impacts on the recipient country. However, the extent to which different donors deliver on this commitment varies tremendously in Uganda. In general donors seem to be using Ugandan procurement systems less, not more. This is despite efforts by the government of Uganda to implement reforms as prescribed by donors and in particular the international financial institutions.

With few exceptions most notably in the field of technical assistance, donors have formally untied their aid following the agreements made by the OECD's Development Assistance Committee. However, where data is available it shows that most larger contracts are still awarded to Northern firms and thus flow back to donor countries rather than promoting development and increasing income in Uganda. Such reverse flows reduce the effectiveness and developmental impact of aid. This may be a result of tendering in lot sizes that are too large for small Ugandan firms to compete with, intransparent tendering, for example insufficient advertising for contracting services, or restrictive eligibility criteria that exclude in particular the small and medium sized enterprises of a developing country such as Uganda. This study comes to the following policy recommendations:

Recommendations to the Government of Uganda:

The Government of Uganda should:

- align its procurement policies and systems with achieving its national development goals, in broad consultation with Ugandan citizens.
- make public its procurement plans so that they are known/accessible and can be monitored by stakeholders.
- invest in and increase the capacities and skills of the procurement and disposal committees and agencies based on identified shortcomings.
- favour companies that contribute most to the development of the country, putting into practice the preference and reservation schemes of the Public Procurement and...
Disposal of Assets Authority (PPDA) Act which aim to increase the share of contracts awarded to local firms by.

- consider incorporating the principles of sustainable public procurement as stipulated by the UN in its policies and practices, using this to promote innovation and socioeconomic aims.

- implement the recommendations of all the Commission of Inquiry Reports that have procurement implications, in order to reduce corruption.

- implement the Access to Information Act and remove all restrictions that hamper citizens and taxpayers, civil society organisations and media from playing their roles as watchdogs, and ensure whistleblower protection.

- improve procurement officers’ awareness and skills for sustainable public procurement and pro-poor procurement, including through tailored training modules.

Recommendations to donors

Donors should:

- deliver on their commitments made in the Paris Declaration and the Accra Agenda for Action by using the Ugandan country procurement system as a first option for all Official Development Assistance (ODA) provided to Uganda.

- assist in building the capacities of the Ugandan procurement system without imposing conditions or biased technical advice. All assistance should be tailored to the Ugandan needs as identified in self-assessments, using self-defined assessment methodologies and criteria. Self-assessments are better suited to identifying the specific needs of Uganda than is the application of donor-developed tools that do not adequately take the country context into consideration.

Where donors are still using their own parallel procurement systems, they should:

- end all practices of formal and informal aid tying, and reduce entry barriers for Ugandan firms and consultants, e.g. through tendering in smaller lots, sized to be manageable by Ugandan firms; and through advertising all tenders locally and removing restrictive eligibility criteria that disadvantage Ugandan firms.

- give preferential treatment, in particular to small and medium enterprises, and firms based in structurally weak areas. They should also consider social, environmental and gender criteria in tender evaluations.

Policy coherence for development matters. In relations with developing countries, donors should subordinate other policies to development policy. To avoid conflicts of interest and sub-optimal results of aid, donors should stop using development assistance as a way to leverage other policies such as foreign trade and investment promotion.

In Uganda a massive 30% of GDP is spent on public procurement. It is the largest share of government spending besides wages, and thus if managed smartly, is a real window of opportunity for the government to promote development and fight poverty.
1. Introduction

In Uganda, public procurement—the purchasing of goods and services and contracting works by the government for the public—accounts for a significant 70% of government spending excluding wages, and 30% of the nation’s gross domestic product (GDP). It is by far the largest share of GDP that is under direct control of the Government of Uganda. In this sense it can be used to promote economic and social development, and for achieving the national development goals.

Most of the funding for public expenditure to provide public goods is raised from domestic resources, in particular from tax income. However, Uganda also receives significant amounts of ODA. Over the past ten years, total aid disbursements to Uganda amounted to US$ 9.6 bn, on average almost US$ 1bn annually, in most years more than 10% of GDP.

Uganda receives a significant amount of budget support. 42% of the ODA it receives is directly injected into the national budgets through either general or sector budget support. This means that a substantial share of government procurement is indirectly funded through ODA, and that a substantial share of ODA is disbursed through the country procurement system. This share is likely to increase when donors deliver on commitments made in the international aid effectiveness agreements such as the Paris Declaration (§30) and the Accra Agenda for Action (§15) to use country procurement systems as the first and default option.

However, recent research also indicates that in fiscal year (FY) 2007/08 there were 379 projects worth US$ 554.89 being administered outside country systems, and US$ 558.87 worth of aid was expected to be disbursed in FY 2008/09 in the same format. This is why it is crucial to look also at donors’ parallel procurement in order to properly assess the development effectiveness of public procurement.

By signing international aid effectiveness agreements, donors made a commitment to using country systems wherever their quality allowed. They also pledged to support recipient countries’ efforts to strengthen them. Most developing countries have carried out an impressive number of reforms in recent years. In Uganda, the highlight was the passing of the Public Procurement and Disposal of Assets Act in 2003, and the subsequent establishment of the Public Procurement and Disposal of Assets Authority (PPDA). However, the Organisation for Economic Co-operation and Development’s (OECD) Development Assistance Committee (DAC) has repeatedly reported that while the quality of developing countries procurement systems has improved in recent years, many donors are still reluctant to use them. Moreover, the degree to which donors use country procurement systems varies tremendously. This fact questions whether the quality of the recipient country system is the only factor determining a donor’s decision to use it – additional reasons may be found in donors’ own regulations and interests.

A significant number of donors continue to tie a share of their ODA to the purchase of goods and services from their own countries. Thus they exclude suppliers based in other countries – including those in recipient countries. Aid untying has been addressed in international aid effectiveness agreements (Paris Declaration §31, Accra Agenda for Action §18) but this is one area where commitments are particularly weak. OECD agreements on untying aid exclude two important categories of tied aid; namely technical assistance and food aid. Following the 2001 DAC Recommendations on Untying Aid to the Least Developed Countries, the share of formally tied aid has decreased. However, despite official data, recent research indicates that the majority of contracts still go to suppliers based in donor countries.

This case study on procurement, tied aid and the use of country systems in Uganda was jointly conducted by the European Network on Debt and Development (Eurodad) and the Uganda National NGO Forum (UNNGOF). It is part of a larger research project that will lead to a synthesis report, the findings of which will be submitted to the Fourth High-Level Forum on Aid Effectiveness in South Korea in 2011. After preparatory desk-based research including a review of existing literature and relevant data, 19 interviews with relevant institutions
were carried out in May 2010 in Kampala. Interviewees included representatives of the Government of Uganda, CSOs and the private sector, and foreign diplomats and aid workers (see annex for a list of institutions met). Due to the proliferation of donors in Uganda - the most recent National Development Plan (NDP) has identified 58 development partners - it was impossible to consider them all for this research. The selection was based on two criteria: firstly, their relevance in terms of the amount of ODA they provide, and secondly, complementarity with previous country case studies in this series, assuming that donor procurement regulations are set at headquarter level and consequently their practices in different recipient countries level do not differ tremendously.

In fiscal year (FY) 2007/08 there were 379 projects worth US$ 554.89 being administered outside country systems, and US$ 558.87 worth of aid was expected to be disbursed in FY 2008/09 in the same format.
Under the dictatorship of Idi Amin in the 1970s Uganda went into an economic decline and became one of the world’s poorest and least developed countries. In the 1980s, Uganda experienced economic liberalisation and deregulation reforms, pressured by conditions imposed by donors and in particular by International Financial Institutions (IFIs): “From an early stance of rejection (1986) and reluctance (1987-1992), the government moved to a situation of full ownership of market-based reforms. … When the government first rejected and later reluctantly introduced market-based reforms policy dialogue, advisory services, training and technical assistance were of critical importance both for the decisions to reform and the direction of the reforms. Conditionality, which earlier had been regarded as externally imposed, was now being used by pro-reformers within the government to help push the reforms”.

Liberalisation and deregulation policies led to economic stabilisation in terms of reduced inflation rates and the reactivation of private sector activities. Economic growth rates improved when the external conditions for Uganda’s development became more favourable in the 2000s and the demand for its exports grew.

Economic growth averaged 6.8% from 2001/02 to 2003/04 and reached 8% in the following years until 2007/08. The NDP aims at maintaining an annual growth rate of 7.2% until 2015. While in 1992/93, 56% of the Ugandan population lived below the national poverty line, this dropped to 31% in 2005/06. If the growth targets projected in Uganda’s current National Development Plan are met, Uganda should reach the Millennium Development Goal (MDG) to halve the proportion of people that live in absolute income poverty by 2015.

However, only a share of the population reaped the benefits of economic growth, which resulted in a massive increase in income inequality. Poverty remained particularly high in the Northern regions which were for a long time affected by civil war. In fact, the Gini coefficient which measures income inequality surged from 0.36 in 1993/93 onwards and reached a peak of 0.43 in 2002/03, with inequality being more severe in urban than in rural areas. Inequality only slightly reduced by 2005/2006, with the Gini coefficient reaching 0.41.

### Table 1: Progress on Health and Education related MDGs by 2005/06

<table>
<thead>
<tr>
<th>Goal/Indicator</th>
<th>Progress (2005/06)</th>
<th>Target (2015)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>MDG2: Achieve universal primary education</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Net enrolment ratio in primary education</td>
<td>84</td>
<td>100</td>
</tr>
<tr>
<td><strong>MDG4: Reduce child mortality rate</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Infant mortality rate (per 1000 live births)</td>
<td>76</td>
<td>41</td>
</tr>
<tr>
<td>Under five mortality (per 1000 live births)</td>
<td>137</td>
<td>60</td>
</tr>
<tr>
<td>Proportion of 1 year old children immunized against measles</td>
<td>68</td>
<td>90</td>
</tr>
<tr>
<td><strong>MDG 5: Improve Maternal Health</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maternal Mortality ratio (per 100,000 live births)</td>
<td>435</td>
<td>131</td>
</tr>
<tr>
<td>Proportion of births attended by skilled health personnel</td>
<td>41</td>
<td>90</td>
</tr>
<tr>
<td><strong>MDG 6: Combat HIV/AIDS, malaria and other disease</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Condom use among higher risk sex group 15-24 years old</td>
<td>53</td>
<td></td>
</tr>
</tbody>
</table>

Source: Republic of Uganda 2010: 20
The Gini coefficient which measures income inequality surged from 0.36 in 1993/93 onwards and reached a peak of 0.43 in 2002/03, with inequality being more severe in urban than in rural areas.

Education and health

Uganda has made strong progress towards reaching universal primary education. The number of children enrolled in primary schools tripled within ten years and reached 82% of eligible pupils in 2008. The pressure on the education system is high, in particular due to the high population growth ratio of 3.2% annually. Less progress has been made on the health MDGs, and it is unlikely that any of them will be met at the current rate if extraordinary efforts are not made.

Job creation

Job creation in industry and services sectors for a fast-growing population like that of Uganda is a severe challenge. Agriculture employs the majority of the country’s workforce, but while this majority is increasing, the share it contributes to GDP has decreased, and stands currently at only 23% of GDP.

Transport

As a land-locked country, Uganda relies primarily on the road to the harbour of Mombasa in Kenya for foreign trade. Only 4% of roads are paved. The rail network is largely dysfunctional and can carry only 3.5% of cargo. Road transport is often the only option, which triples freight costs compared to railway use. Access to foreign markets is limited, and imported goods are relatively expensive. In a Memorandum of Economic and Financial Policies written for the International Monetary Fund (IMF), the GoU also pointed to the “low absorptive capacity observed in the implementation of infrastructure projects” which indicates that there is an urgent need to develop local production capacities in the construction sector and beyond.
Uganda has recently moved from the Poverty Eradication Action Plan (PEAP) which was in place from 1997 to 2008 to a new development framework. The new National Development Plan (NDP), released in May 2010, is entitled “Growth, Employment and Socio-Economic Transformation for Prosperity”.

The NDP is the first of six development plans under the national framework which intend to transform “the Ugandan society from a peasant to a modern and prosperous country within 30 years.” The GoU is moving towards a new development strategy, from a direct approach of targeting the social sectors to an indirect approach of achieving the MDGs via export-led equitable economic growth. It plans to give more weight to productive sectors and infrastructure investment. While the GoU stated that ongoing programs will not be cut, the impacts of these changes on social spending and MDG outcomes remain to be seen.

The NDP highlights the need for upgrading infrastructure and promoting human skills to ensure economic growth. In particular, this will serve to boost agricultural productivity and to diversify the economy through the promotion of industrial development.

While the NDP continues to promote a market-based approach to economic development, it also stresses the “need to address market failures” and states that “private-sector led growth is supported by appropriate government interventions targeted at removing barriers to growth”. It highlights the need for policy space by emphasising that “countries should be free to adopt policies suited to their specific circumstances”. For successful implementation of the NDP, the development path taken in many Asian countries in the past decades would be a good practice model to follow.

Representatives from CSOs interviewed for this case study confirmed that the NDP was developed by the government of Uganda, which held wide consultations with non-governmental stakeholders. Therefore, it is a country-owned development plan. CSOs, however, nonetheless felt that their inputs are not sufficiently reflected in the general approach and specific proposals of the NDP.

The NDP acknowledges that domestic resources for financing development need to be supplemented by external funding through ODA if the development targets are to be met. The national development plan encourages foreign donors to adhere to the principles of the Paris Declaration and the Accra Agenda for Action, and criticises the current fragmentation of support and the consequent loss of efficiency and extra workload it implies for government officers. The new Partnership Policy which is currently being developed is supposed to translate the principles of the international aid effectiveness agreements into practice. Budget support is the preferred aid modality for the GoU.
4. Development finance in Uganda

Domestic resource mobilisation for financing development in Uganda remains a challenge. Tax revenue has increased over the past decade, from 10% of GDP in 2000 to 13% in 2009 but it is still far below the global average of 17% of GDP.16

Private investment rose from 12.2% of GDP in fiscal year 2000/01 to 20.6% in 2006/07, but public investment stagnated at an average rate of 5.1% over this period, which proves the difficulties in mobilising domestic resources for the provision of public goods.17

The trade deficit is significant at about 13% of GDP, and exports are still dominated by primary commodities for which prices on global markets are volatile. These are in particular coffee and fish products from Lake Victoria. The recent discovery of crude oil in Uganda may boost export revenue in the future but will obviously do little to overcome the commodity dependency and volatility of revenue from foreign trade.

An increasingly important source of foreign currency is the migrant remittances; inflows surged from US$ 238mn in 2000 to US$ 856mn in 2007.18 Consequently, remittances have almost caught up with ODA as a source of foreign exchange, but this also highlights that Uganda suffers from a massive brain drain and a loss of human resources as it is unable to offer sufficient employment opportunities.

**The impact of the global financial and economic crisis in Uganda**

Uganda coped with the impacts of the global financial crisis fairly well, as it had a relatively low level of integration in global markets. However, Uganda did feel the impact of the economic downturn - it suffered a reduced demand for its export products, and migrant remittances decreased. Growth fell to 7.1% during fiscal year 2008/09, down from 8.7% in 2007/08. Trade deficits increased and private capital flows decreased as investors withdrew from developing country markets. In the third quarter of 2009, food prices rose sharply (by 30%) due to reduced production caused by severe droughts in East Africa. Surging food prices affect in particular the urban poor, and the GoU made it a priority to increase food production to meet the extra demand and tackle the problem.19

**Uganda’s external debt**

Uganda external debt built up dramatically until the late 1990s, as most foreign assistance was provided in loans. Since then Uganda has received substantial debt relief. It was the first country to benefit from the Heavily Indebted Poor Country (HIPC) Initiative. Savings from debt relief were earmarked for poverty eradication programmes through the Poverty Action Fund. Uganda also profited from additional debt relief though the Multilateral Debt Relief Initiative (MDRI) in 2005, which brought external debt down to US$ 871.21mn. However, while the latest IMF and World Bank debt sustainability analyses which measure debt to GDP and debt to export-ratios state that Uganda is at low risk of debt distress,20 external debt has since increased again, outstanding debt surpassed the US$ 2bn mark in 2009.

Loans and grants from the World Bank’s International Development Association to Uganda accounted for 35% of ODA over the period from 1997/98 to 2008/09. The Uganda National NGO Forum highlights that Uganda became “a low risk country for creditors and therefore a good candidate for loans at commercial rates.” 21 Commercial lending will become a more important source of external finance by fiscal year 2014/15 if– as foreseen in the current NDP - Uganda’s per-capita GDP exceeds the threshold for concessional lending from the World Bank’s International Development Association (IDA). While debt levels remain sustainable in Uganda at the present moment, an increase in non-concessional loans could undermine the country's debt sustainability.

**Official Development Aid to Uganda**

Total ODA disbursements to Uganda from 1997/98 to 2008/09 amounted to US$ 9.6bn. 64% was disbursed as grants, and 36% as loans. ODA accounted for 7% of GDP in 2008.22 Aid provision is highly fragmented, while Uganda signed grant agreements with 58 donors in
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In total, budget support to Uganda amounted to US$ 339.6mn in 2008/09. The largest contributors in absolute terms were the World Bank (US$ 100mn), the UK (US$ 53.1mn) and the EU (US$ 40.8mn). However, it is the smaller donors such as Ireland, Denmark, the Netherlands and Sweden that disburse the highest percentage of their total ODA as budget support.24

The most recent official assessment of the Public Financial Management System (using the PEFA Methodology) found that predictability and timely disbursement of direct budget support has actually decreased from 2006 to 2008. There has been an improvement in financial information provided by donors but still the second worst score “C” indicates that aid transparency leaves much room for improvement. For the use of national procedures, i.e. primarily the use of country public financial management and procurement systems, donors in Uganda received the worst grade “D”.25 The commitments made in the Paris Declaration and the Accra Agenda for Action have had no impact on donor willingness to use country systems.

Graph 1: Annual Total Aid Disbursements to Uganda: FY 1997/98 to 2008/09

Source: Calculations of the Uganda National NGO Forum (2010: 10) based on data provided by the GoU

In total, four of them (EC, UK, IDA and USA) provided half of the total ODA.

There is no clear upward or downward trend in ODA to Uganda. However, it is clear that commitments made by donors at the Gleneagles summit of the G8 in 2005 to double ODA to Africa have not been followed through in Uganda. Disbursements reached a peak of more than US$ 1.1bn in 2006/07, but dipped to less than US$ 500mn in 2007/08, which was even below the 2005 level (see graph 1) This enormous fluctuation in ODA flows also demonstrates that aid is not a predictable source of development finance for Uganda.

Budget support amounted to 42% of ODA in the period from 1997/98 to 2008/09. Donors providing budget support are reasonably well coordinated, through the Joint Budget Support Framework (JBSF). This includes the World Bank, African Development Bank, European Commission, and seven European bilateral.23 They have also developed a Joint Appraisal Framework which looks at the four broad areas: roads, education, donor accountability, and the Ugandan public financial management system, which includes the public procurement system.
For the use of national procedures, i.e. primarily the use of country public financial management and procurement systems, donors in Uganda received the worst grade “D”.

Table 2: Donor Practices

<table>
<thead>
<tr>
<th></th>
<th>Scores June 2006</th>
<th>Scores November 2008</th>
<th>Analysis of Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>D-1 Predictability of direct budget support</td>
<td>C+</td>
<td>(i) B (ii) C</td>
<td>D (i) D (ii) D</td>
</tr>
<tr>
<td>D-2 Financial information provided by donors for budgeting and reporting on project and program aid</td>
<td>D+</td>
<td>(i) B (ii) D</td>
<td>C (i) C (ii) C</td>
</tr>
<tr>
<td>D-3 Proportion of aid that is managed by use of national procedures</td>
<td>C+</td>
<td>D</td>
<td>No real change</td>
</tr>
</tbody>
</table>

5. The benefits of using Uganda’s own procurement system for aid

Using recipient country public financial management and procurement systems for aid spending is a key commitment from donors under the Paris Declaration and the Accra Agenda for Action. In the latter, donors have committed to using country systems as the first option.26

Using country systems aims to increase the alignment of foreign aid spending with the priorities formulated by the recipient country in its own development plans. It also helps to sustain the results of development projects, as opposed to parallel implementation units which are usually disbanded at the end of a donor-funded project cycle and which thus cannot help maintaining roads, hospitals or schools, or whatever the output of a given development project is.

Using country systems also empowers the recipient country by putting it in the driver’s seat to decide how aid is spent. This also means that this government assumes responsibility for spending foreign assistance effectively and accountably and achieving the intended development results.27

Using country systems aims to increase the alignment of foreign aid spending with the priorities formulated by the recipient country in its own development plans.
6. Is the Ugandan system being used?

Both budget support and project aid can use country systems. Budget support naturally uses country systems, including the country procurement system. For project support the picture is less clear in Uganda. The official Public Financial Management Assessment Report published in 2008 states that just 10% of project support uses government procedures, including the country procurement system. For both modalities together, the value adds up to 46.8%.28

The 2008 Survey on Monitoring the Implementation of the Paris Declaration concluded that the use of country systems had actually decreased over the period monitored. While in 2006, 60% of ODA to the government sector was disbursed through the PFM systems, this share fell to 57% in 2008. The decrease in using procurement systems is even sharper, from 54% in 2006 to just 37% in 2008.29

In its current National Development Plan, the GoU criticises the fact that a large share of ODA provided by foreign donors still does not reflect the government’s priorities and is not disbursed through country systems. It emphasised that “on its part ... the Government will ensure that national systems, institutions and procedures for managing aid and other development resources are effective, accountable and transparent, and where necessary will undertake reforms in this respect. In turn, the Government expects that all development partners will align their assistance with the National Development Plan and relevant sector strategies.”30

<table>
<thead>
<tr>
<th></th>
<th>Total</th>
<th>Government procedures (country systems)</th>
<th>Beneficiary company (parallel systems)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Budget Support</td>
<td>278.6</td>
<td>278.6</td>
<td>-</td>
</tr>
<tr>
<td>Project Support</td>
<td>402</td>
<td>40.2</td>
<td>361.8</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>680.6</strong></td>
<td><strong>318.8</strong></td>
<td><strong>361.8</strong></td>
</tr>
<tr>
<td>% of total aid funds</td>
<td>100%</td>
<td>46.80%</td>
<td>53.20%</td>
</tr>
</tbody>
</table>

Source: Final Report, June 14, 2009, p. 51

In Uganda just 10% of project support uses government procedures
Table 4: Use of country procurement systems

<table>
<thead>
<tr>
<th>Country</th>
<th>Aid disbursed by donors for government sector (USD m)</th>
<th>Public financial management (PFM)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Budget execution (USD m)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>b</td>
</tr>
<tr>
<td>African Dev. Bank</td>
<td>86</td>
<td>86</td>
</tr>
<tr>
<td>Austria</td>
<td>6</td>
<td>4</td>
</tr>
<tr>
<td>Belgium</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Denmark</td>
<td>50</td>
<td>18</td>
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<tr>
<td>European Commission</td>
<td>144</td>
<td>49</td>
</tr>
<tr>
<td>France</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>GAVI Alliance</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Germany</td>
<td>-</td>
<td>5</td>
</tr>
<tr>
<td>Global Fund</td>
<td>60</td>
<td>60</td>
</tr>
<tr>
<td>Ireland</td>
<td>44</td>
<td>36</td>
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<tr>
<td>Italy</td>
<td>7</td>
<td>-</td>
</tr>
<tr>
<td>Japan</td>
<td>18</td>
<td>-</td>
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<tr>
<td>Netherlands</td>
<td>45</td>
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</tr>
<tr>
<td>Norway</td>
<td>30</td>
<td>-</td>
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Until the late 1990s, Uganda’s public procurement system was characterised by a high-level of centralisation. A Central Tender Board at the Ministry of Finance was in charge – only the police and the military had disparate tender boards. This system did not keep pace with the massive expansion of government activities and their procurement requirements, and the process became protracted. To respond to this, a reform process started in the late 1990s. The reform process was driven by the results from Country Procurement Assessment Reports (CPAR), conducted by the World Bank. It went hand in hand with the general trend to liberalise and deregulate economic activities. The main concern of foreign donors, which contributed to almost half of the development expenditure, was the accountability of the procurement system. The reform consisted primarily of:

- **Legislation**: the enactment of the Public Procurement and Disposal of Assets Act (Act No.1 2003). In 2006, the local government public procurement and disposal of public assets regulations followed.

- **Oversight**: the creation of the Public Procurement and Disposal of Assets Authority (PPDA)

- **Decentralisation**: the dissolution of the Central Tender Board. Today, there are 29 central government Procurement Disposal Entities (PDEs) and local governments have their own PDEs.

Previous research found that the World Bank is satisfied with the reforms: “the efficacy of the regulatory system has been attested to by the World Bank ... Uganda became one of the most advanced countries in terms of implanting procurement reforms.” Interviewees of this study confirmed that the donors system and the internationally agreed best practice models developed by the World Bank and the OECD served as blueprint. “In fact the system we are using is the donor system”, responded one government official, and donor representatives confirmed that “they are very close to the World Bank system.”

However, not all stakeholders were satisfied with the reforms: due to the many PDEs involved, staffing them with competent personnel remains a challenge. This is particularly the case at district level due to a recent surge in the number of districts, and also because the creation of new districts is a tool of political patronage. Moreover, the oversight needs exceed the capacities of the oversight institutions: according to studies conducted in 2005, in particular the procurement process at district level where numerous PDEs are involved was prone to corruption.

Although many reforms were intended to promote greater efficiency and accountability, they actually resulted in high bureaucratic requirements and time-consuming and burdensome procurement processes. Indeed, the latter was often mentioned in interviews held for this case study.

The PPDA found that the average duration of a procurement cycle ranges from 43 days for direct procurement to 180 days for open competitive bidding. In fact, as Edgar Agaba, the Executive Director of the PPDA explained, the process can even take up to a year when contracting public works. The involvement of donor money prolongs the process further as a declaration of no-objection is often needed.

This lengthy and burdensome process has severe implications: the implementation of publicly funded projects and activities is generally delayed, meaning that citizens lack access to services. Furthermore, the transaction costs of the procurement processes increase. The Ugandan public procurement process is lengthier than those of foreign aid agencies, which is a disincentive for using country procurement systems. Moreover, several donors reported that procurement for donor-funded projects is often done by donors because the overburdened Ugandan
authorities asked them to take over. Finally, it is virtually impossible to use public funds for fiscal stimulus in a timely manner, a constraint that was felt during the financial crisis.

According to interviewees, reasons for lengthy procurement processes include a lack of capacities and skills, in particular at the district level, and the rigid and overbureaucratic PPDA rules which do not set different regulations or thresholds for different categories of products: “it is the same procedure for everything, if it is a pen or a road.”

A consequence of the burdensome public procurement process is that when goods and services are urgently needed, procurers resort to emergency procedures, and the formal procurement processes are often side-lined. The application of emergency procedures to complete a project quickly unleashed some of the most spectacular corruption cases, confirms the Third National Integrity Survey conducted by the Inspectorate of Government. Emergency procedures were also used in the Electoral Commission case (see box).
8. Is the procurement process transparent and accountable?

Most stakeholders interviewed for this case study agreed that the necessary laws and institutions for a transparent and accountable procurement process are in place. As for accountability, a large number of public and independent civil society institutions audit or monitor the procurement process, including the Inspectorate of Government, the Auditor General, the Ombudsman, the Public Accounts Committee of Parliament, and CSO watchdogs such as Transparency International’s Uganda chapter, the Anti-corruption Coalition of Uganda (ACCU) and the Uganda Debt Network (UDN).

However, Uganda scores badly in Transparency International’s Corruption Perception Index, ranked 130 out of 180 assessed countries. The wider Global Integrity Index (GII) rates Uganda’s public sector integrity as weak. While the legal framework is rated close to perfect (99 of 100 points), Uganda shows the biggest implementation gap of all countries covered in the 2009 Global Integrity Report. The GII team concluded that: “despite massive amounts of foreign aid, including a significant amount of aid for good governance and anti-corruption efforts, there is little evidence to suggest that ordinary citizens are benefiting from the proliferation of legal and regulatory reforms on paper (...) Political leaders in aid-dependent countries are skillful at establishing laws and institutions to meet foreign donor requirements despite those same laws and institutions failing to deliver for ordinary citizens.”

The National Integrity Survey estimated that between Ugandan Shilling (USh) 32 to 43bn (£10-15mn) in the local government system gets lost every year. Patrick Tumwebaze, Executive Director of the Uganda Debt Network, explained that corruption is a main reason for the poor delivery of public services and the poor quality of constructions such as roads, hospitals and school buildings. Contractors subtract the amount they need for bribes from the sum they receive for carrying out the works, diminishing the funds available for the actual construction and thus reducing the quality of the work. Money spent on bribes either inflates the prices or is saved later on resources needed to implement the projects, such as labour, machines, and construction material.

Interviewees and previous studies highlighted the following key factors to explain why corruption can still be endemic despite having the necessary legal and institutional framework for an accountable and transparent procurement process in place:

- A lack of compliance with existing rules and regulations
- A lack of capacities and skills in PDEs and oversight authorities
- Corruption within oversight institutions
- One respondent pointed to an “organized way of frauding procedures”. Terms of reference and tender specifications tend to be manipulated by insiders from the start in order to favour a certain company. Many companies find a so-called “godfather” in the government to represent their interests
- Insufficient record keeping for contract awards by PDEs
- Low remuneration of procurement officers, making them prone to accepting bribes.
- The attitude, conflicts of interest and greed of politicians and officers involved.
- Donor money disbursed for projects and programmes outside of the Ugandan procurement and oversight system.

Interviewees from CSOs and non-CSOs alike argued that the GoU needs to create an enabling environment for CSO watchdogs to oversee that the procurement process is more accountable. CSO interviewees highlighted in particular the lack of an operational Freedom of Information Act as a legal constraint for their work. Such an Act would facilitate access to vital and critical information on public expenditure for media and citizens. Uganda passed the Access to Information Act in 2005 but the necessary regulations to put it into practice were never developed, and no civic education was done to inform citizens about their rights. CSOs also criticised the lack of information on donor-funded but private-sector...
implemented projects such as the Bujagali dam, and on concessions for oil explorations in Uganda. Robert Lugoboli from Transparency International’s Uganda chapter criticised that while appeal mechanisms exist, only bidders can file complaints - CSO watchdogs cannot.

Besides public institutions and independent CSO watchdogs, the print and broadcast media play an important role in raising public awareness of corruption cases. The media in Uganda are currently relatively free. However, latest developments may impede the important watchdog role played by the media and CSOs. Firstly, the GoU is currently considering a new Media Act which could include keeping a log of journalists who are seen to damage the image of Uganda. Reporting on corruption cases could fall under this criterion. Secondly, the GoU has introduced a new Civil Society Act which obliges CSOs to renew their registration every two years. There is a high risk that authorities may refuse to approve the renewal of CSOs that they consider to be too critical. This is a concrete example of a worrying tendency to disempower citizen groups through more restrictive legislation. And yet it takes place at a time when CSOs are considered as important development actors in their own right, including in the Accra Agenda for Action.

New measures planned by the GoU to strengthen transparency and accountability include ensuring the independence of the Internal Audit, “by reporting directly to the Permanent secretary/Secretary to the Treasury and the six sectoral audit committees... Starting in 2009/10, performance audits, risk management, IT audits and more effective quality assurance will be undertaken.” The PPDA has also developed a new Procurement Performance Measurement System (PPMS) which is currently in its pilot test phase in 25 districts. The PPMS is the first self assessment tool to be used to measure the performance of procurement and compliance with PPDA regulations.

Recommendations from CSOs go further. The Uganda Debt Network highlights the need to strengthen the anti-corruption agencies and to set up a “National Book of Shame” for the public disclosure of corruption cases.

Due to the involvement of foreign actors in corruption, it may also be necessary to set up an International Anti-Corruption Tribunal in order to investigate and sanction cross-border corruption cases. On the human resources side, the UDN suggests a “national system for the certification of procurement professionals”, and effective actions to stop political interference in the recruitment of procurement personnel, in particular at the district level.

Moreover, the GoU should increase the frequency of audits, and ensure more effective follow up on audit findings. Investigators and prosecutors need more training, and financial and logistical support. Introducing a new “whistleblower and witness protection program” may also be useful to facilitate the operations of the accountability institutions by providing them with the information they need. There is also a need to raise awareness among Ugandan citizens about the provisions in the legal framework to prosecute corrupt officials. This would build and sustain public pressure for an accountable and effective procurement process.

To unveil conflicts of interests, full implementation of the leadership code is necessary, obliging public officers to publish their assets and liabilities. This is a prerequisite for identifying if officers have stakes in companies that benefit from contract awards.

“Honesty and transparency [...] can only come about as a demand by citizens and voters.”

- The Independent, May 14-20, 2010
Box 1: Donor-driven malpractices in procurement: The Electoral Commission case

2011 is election year in Uganda. There is no permanent population register as yet, so the Electoral Commission in charge of the preparations has allocated a significant amount of funds to procuring a biometric voter identification system in order to support the voter registration process and guarantee fair elections. Such a system was also promoted by the US Congress which in December 2009 identified the lack of an accurate and verifiable voter registry as a key constraint of the election process and instructed US Secretary of State Hillary Clinton to ensure proper independent monitoring of the preparations.

In November 2009, the Chairman of the Electoral Commission to Uganda received a letter from Jerry Lanier, the Ambassador of the United States to Uganda. In this letter that leaked to Uganda’s The Independent magazine, Lanier stressed the need for a credible voter ID system and, referring to the ongoing tender process, wrote: “Related to this tender, I was recently contacted by L-1 Identity Solutions. L-1 is a major American company competing for this tender in partnership with Balton, Uganda … I would like to take a moment to highlight some of the areas where L-1 may be able to bring value to your organisation …” Questioned about the intention of such an intervention in an ongoing tender process from the highest US representative in the country, the embassy’s Public Affairs officer simply replied: “U.S. government advocacy promotes U.S. exports, supports U.S. employment and increases market share for U.S. businesses.” According to PPDA regulations, lobby efforts on behalf of a company involved in an ongoing tender process should have led to the automatic disqualification of this company.

L-1 was not disqualified, but it nonetheless did not win the contract. In March 2010, the contract was awarded to the German firm Mühlbauer High Tech International, as part of a USh 200bn (€62mn) package that included additional services for capturing population data. The deal was signed late at night, after the German Ambassador had taken the Mühlbauer representatives to see the Ugandan President Museveni, insisting later that the unorthodox timing was due to the President’s tight schedule. Compared with the diplomatic efforts of the US and Germany to promote their businesses, the British attempt was less underhand. The UK’s Deputy High Commissioner forwarded a complaint letter on behalf of a British company who lost out to the Ugandan authorities - nonetheless this was still a political intervention in the procurement process.

Mühlbauer project staff interviewed for this study insisted that “Uncle Joe doesn’t bribe” (Josef Mühlbauer is the owner and director of the company), and that the contract was awarded to them as they were the only bidders willing and capable of completing the job in the short time remaining before the constitutional deadline for voter registration. However, diplomats in Uganda, including some of those interviewed for this study, viewed the process with discomfort. The PPDA regulations were clearly side-lined. Moreover, this case is particularly sensitive as voter registration is crucial for a fair election process. One European diplomat warned “if this has any negative impact on the election process, the reputation of the whole European Union is at stake.”

The Electoral Commission case unveils the double standards with which donor countries, in particular the larger economic powers with their commercial interests, approach the procurement process in Uganda. While on the one hand enormous sums of ODA are provided to strengthen public financial management and procurement systems, with some donors even withholding some budget support due to corruption amongst Ugandan authorities, certain irregularities seem to be acceptable if vested economic interests are at stake.

The main structural problem is that donor country embassies face conflicts of interest. They are at the same time responsible for
providing aid, and for promoting their nations’ commercial interests. “We all wear different hats”, explained a diplomat interviewed for this study.

The journalists of The Independent who investigated the Electoral Commission case conclude that “foreign governments are directly weakening the institutions they claim to support and strengthen. They feed corruption and encourage ‘first world’ givers of ‘third world’ bribes.” The Independent team also stresses that for these obvious reasons, transparency and accountability in procurement will not be achieved through conditions imposed by donors: “honesty and transparency … can only come about as a demand by citizens and voters.”

Donor countries, in turn, must draw clear legal, institutional, and personnel lines between their development assistance and the promotion of non-ODA foreign policies, both on recipient country level and at home.

Source: The Independent; May 14-20, 2010, p. 10-13; Interviews

While on the one hand enormous sums of ODA are provided to strengthen public financial management and procurement systems, with some donors even withholding some budget support due to corruption amongst Ugandan authorities, certain irregularities seem to be acceptable if vested economic interests are at stake.
Comprising 30% of GDP and 70% of government spending excluding wages, public procurement has a huge potential to promote economic development and the achievement of socioeconomic targets in general.

PDEs could help local economies retain a larger share of public funds, and help create jobs and consolidate local industry. However, reforms implemented in recent years have followed “international best practice models” as developed by the World Bank and the OECD, two international institutions that pursue trade liberalisation objectives and favour open and competitive international bidding and contracting awards based on the lowest price. This type of bidding tends to favour awards to foreign companies, in detriment of local firms which at this stage of development often cannot compete with them.

**Local firms disadvantaged**

Currently, very few Ugandan bidders can compete with foreign firms or work in joint venture with them, and amongst those that can, few are based outside of Kampala. Ugandan procurement experts stress that large foreign firms are in a better position when competing for public contracts due to economies of scale, their larger capital base, and easier access to information and goods. Among national firms, the ones based in Kampala have easier access to information on tenders.43

In the road sector in particular, most large contracts for both construction and maintenance are awarded to foreign firms. Therefore, funds do not flow into the region where projects are implemented, and there is no build up of local construction capacities. The development of local enterprises in terms of managerial and financial skills, which is a key component of economic development, is constrained.

Shortcomings of procurement policy in recent years are among the reasons why Uganda still has to rely on foreign firms when implementing infrastructure projects. This constraint may become more severe when the implementation of the NDP starts, which foresees huge public investment, in particular in the road and energy sectors.

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Targeted procurement

Targeted procurement could help to build local manufacturing capacities—an essential step in implementing the GoU’s strategy to diversify the economy and promote private-sector led growth as outlined in the current NDP. In the health sector, for example, Uganda has made progress on the local manufacture of medicines. Due to a joint venture and technology transfer from India, Uganda is now for the first time able to provide locally produced medicines, including anti-retroviral medicines for people living with HIV. Uganda is thus more self-sustained and less aid-dependent for health supplies, making it better prepared if in future donors scale-down assistance to the health sector. But these local manufacturing systems for essential drugs must be used if they are to be sustained. The EPRC highlights the need to ensure that “foreign pharmaceutical giants do not suffocate local pharmaceutical firms to death – for example, via the ‘donation’ of free drugs. Government must not let this happen.”

One way to increase the impact of public procurement is to give preference to firms that can bolster development. Preference schemes do not necessarily treat ineligible (foreign) firms unfairly. In fact, when used in open and competitive tendering, they create a fair procurement process, given that foreign firms that are financially strong and well-established in global markets actually have an advantage over locals: “Preference schemes in the procurement law are meant to level the ground, so that the competitive bidding is fair to all including the local bidders.” A preference scheme “also ensures that the development goals are achieved by encouraging the development of the local economy and ensuring that the capital for purchase of goods and services is retained in the targeted area.”

In this regard, preference schemes have multiple purposes. They not only promote the development of national and local firms, but they also contribute to making the Ugandan national and district economies more self-reliant and less dependent on foreign firms. Preference schemes also boost job creation and income in areas where public monies are spent, and they have multiplier effects over local economies when the direct beneficiaries spend their additional income in the locality.

Targeted procurement: successes and challenges

Uganda’s Public Procurement and Disposal of Assets Authority Act of 2003 includes preference schemes aiming to promote the development of local business. The PPDA Regulations state that: “the procurement of works, services and supplies may be subject to a preference scheme consistent with the Governments economic and social policies, or with international obligations.” Preference schemes apply to all competitive procurement methods.

The PPDA Regulations include two types of preferential treatment. Firstly, procurement bodies can add a margin to the evaluated price of non-local bidders during the evaluation of bids. Secondly, the regulations use reservation schemes. Under a reservation scheme, only members of a target group or community are eligible to participate. The reservations aim to develop these targeted groups, which in particular include those communities and geographic areas that are subject to conflict, calamity and neglect. To benefit from preference schemes, firms need to be listed in the PPDA’s registry of providers.
However, while the legal provisions for preference schemes are in place, they are currently not applied. A Ugandan research team found in a comprehensive empirical study that none of the surveyed PDEs ever used preference schemes. Many of the interviewed procurement professionals were not even aware that they exist, or even of what preference schemes are. Interviews carried out for this case study confirmed this.

To rectify this, the PPDA is currently developing guidelines on how to apply the preference schemes, after having studied the same practices in Kenya and Tanzania. The guidelines are scheduled to be introduced this year.

Besides ensuring that regulations for price preferences and reservations for local firms are adhered to, there are additional measures that could be applied to ensure the improvement of the developmental impacts of public procurement for the national economy. Such measures include making sub-contracting to Ugandan firms obligatory, downsizing contracts to volumes that local businesses can manage, addressing providers’ concerns over bidding costs by reducing bureaucratic barriers, and providing better feedback to local providers and bidders.

**Capacity development**

There is a need for small and medium enterprises in particular to become more familiar with complicated tender procedures and increase the share of public sector contracts that they win. The PPDA found that many bidders are disqualified for formal reasons, in particular when they are not able to prove compliance with tax obligations or do not have audited account books for the previous three years. While it is important that the GoU ensures that paying taxes is a prerequisite for awarding public contracts, formal criteria also lead to the disqualification of bids that are technically viable and commercially attractive.

Better training and guidelines for potential suppliers are needed, especially for SMEs at the district level: “firms in the districts do not have many capacities and they often do not understand the procurement process”, confirmed Lawrence Banyoya from the Local Government Finance Commission. The PPDA trains suppliers and has organised regional training sessions, but due to a lack of funds, training at the local level is somewhat disadvantaged. The introduction of oral debriefings after contracts are awarded, as is foreseen for the upcoming revision of the PPDA Act, would enable contractors to learn from failed applications and at the same time improve the transparency and accountability of the procurement process.

**Social and environmental considerations**

Besides economic development, public procurement can also contribute to the achievement of a wider set of development goals with social, environmental and gender dimensions. At an international level, the concept of sustainable public procurement, promoted in particular by the UN, takes social and environmental criteria into account, and has gained some traction in recent years.
The underlying intention is that procurement reforms should not only aim to do things better, but also to do better things. This is based on the assumption that governments can use their purchasing power to steer markets and to influence private firms, e.g. to adhere to ILO conventions on core labour standards or use environmentally friendly products and apply sustainable production techniques.

However, environmental, social and gender criteria are not directly considered in the public procurement policies and practices of Uganda. Regarding environmental criteria, for some projects, prior environmental assessments must be done, but interviewees felt that compliance with the requirements set by these assessments is very low, partly because there is no sufficient monitoring or enforcement mechanism. In tender specifications, environmental aspects do not usually even play a role. The PPDA has developed a blacklist to debar private firms that have been involved in fraud and corruption from winning contracts, but there exists no wider debarment criteria for behaviour such as the violation of human rights or of social and environmental standards.

Despite years of reforms, modern principles of sustainable public procurement as developed by the United Nations still do not feature in the procurement policies and practices of Uganda. Instead, reforms were largely based on the CPAR and MAPS assessments developed and carried out by the World Bank and the OECD, which disregard the social and environmental impacts of public procurement. They also do not play a significant role in supporting and strengthening public procurement systems through ODA. One donor representative interviewed for this study stated: “maybe it is not the right time to be so sophisticated. The system needs to be robust first.”

Environmental, social and gender criteria are not directly considered in the public procurement policies and practices of Uganda.
10. Reforming and strengthening procurement systems – the role of donors

In the Paris Declaration and the Accra Agenda for Action donors have committed not only to using country systems, but also to assist developing countries in strengthening these systems. Consequently, donor support for public financial management (PFM) has increased more than threefold since the Paris Declaration was signed in 2005. In total, DAC donors provided US$644.5m for all developing countries in 2008.66

In Uganda, the largest PFM programme supported by donors is the Financial Management and Accountability programme (FINMAP). FINMAP is a comprehensive programme to strengthen PFM, including institutional capacities, management arrangements, audit systems, external parliamentary oversight etc. In its procurement component, FINMAP works with the Auditor General and PPDA. It supports PPDA to ensure that the procurement cadre is up to the task. The largest funder of the US$ 70mn programme is the World Bank, which contributed US$ 20mn. The remainder comes from the GoU and a consortium of bilateral donors.

Ownership of reforms

It is difficult to say who drives and owns the PFM and procurement systems reforms, and to what extent they are the result of foreign interference. Foreign diplomats stated that FINMAP was developed by the GoU. In the Joint Bank-Fund Work Programme for 2009 however, the IMF asked the World Bank to “finalise the update of the broad strategic priorities in the PFM area (FINMAP) and get agreement with authorities on next steps”.57 This indicates a strong influence from the International Financial Institutions. FINMAP’s Programme Coordinator Johnson Mutesigensi says: “FINMAP was designed [by GoU and donors] as a collaborative effort of ownership on both sides.”

FINMAP uses the Public Expenditure and Financial Accountability (PEFA) framework for assessing reform progress and identifying shortcomings of the PFM system. PEFA was developed by the World Bank and a group of bilateral donors.58 Johnson Mutesigensi judges that while PEFA has its merits, it is a backward-looking tool that may not be adequate for capturing the dynamics of reforms. It concentrates on diagnosis without providing solutions to the problems identified.

The Anti Corruption Coalition of Uganda (ACCU) considers these tools to be donor-driven and focused on donor priorities. It also highlights that these tools do not measure impact on the ground, and that there is a lack of consultation of the ultimate beneficiaries of the PFM system - the Ugandan citizens. The Government of Uganda did not undertake any self-assessments of the PFM system before the new PPMS was developed. The 2007 PEFA assessment (PPDA 2007) was PPDA-branded but in fact a donor-funded and donor-led action.59

Developing procurement capacities

Sources within the Ugandan government identified human resources as a key area where development assistance is needed in Uganda. Human skills available cannot cope with the legal and institutional complexity. Capacity building needs raised by interviewees from FINMAP and PPDA include:

It is difficult to say who drives and owns the PFM and procurement systems reforms, and to what extent they are the result of foreign interference.
Contracts committees need better training; they are “not necessarily on top of the issues”. The independence of the contracts committees is laudable, but the process is too time-consuming. The solution should however be to train the people rather than cutting the process. (FINMAP)

A clarification of roles is necessary: There is a “misunderstanding of what has to be done”. The different officers are not clear about their roles in the numerous steps of the procurement cycle. (FINMAP)

More training for procurement officers at all steps of the procurement process is needed: the procurement planning, the preparation of specifications (tender/bidding documents), the evaluation, and the contract management (PPDA)

Generally, the procurement function is understaffed and the profession is still fairly new and requires time to mature and provide appropriate support to the procurement systems and processes.

According to Edgar Agaba from the PPDA, most issues are already being addressed through training which is tailored to the needs: “We are the ones who determine what to teach. The donors fund”. Still, donor support to the PFM and procurement systems seems to be very fragmented. Besides their support to FINMAP, the donors surveyed implement a large number of additional actions related to procurement. The positive aspect of this is that it shows their awareness that a functional public procurement system does not only need functional public institutions and well-trained procurement officers. It also needs independent (civil society) organizations to monitor and scrutinise public sector practices and malpractices. On the downside, it shows the fragmented way of providing aid that implies that donors see the need to strengthen both – the public procurement system through which the budget support flows, and their own projects’ parallel implementation units.

Donors surveyed gave the following as actions they undertake aiming to strengthen public financial management and procurement systems:

**World Bank:**
- Capacity building for project staff in 24 World Bank projects

**USA:**
- Support to the GoU through a $10.4 million Anti-Corruption Threshold program funded by the Millennium Challenge Corporation (MCC) and implemented by Associates for Rural Development in order to facilitate implementation of the Government of Uganda’s Threshold Country Program (TCP). The focus is on preventing and controlling public-sector corruption, particularly in public procurement.
- Support to national entities dealing with health systems in order to address bottlenecks in procurement and distribution of health commodities.

**Netherlands:**
- Financial support to the PPDA (until 30th June 2010, then support to FINMAP)

**United Kingdom:**
- Support to a budget support monitoring programme
- CSO support programme
- Anti-corruption programme

**Ireland:**
- Pilot projects in two districts to build PFM capacity
- Budget monitoring and accountability for an expenditure tracking programme (support to Public Affairs Centre and Oxfam)
- CSO fund focusing on governance.

**Japan:**
- Training to the Auditor-General office in PFM and value for money
- Supported audits for public works, and installation of an IT auditing system
11. Procurement by donors - who profits and why?

International aid effectiveness agreements such as the Paris Declaration and the Accra Agenda for Action oblige donors to use country systems as the first option, and to avoid setting up their own parallel implementation units for project aid. However, parallel implementation is still widespread, including in Uganda. Country systems are sometimes used in Uganda, yet in these cases donors often still set the condition that the process complies with their own procurement regulations and policies. Consequently, donors’ own procurement policies and practices have significant developmental impacts in Uganda.

Procurement results and contract awards, ultimately decide what the final destination of an aid flow is, if it is a company from the donor or the recipient country, a transnational cooperation or an SME. For many years, donors formally tied aid, they provided aid under the condition that supplies, services or works are exclusively purchased from companies based in the donor country in order to make sure that most money flows back to their own economy. This is now slowly being phased out by most donors. This is true in particular in Least Developed Countries (LDCs) such as Uganda, which are subject to the OECD Recommendation on Untying Official Development Assistance to the Least Developed Countries passed by the DAC member states in 2001. However, the OECD recommendations exclude two important categories of aid: food aid and free-standing technical assistance.

Moreover, some donors that have fully untied aid still have procurement policies that may intentionally or unintentionally favour companies and consultants based in their home countries, thus constituting a means of informally tying aid to the purchase of goods and services to the donor country. This effectively reduces the amount of aid monies retained by the recipient country’s economy, the number of jobs created, and the knowledge and experience generated in local firms who are being effectively excluded from conducting projects funded with aid. Thus, informal tying can reduce the developmental impact and tie countries into aid dependency.

Donors’ parallel procurement always favours donor-country based firms, in particular when the headquarters are in charge.
Factors that may disadvantage firms (in particular small and medium enterprises) from a poor or least developed country include:

- Large lot sizes: By tendering a project component in large lots donors can make sure that small and infant firms with lower financial and physical capacities cannot compete. Large lot sizes favour large transnational corporations which are mainly established in developed countries.

- Lack of transparency in tendering: Donors may publish their tenders in media in their home countries but not in the recipient countries. The choice of language also matters. Publishing tenders in the donor country language favours the donor countries’ firms.

- Restrictive eligibility criteria: Donors may ask firms to meet certain requirements such as access to credit and other financial services, coverage through insurance services, or long-standing experiences in carrying out similar projects. These are requirements that few or no small or infant industries from least developed countries such as Uganda can fulfil.\(^\text{61}\)

Donors’ parallel procurement always favours donor-country based firms, in particular when the headquarters are in charge. All procurement regulations are complex and complicated and therefore pose a technical and bureaucratic barrier for firms that are seeking contracts. Many private firms have therefore specialised in working with one or a few donors. Aid agency hubs such as Washington, D.C., and Brussels host numerous liaison offices and consultancy companies which are striving for contracts from the development finance institutions based there. Social networks and well-established personal relations also play a role, even in cases where formal corruption cannot be detected. Cultural and geographic proximity matters in public and aid agency procurement. This makes using country systems and local procurement highly important for increasing the effectiveness and developmental impact of aid, and for keeping a larger share of aid monies in the recipients’ economies.

Tender specifications are biased against most Ugandan firms or firms from other ACP countries.
Box 2: EU funds road-building in Uganda: Local firms don’t get a look in.

In Uganda, the case of the primarily European Commission (EuropeAid) funded Northern Corridor Road reconstruction project illustrates the constraints that local firms are facing, and the constraints intentionally or unintentionally set by donors’ procurement policies and practices.

Firstly, the project is funded through partially tied aid. The legal basis is the ACP-EC Partnership Agreement (Cotonou Agreement). Under the Cotonou Agreement, participation in tendering is open exclusively to firms established in an EU Member State or an ACP country. This regulation could protect Ugandan construction companies from competition from American or Asian countries (as in practice competition is primarily from Chinese construction companies).

However, these tender specifications are biased against most Ugandan firms or firms from other ACP countries due to the following factors:

- The project budgeted at €122mn was tendered in just three lots, an average contract volume of €40.67mn.
- The average turnover of the tenderer in the past three years had to be at least €30mn.
- The amount of credit available had to exceed the equivalent of €6mn.
- The candidate had to have completed at least two projects of the same nature, amount and complexity over the last five years, each with a value of at least the equivalent of €40mn.
- The candidate had to carry out at least 70% of the contract works using its own resources, meaning that it had to have the equipment, materials, human and financial resources necessary to enable it to carry out that percentage of the contract.
- The candidate’s key personnel had to have at least 15 years’ appropriate experience and proven qualifications relevant to the nature to this project.
- The only award criterium was the price (while the EU’s own procurement guidelines allow for considering social and environmental aspects).

Such requirements eliminate most if not all Ugandan construction firms from the competition. High financial requirements are due to the huge lot size chosen. Whereas large lot sizes are understandable for other construction projects (such as dams), they are not necessary in road construction. The project could have easily been split into smaller lots by assigning fewer kilometres to each contractor, which would be more manageable for small and infant construction companies. The tender specifications fail to oblige foreign contractors to subcontract to Ugandan firms, to transfer knowledge and technology to local partners or to use local inputs where available. They also show the donor’s reluctance to take risks. They require candidates to prove that they have previous experience of similar projects, but this rules out young enterprises from the bidding. This hinders local private sector development, which is badly needed in countries such as Uganda, and is crucial for developing the local economy and overcoming aid dependency.

The European Union’s bias against working with local small firms could either be intentional, because the EU wants to favour large construction companies established in the EU, or unintentional, because project managers and EuropeAid as a whole are under pressure to demonstrate results. Results are measured in terms of having the road reconstructed in time, without taking into account other developmental impacts such as strengthening local companies and creating local capacities. These long-term developmental outcomes should also be taken into account to enhance the effectiveness of development aid.
In particular World Bank and EU funded projects are tendered in large lot sizes, thus undermining the chances for local companies to win the biddings for these projects. Table 6 shows all contract awards for World Bank projects above US$ 1mn since 2000 that are listed in the World Bank’s contract awards database. Less than a third of the contracts were awarded to Ugandan firms, and these contracts amounted to just 10% of the total contract sum disbursed by the World Bank. The top three economies to profit from these projects were the UK, China and The Netherlands, whereas Uganda comes only fourth. UK companies profited the most from large World Bank funded projects in Uganda, with almost a third of the total value of the large contracts.

<table>
<thead>
<tr>
<th>Country</th>
<th>Total value of contracts in US $ million</th>
<th>Amount of contracts won above US $ 1mn</th>
<th>Percentage of value of all contracts awarded</th>
</tr>
</thead>
<tbody>
<tr>
<td>United Kingdom</td>
<td>251.626</td>
<td>9</td>
<td>31.76%</td>
</tr>
<tr>
<td>China</td>
<td>152.706</td>
<td>8</td>
<td>19.27%</td>
</tr>
<tr>
<td>Netherlands</td>
<td>92.636</td>
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<td>11.69%</td>
</tr>
<tr>
<td>Uganda</td>
<td>82.407</td>
<td>33</td>
<td>10.40%</td>
</tr>
<tr>
<td>Serbia</td>
<td>56.154</td>
<td>3</td>
<td>7.09%</td>
</tr>
<tr>
<td>Sweden</td>
<td>33.396</td>
<td>4</td>
<td>4.21%</td>
</tr>
<tr>
<td>Saudi Arabia</td>
<td>21.369</td>
<td>3</td>
<td>2.70%</td>
</tr>
<tr>
<td>France</td>
<td>18.01</td>
<td>4</td>
<td>2.27%</td>
</tr>
<tr>
<td>Italy</td>
<td>14.432</td>
<td>3</td>
<td>1.82%</td>
</tr>
<tr>
<td>Germany</td>
<td>12.896</td>
<td>8</td>
<td>1.63%</td>
</tr>
<tr>
<td>India</td>
<td>10.71</td>
<td>5</td>
<td>1.35%</td>
</tr>
<tr>
<td>United States</td>
<td>9.809</td>
<td>5</td>
<td>1.24%</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>8.619</td>
<td>1</td>
<td>1.09%</td>
</tr>
<tr>
<td>Finland</td>
<td>5.86</td>
<td>1</td>
<td>0.74%</td>
</tr>
<tr>
<td>Denmark</td>
<td>2.764</td>
<td>2</td>
<td>0.35%</td>
</tr>
<tr>
<td>Egypt</td>
<td>2.484</td>
<td>2</td>
<td>0.31%</td>
</tr>
<tr>
<td>Canada</td>
<td>2.346</td>
<td>1</td>
<td>0.30%</td>
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<tr>
<td>South Africa</td>
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<td>0.29%</td>
</tr>
<tr>
<td>Kenya</td>
<td>1.89</td>
<td>1</td>
<td>0.24%</td>
</tr>
<tr>
<td>United Arab Emirates</td>
<td>1.816</td>
<td>1</td>
<td>0.23%</td>
</tr>
<tr>
<td>Israel</td>
<td>1.56</td>
<td>1</td>
<td>0.20%</td>
</tr>
<tr>
<td>Australia</td>
<td>1.473</td>
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<td>0.19%</td>
</tr>
<tr>
<td>Switzerland</td>
<td>1.45</td>
<td>1</td>
<td>0.18%</td>
</tr>
<tr>
<td>Zimbabwe</td>
<td>1.441</td>
<td>1</td>
<td>0.18%</td>
</tr>
<tr>
<td>Spain</td>
<td>1.158</td>
<td>1</td>
<td>0.15%</td>
</tr>
<tr>
<td>Norway</td>
<td>1.04</td>
<td>1</td>
<td>0.13%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>792,318</strong></td>
<td><strong>110</strong></td>
<td></td>
</tr>
</tbody>
</table>

Source: Eurodad calculations based on World Bank contract awards database
Phasing out tied aid and parallel procurement, whilst phasing in the use of country procurement systems, are international commitments made by donors. While doing this, donors can implement actions to improve the developmental impact of their own procurement. Reducing the lot sizes is just one action that can give more access to firms from developing countries, including small and medium enterprises. Switching to local procurement and advertising for tenders in local media should be preferred rather than headquarter-led procurement practices. The OECD emphasises that “Procurement by donors from enterprises and individuals in partner countries brings economic benefits, helps develop competitive local markets and productive capacities, and contributes to local ownership of the development process.”

Preference schemes can also be used by donors to target firms that are considered to have the greatest developmental impact. These could include small and medium enterprises, firms located in an economically neglected area, firms in economic sectors that are identified as crucial in the national development strategy, or firms that respect core labour and environmental standards and have a good track record in paying taxes. Compliance with internationally agreed labour and environmental standards should be compulsory for all contractors working with aid monies, donors should ensure coherence of their procurement policies and practices with the internationally agreed aims and principles of development cooperation: social and gender equity, environmental sustainability and decent work.

How are aid agencies and development finance institutions performing against these benchmarks?

Bilateral donors:
For three donors surveyed (Ireland, Netherlands, Sweden) an assessment of their parallel procurement in Uganda is in fact not necessary because they do not conduct procurement in Uganda. They have largely reformed their aid delivery in recent years. Most of their programme in Uganda is now budget support and thus uses the country procurement system. Exceptions to this rule are mainly their support to CSOs, research cooperation between their and Ugandan universities or monitoring and evaluation studies. Support to CSOs can amount to a third of these donors' portfolio, here the partner CSO is in charge of conducting procurement. They partly have to comply with regulations set by the donor, however.

Parallel procurement is more significant for two of Uganda's largest donors, the European Commission and the United Kingdom for which budget support accounts for just about 50% of the programme. Procurement by EU Member States and the European Commission is generally subject to the EU Procurement Directive and thus to the principle of competitive tendering when the contract volume surpasses a certain threshold which may differ from category to category. Larger contracts are published in the Official Journal of the European Union and online in Tenders Electronic Daily.

For European Commission operations funded in the Africa-Caribbean-Pacific countries including Uganda and funded through the European Development Fund, the Cotonou Agreement is another legal basis. The Cotonou Agreement restricts access to firms based in the EU and ACP (African, Caribbean and Pacific group of
states). It is thus partly tied aid but exceptions to this rule can be and are often made. The Cotonou agreement explicitly encourages the participation of developing country firms, and allows for price preferences for bids on equal technical merit. However, the eligibility criteria and other bureaucratic barriers set by the EU Procurement Directive are high, so this rarely happens. Joint ventures with European firms are often the only options to jump over the bureaucratic barriers. Bilateral EU donors conduct local procurement mostly only for smaller volumes, e.g. in the case of the UK up to a threshold of GBP 101,323. Above this, procurement is done either by the headquarters or by specialised agencies, in the UK case the Crown Agents.

Non-EU donors to Uganda are more reluctant to give budget support, implying that parallel procurement is still predominant. Japan (JICA) does not provide any budget support to Uganda and fully side-lines the country procurement system. JICA sources indicate that they do not meet JICA’s standards with regards to effectiveness and fiduciary accountability. Accountability to Japanese taxpayers is deemed extremely important. In their own parallel procurement, however, they prefer local procurement. Open tenders are published in Ugandan newspapers such as New Vision and Daily Monitor. The origin of goods is generally not an important criterium—the evaluation is based on quality and price. When it comes to services, however, Japanese technical assistance is formally tied and provided by Japanese consultants because the explicit aim is to transfer Japanese knowledge and Japanese technology.

Similarly to Japan, the USA does not provide any budget support to Uganda. US Government assistance to Uganda is not formally tied aid anymore. USAID generally requires competitive bidding, and all USAID calls for solicitation are posted online at US websites such as www.fedbizopps.gov. The awarding of contracts is done at public conferences that are open for all to attend. The USAID expects implementing partners to adopt their system.

USAID Uganda states that it solicits the bulk of its project supplies at local level. Only in exceptional cases, procurement is conducted at headquarter level through agency-wide global contracts, officially to benefit economies of scale in commodity procurement, sourcing global expertise to supplement local shortages, and tapping into cross border or regional initiatives. The award of contracts made is based on selection criteria which among others include technical approach/methodology, the firm’s capacities, and past experience in working with the US government systems—criteria which naturally give larger and US-based firms an advantage over small firms from developing countries.

There is little effort by donors to ensure the coherence of their purchases with social and environmental objectives of development cooperation. Some of them, for instance the German development bank KfW, have paragraphs in their procurement guidelines obliging debtors and contractors to comply with ILO conventions on core labour standards, at least with those ratified by the project country concerned. However, compliance is not systematically monitored or even enforced.

The current Ugandan procurement practices leave the government little room to use its purchasing power to fight poverty. Strikingly, some donors and international organisations have more space to do so.
Box 3: Pro-poor procurement in Uganda: The World Food Programme’s Purchase for Progress (P4P)

The current Ugandan procurement practices leave the government little room to use its purchasing power to fight poverty. Strikingly, some donors and international organisations have more space to do so.

The World Food Programme (WFP) was for a long time criticised for dumping tied food aid, in particular agricultural surplus production from the US and EU, on developing countries thus distorting local markets and driving local farmers out of business and into poverty. Widespread criticism of these effects unleashed an interesting innovation in the WFP- the Purchase for Progress programme- an innovative attempt at using procurement to boost development.

The P4P purchases food directly from farmers’ organisations- aiming to increase the WFP’s share of locally sourced foodstuffs. Uganda is one of the 21 pilot countries for the P4P. Through forward contracting and procurement guarantees, the P4P creates reliable demand and an environment in which it is rational for smallholders to produce, and even invest to increase productivity.

The P4P and its partners also provide additional training for farmers on post harvest handling, creating market collection points and supporting the construction of feeder roads to link these collection points with wider markets. The programme is funded by the Bill and Melinda Gates Foundation and USAID. According to the WFP’s own estimations, the programme is supposed to benefit 48,000 farmers over its five year duration. The vast majority of Ugandans live from agricultural production, yet agriculture is also the least productive sector of the economy.

As Charles Businge from ActionAid Uganda observed, in technical assistance “tied aid is still used by and large”.
Box 4: A Ugandan view on tied technical assistance

Most donors have formally untied most of their ODA to Uganda, in accordance with the 2001 DAC Recommendations of untying ODA to the Least Developed Countries. However, these recommendations exclude food aid and free-standing technical assistance and, as Charles Businge from ActionAid Uganda observed, in technical assistance “tied aid is still used by and large”.

Some donors often justify tying technical assistance by citing the lack of skills and capacities in a country. Businge, however, highlights the brain drain versus consultancy paradox: Uganda suffers from a massive emigration of skilled citizens who are seeking employment opportunities abroad. Businge considers that: “If you applied the same terms applied to foreign consultants to Ugandan people with the same capacities, then we would still have them here.” Usually, the cost of one expatriate staff member is comparable with the cost of six local employees, when all extra benefit schemes are added. For local staff, fewer allowances and infrastructure are needed.

Businge also stresses the failure of technical assistance to build capacities in a sustainable way: “There is a deliberate process to keep this niche where experts are needed.” Often sector budget support or project aid come with the formal or informal condition to employ foreign consultants. Foreign consultants often consume a larger share of the funds than the organisation they are based in receives. Businge concludes: “First, they need to know that the local professional and citizens in the recipient countries are angry … When you give aid, let it be aid, don’t attach a hundred people. This is neo-colonialism.”

Besides formal tying, there are also other forms of informal tying that make it difficult for local companies to compete for tenders. In particular, the mega infrastructure projects funded by the World Bank and the European Commission de facto exclude local construction firms as the lot sizes exceed their financial and physical capacities. When donors use their own procurement guidelines for operations in Uganda, local firms are de facto disadvantaged because they lack the experience and technical expertise to apply under the often very bureaucratic conditions. Most Ugandan firms are familiar with the PPDA regulations but “don’t know donor procurement guidelines,” stresses Businge. Rather than using methods of open and competitive bidding or even formal and informal aid tying, donors should review their procurement process to ensure it contributes to local economic development. However, he concludes, currently “there is no affirmative action, so the locals find it difficult to compete.”
Multilateral Development Banks

Concessional loans by the World Bank and the African Development Bank (AfDB) are the larger share of the donor-funded procurement market in Uganda. The AfDB states that only under national competitive bidding is the country procurement system (CPS) used, but the volume is still very low as the process has just recently been implemented. In parallel procurement, the field office is in charge of tendering below the threshold of US$ 50000, for larger contract volumes it is the headquarters. For international competitive bidding, tenders are advertised on the United Nations Development Business Online website and in the AfDB’s own media. Preference schemes or other forms of preferential treatment are not common practice but appraisal documents allow for decisions to be made on a case-by-case basis.

The World Bank states that country systems can be used both for goods and works. However, consultancy services are an exception - the World Bank criticises that the Ugandan evaluation criteria considers only the price, not the intellectual value of an offer. That would be the key criteria for the World Bank when it comes to consultancies. In consequence of this conflict, the World Bank obliges all agencies operating with its funds to use World Bank methods for consultancy services.

International competitive bidding (ICB) is obligatory as soon as the contract value exceeds a certain threshold. For such larger contracts, country systems may still be used, and preference schemes may be used under IDA guidelines if this was agreed with the lending government in the Financing Agreement. However, now the procurement officers are obliged to follow the World Bank’s policies fixed in the IDA regulations. In addition, under ICB the World Bank reserves the veto right to approve contract awards on a no-objection basis when World Bank loans or grants are used.
Conclusion

Uganda is one of the world’s least developed countries. Economic growth in recent years has been high, but poverty is still widespread, the inequality gap amongst the Ugandan population is huge and the economy is still largely based on agriculture. The Ugandan government has decided to address the country’s numerous development challenges in its new National Development Plan, which intends to transform “the Ugandan society from a peasant to a modern and prosperous country within 30 years.” This includes boosting productive capacities and promoting growth and innovation in manufacturing and services.

Purchases by the government from the private sector, public procurement, is an important tool that can be used to promote economic and social development, and to achieve these national development goals. Public procurement accounts for 30% of the gross domestic product (GDP), it is by far the largest share of GDP that is under direct control of the Government of Uganda and can be targeted. The potential is large to boost domestic capacities and business, creating a positive spiral effect on development in Uganda. Due to the large amounts of budget support Uganda receives, the share of public procurement funded through aid is high.

In international aid effectiveness agreements such as the Paris Declaration and the Accra Agenda for Action, donors have committed to respecting developing countries’ leadership over their own development policies and to aligning their development assistance accordingly. Donors have also committed to using country procurement systems as a first option, and also to strengthening them. Among other reasons this is to increase the share of aid that flows to local firms and that is retained in the recipient’s economy. This commitment is under the condition that developing countries undertake efforts to make their systems effective, accountable and transparent.

Uganda has carried out an impressive number of reforms in the past decade, in particular the passing of the procurement act (PPDA Act of 2003), the subsequent installment of new oversight authorities and the decentralisation of the procurement and disposal of assets function. Reforms were initially donor-driven, in particular through the findings and recommendations of the World Bank’s country procurement assessment reports and other assessments which were either donor-led or based on donor-developed assessment criteria and methodologies.

This has somewhat changed in recent years, but while the reform process is increasingly locally-owned, the character and aims of reforms have not changed much. Criteria such as functionality, accountability and value for money, key features of public procurement as defined by the World Bank and the OECD, remain central. The government of Uganda formulates its needs based on the results of donor-led assessments. Public procurement reforms do not seem to be embedded in a wider strategic policy framework aiming to promote economic and social development in order to achieve the national development targets.

Innovative approaches to procurement, such as the sustainable public procurement concept of the United Nations that encompasses environmental and social aspects in order to get the most out of public procurement for sustainable and equitable development, do not feature at all. Ugandan self-assessments based on self-defined criteria derived from the national development strategy rather than from World Bank and OECD defined “international best practice” are still in their infancy. The government of Uganda formulates its needs based on the results of donor-led assessments.

Most stakeholders perceive that the procurement system is still neither efficient nor effective, in particular from a development effectiveness perspective. Problems at a national level include the lengthy procurement processes (duration and transaction costs), persistent leakages due to corruption, and the lack of attention to economic development. The focus on accountability in past reform attempts has remarkably not succeeded in curbing corruption, while it has led to a bureaucratisation and complication of the procurement cycle and process. In response to pressure from donors, Uganda has introduced more complex procurement regulations than many donor countries. Corruption, however,
remains a challenge. New laws currently under discussion may, if implemented, further constrain the ability of Ugandan citizens and taxpayers, the CSOs and the media to supervise the procurement process.

Donors are not delivering on their commitments to use the country procurement system as the first option. Due to the limited data set - not all donors were surveyed, and those who were interviewed could not always report on the status of their full portfolio – this study cannot give a comprehensive picture on the extent of using country systems. However, the latest Paris Declaration Monitoring Survey indicates that use of the country procurement system has actually decreased from 54% to 37% of total aid spending. Only 10% of project aid uses country systems.

It becomes clear that the quality of the country procurement system and the increase in quality through reforms are not the decisive factors for donors’ readiness to use them. This is obvious because some donors use them much more than others, while they all deal with the same system. Regulations set at headquarter level, different levels of risk-perception and readiness to assume risk may be more influential on the extent with which a country system is used than the quality and the accountability of the system.

In consequence of many donors’ reluctance to use the country system, procurement is often conducted by donors themselves what naturally implies the risk that contracts are awarded to donor country firms and the development effectiveness of aid is undermined. Tied aid is still persistent in the field of technical assistance where assistance is often provided in-kind rather than in-cash. There is little evidence of formal aid tying in other aid modalities. However, donors still have procurement policies and practices in place which intentionally or unintentionally give an advantage to their own countries’ firms – to the disadvantage of Ugandan firms and economic development as a whole.

A natural constraint is that in procurement donors are mostly bound to their own procurement regulations which are well known to donors’ firms but unknown to Ugandan firms and thus pose a bureaucratic barrier for the latter. Donors’ also often publish calls for tenders in their home countries’ media in their native languages, which are neither easy to find or access for Ugandan firms. The World Bank and the European Commission, in particular, tender in lots that are too big to be absorbed by the Ugandan private sector, which is mainly characterized by small and medium sized enterprises. Over the past decade, almost 90% of large World Bank contracts above US$ 1 million went to foreign firms, mostly from rich countries in the North.

Strikingly, even for donors’ parallel procurement there is little indication that social, environmental or gender criteria play a role when they procure in or for their development projects in the field. Such criteria do play an increasingly big role in public procurement at home in donor countries. There is also no indication that donors use targeted procurement in order to promote and use the local economic capacities as the first option for implementing their development projects. This, however, would be crucial to improve the management of their aid portfolios for maximal and sustainable development results.

This country case study on procurement, tied aid and the use of country systems concludes with the following recommendations:

**Recommendations to the Government of Uganda:**

The Government of Uganda should:

- align its procurement policies and systems with achieving its national development goals, in broad consultation with Ugandan citizens.

- make public its procurement plans so that they are known/accessible and can be monitored by stakeholders.

- invest in and increase the capacities and skills of the procurement and disposal committees and agencies based on identified shortcomings.
favour companies that contribute most to the development of the country, putting into practice the preference and reservation schemes of the Public Procurement and Disposal of Assets Authority (PPDA) Act which aim to increase the share of contracts awarded to local firms by.

consider incorporating the principles of sustainable public procurement as stipulated by the UN in its policies and practices, using this to promote innovation and socioeconomic aims.

implement the recommendations of all the Commission of Inquiry Reports that have procurement implications, in order to reduce corruption.

implement the Access to Information Act and remove all restrictions that hamper citizens and taxpayers, civil society organisations and media from playing their roles as watchdogs, and ensure whistleblower protection.

improve procurement officers’ awareness and skills for sustainable public procurement and pro-poor procurement, including through tailored training modules.

Recommendations to donors

Donors should:

deliver on their commitments made in the Paris Declaration and the Accra Agenda for Action by using the Ugandan country procurement system as a first option for all Official Development Assistance (ODA) provided to Uganda.

assist in building the capacities of the Ugandan procurement system without imposing conditions or biased technical advice. All assistance should be tailored to the Ugandan needs as identified in self-assessments, using self-defined assessment methodologies and criteria. Self-assessments are better suited to identifying the specific needs of Uganda than is the application of donor-developed tools that do not adequately take the country context into consideration.

Where donors are still using their own parallel procurement systems, they should:

end all practices of formal and informal aid tying, and reduce entry barriers for Ugandan firms and consultants, e.g. through tendering in smaller lots, sized to be manageable by Ugandan firms; and through advertising all tenders locally and removing restrictive eligibility criteria that disadvantage Ugandan firms.

give preferential treatment, in particular to small and medium enterprises, and firms based in structurally weak areas. They should also consider social, environmental and gender criteria in tender evaluations.

Policy coherence for development matters. In relations with developing countries, donors should subordinate other policies to development policy. To avoid conflicts of interest and sub-optimal results of aid, donors should stop using development assistance as a way to leverage other policies such as foreign trade and investment promotion.
### Acronyms

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AAA</td>
<td>Accra Agenda for Action</td>
</tr>
<tr>
<td>ACP</td>
<td>African, Carribbean, Pacific group of states</td>
</tr>
<tr>
<td>ACCU</td>
<td>Anti Corruption Coalition of Uganda</td>
</tr>
<tr>
<td>ADB</td>
<td>African Development Bank</td>
</tr>
<tr>
<td>CPAR</td>
<td>Country Procurement Assessment Report</td>
</tr>
<tr>
<td>CPS</td>
<td>Country Procurement Systems</td>
</tr>
<tr>
<td>CRS</td>
<td>Creditor Reporting System</td>
</tr>
<tr>
<td>CSO</td>
<td>Civil Society Organisation</td>
</tr>
<tr>
<td>DAC</td>
<td>Development Assistance Committee (of the OECD)</td>
</tr>
<tr>
<td>DFID</td>
<td>Department for International Development</td>
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<tr>
<td>EPRC</td>
<td>Economic Policy Research Centre</td>
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<tr>
<td>EURODAD</td>
<td>European Network on Debt and Development</td>
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<td>FINMAP</td>
<td>Financial Management and Accountability programme</td>
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<tr>
<td>GDP</td>
<td>Gross National Product</td>
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<tr>
<td>GoU</td>
<td>Government of Uganda</td>
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<tr>
<td>ICB</td>
<td>International Competitive Bidding</td>
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<tr>
<td>ICEIDA</td>
<td>Icelandic International Development Agency</td>
</tr>
<tr>
<td>IDA</td>
<td>International Development Association (arm of the World Bank)</td>
</tr>
<tr>
<td>IFIs</td>
<td>International Financial Institutions</td>
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<td>ILO</td>
<td>International Labour Organisation</td>
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<td>JICA</td>
<td>Japan International Cooperation Agency</td>
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<td>KFW</td>
<td>Kreditanstalt für Wiederaufbau (German Bank for Reconstruction)</td>
</tr>
<tr>
<td>LGFC</td>
<td>Local Governments Finance Commission</td>
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<tr>
<td>MAPS</td>
<td>Methodology for Assessing Procurement Systems</td>
</tr>
<tr>
<td>NDP</td>
<td>National Development Plan</td>
</tr>
<tr>
<td>ODA</td>
<td>Official Development Assistance</td>
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<tr>
<td>OECD</td>
<td>Organisation for Economic Co-operation and Development’s</td>
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<td>PDE</td>
<td>Procurement and Disposal Entity</td>
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<tr>
<td>PEMCOM</td>
<td>Public Expenditure Management Committee</td>
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<tr>
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<td>PFMDG</td>
<td>Public Financial Management Donor Group</td>
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<tr>
<td>PPDA</td>
<td>Public Procurement and Disposal of Assets Authority</td>
</tr>
<tr>
<td>PPMS</td>
<td>Procurement Performance Measurement System</td>
</tr>
<tr>
<td>SME</td>
<td>Small or Medium Enterprise</td>
</tr>
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<tr>
<td>UNNGOF</td>
<td>Uganda National Non-Governmental Organisations Forum</td>
</tr>
<tr>
<td>USAID</td>
<td>United States Agency for International Development</td>
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<td>FY</td>
<td>Financial Year</td>
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<td>WFP</td>
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**Government of Uganda:**
- Local Government Finance Commission
- Ministry of Finance, Planning and Economic Development
- Public Procurement and Disposal of Assets Authority

**Civil Society Organizations and private sector:**
- ActionAid International Uganda
- Anti Corruption Coalition Uganda
- Mühlbauer International
- Uganda Debt Network
- Transparency International Uganda

**Donors:**
- African Development Bank
- Germany/KfW
- Iceland/ICEIDA
- Ireland / IrishAid
- Japan/JICA
- The Netherlands
- Sweden/SIDA
- United Kingdom/DFID
- USA/USAID (by email)
- World Bank
- World Food Programme (by phone)
Endnotes (continued from page 43)


64 OECD (2008): Promoting Local and Regional Procurement in Developing Countries; DCD-DAC 2008(21)/REV2, p. 6

65 http://ted.europa.eu/TED/misc/chooseLanguage.do