

UGANDA INSTITUTION OF PROFESSIONAL ENGINEERS

PROJECT FINANCING & LIFE CYCLE MANAGEMENT

Selection of Appropriate Form of Contract



Facilitator

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PRESENTATION OUTLINE

- Learning objectives
- Mode of evaluation
- Introduction to the Forms of Contract in Uganda
- Legal framework for each form of Contract
- Rationale for Selection of a Form of Contract
- Shortfalls of the different forms of Contract
- Is there a best form of Contract?
- Way forward – How do we apply each form of Contract?

SELECTION OF APPROPRIATE FORM OF CONTRACT

Learning Objectives

The Engineer should be able to have the following skills at the end of the presentation:

- Define and comprehend the concept of forms of Contract
- Identify the process of selection of forms of Contract
- Understand the limitations and challenges of each form of Contract
- Identify the major techniques used in selecting forms of Contract
- Appreciate the best practice implementing a given form of Contract

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Mode of evaluation of participant comprehension

The presenter will assess uptake of presentation by:

- Comprehension survey submitted to UIPE
- Level of engagement of participants
- Remembrance of facts, statistics and details
- Verbal feedback from the participants

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Introduction to Forms of Contract

- Procurement is the act of **acquiring** goods, services or works from an **external** source, often via a tendering or **bid process**;
- A procurement system defines scope or responsibilities of each parties (Client, Consultant & Contractor).
- The selection of a procurement method must take into account **characteristics** (size) and **constraints** (complexity) that are specific to the project.
- Generally, 5 functions are undertaken in a project: Design, Build, Management, Finance and Operation. All need to be procured.

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Introduction to Forms of Contract

Project delivery methods commonly used in the construction industry include:

- **Traditional Method;** Separate designer and contractor
- **Design and Build (DB);** One firm does both design and construction
- **Turnkey Method;** one firm is selected to start and finish the project
- **Construction Mgt Method;** 3 party team – CM firm, designer & contractor
- **Public Private Partnerships (PPPs);** Gov't partners with private sector

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Introduction to Forms of Contract

Value-for-money is an essential determinant in the procurement of goods, services and works by Government agencies.

It does not necessarily represent lowest cost; rather the achievement of the **best available outcome** for money spent on the procurement, taking into account whole-of-life considerations such as:

- Fitness-for-purpose and other considerations of quality
- Performance
- Price
- Delivery
- Accessories and consumables
- Service Support
- Disposal

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Introduction to Forms of Contract

The choice of a procurement or disposal method shall first be approved by the **Contracts Committee**.

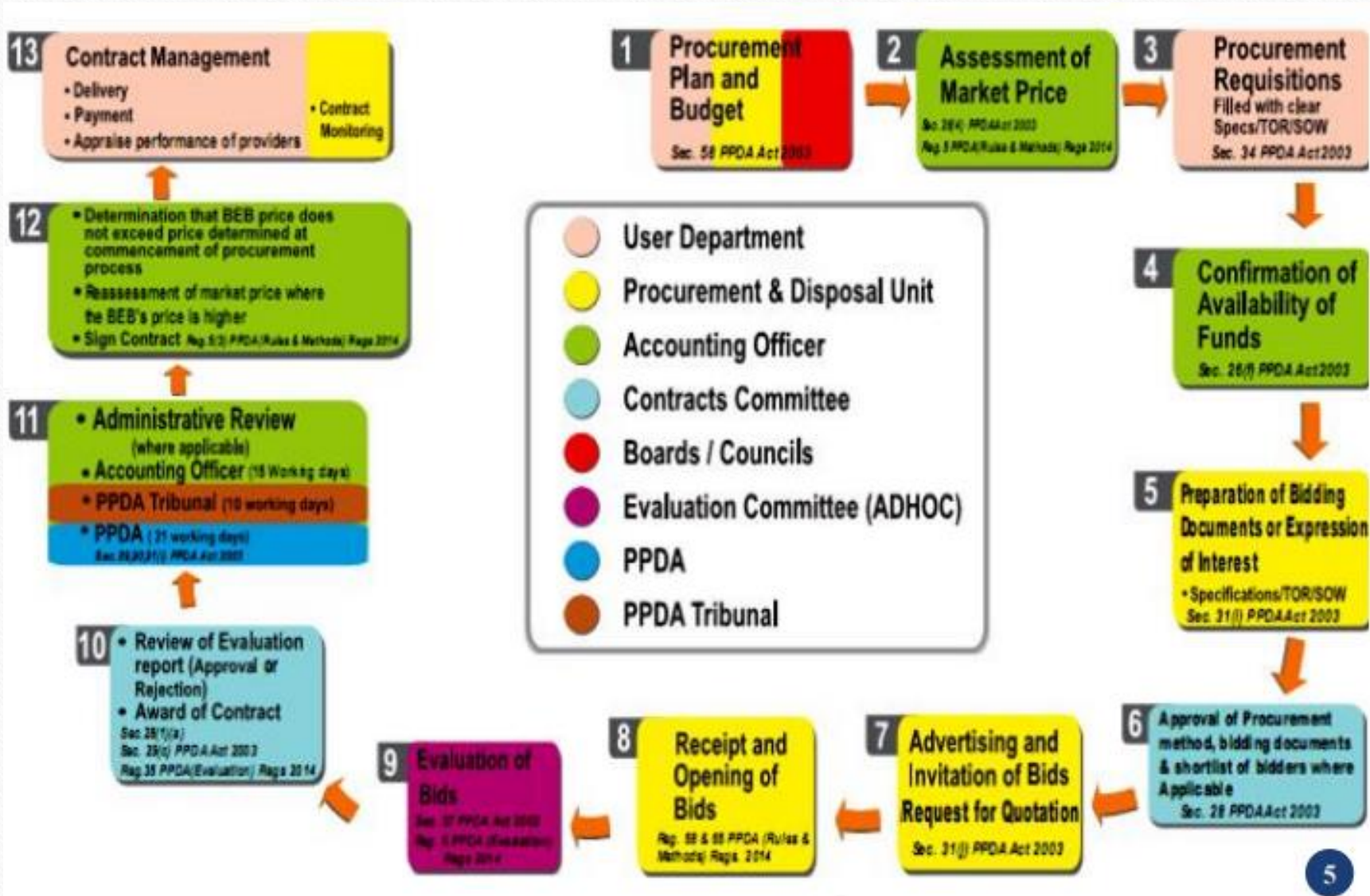
- 1. Open domestic bidding:** Open to participation on equal terms by all providers by advert
- 2. Open international bidding:** Open to participation on equal terms including foreign providers.
- 3. Restricted domestic bidding:** Bids are obtained by direct invitation without open advertisement.

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Introduction to Forms of Contract

- **Restricted international bidding:** Bids are obtained by direct invitation & include foreign providers.
- **Quotation method:** Simplified & compares price quotations obtained from a number of providers.
- **Direct procurement:** Sole source procurement method for efficiency and timeliness
- **Micro procurement:** Used for very low value procurement requirements

PROCUREMENT CYCLE



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The Procurement Process

- Service providers required to **prequalify** and supply information for the registry
- Providers help in **central registry**
- Need for procurement of services/works based on **approved procurement plan**
- Designated department in tandem with procurement sets out invitation of **letter of interest** and issues **Request for Proposals**

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The Procurement Process

- Receipt (timely) and opening of proposals
- Provision for clarification and alteration before official bid closure
- Evaluation of bids based on firm's experience, and consideration of quality or cost or both
- Selection by contracts committee and issuing best bidders notice
- Negotiation and award of contract

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The Procurement Process

- Set evaluation criteria – methodology, technical skills, management setup, key experts, relevant experience, knowledge transfer, local content.
- Opening of technical proposal
- Evaluation of technical; methodology, personnel – rank & report
- Opening of financial proposal
- Evaluation of financial; calculate scores & rank
- Final Evaluation report

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Why PPDA?

Bids submitted may be for the following works:

- **Consultancy services;** includes feasibility studies, preliminary studies and detailed designs for planned engineering works
- **Construction works;** includes assessing engineer's estimate, selection of successful contractor, site takeover
- **Project management works;** includes supervision of works and management of stakeholders

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Technical Evaluation

Appointment of evaluation committee that is fair and objective, with professional judgment (competent & impartial)

Criteria used for evaluating technical proposal:

- Experience of consultants, based on ToR requirements
- Adequacy of methodology and work plan
- Qualification and competence of staff
- Suitability of knowledge transfer
- Support facilities and organization
- Presentation of proposal

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Technical Evaluation Report

Technical evaluation report:

- Made by evaluation committee
- Includes evaluation criteria and relative weight distribution
- Presents results from the rating
- Presented to contracts committee for final approval

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Financial Evaluation

Evaluating financial proposals:

- Check and correct arithmetical or computational errors
- Lowest evaluated financial proposal gets max score of 100 points
- Score of each financial proposal is inversely proportional to its evaluated total price
- Consider local taxes (indirect & direct)
- The Gross financial proposal is price adjusted and corrected for computational errors to get Net evaluated financial proposal

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Final Ranking

Ranking of Proposals – Total Score

- Overall score got by weighting and adding technical and financial scores
- Submission to Contacts Committee for approval

Afterwards

- Negotiations and conditions of contracts
- * Technical negotiations (Scope, methodology, deliverables)
- * Financial negotiations (Price, tax liability, applicable tax rates)

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Evaluation Negotiations

Important considerations at negotiations

- Currency
- Price adjustment
- Payment terms and provisions
- Performance securities (Contractors)
- Professional liability
- Applicable law and settlement of disputes

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Evaluation Methodology

Evaluation Methodology

- **Preliminary examination** on a pass/fail basis to determine the eligibility of the bidders and assess their administrative compliance to the Invitation.
- **Detailed evaluation** to determine the technical responsiveness of eligible, compliant bids to the technical specification and terms and conditions in the invitation.
- **Financial comparison** to examine and rank financial bids. The lowest price eligible, compliant, substantially responsive bid is ranked first and declared the best evaluated bid.
- **Post qualification evaluation** to determine whether the best evaluated bidder has the capacity and the resources to effectively execute the procurement for the procuring and disposing entity.

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Final Verdict

Recommendations to Contracts Committee

On the basis of the evaluation methodology and criteria stated in the invitation, it is recommended that-

- (1) the best evaluated bid for the procurement is named with a total evaluated price of [currency and amount]
- (2) state whether negotiations are/are not required.
- (3) state the total proposed contract price is [currency and amount]
- (4) state the total acquisition cost for the requirement (currency and amount)

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Evaluation Committee

Disagreement by the Evaluation Committee

In cases where the Evaluation Committee does not reach a unanimous decision on the evaluation, the majority view and the alternative views and their names are mentioned.

Signature by the Evaluation Committee:

‘We confirm that this evaluation report gives a complete and accurate report of the evaluation conducted’

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Appendices

- Form 8: Record of sale or issue of bidding documents
- Form 10: Record of minutes of pre-bid meeting
- Form 11: Record of bids received
- Form 12: Record of bid opening
- Table 1: Preliminary examination
- Table 2: Summary of detailed evaluation
- Table 3: Summary of financial comparison
- Spreadsheets detailing line item comparisons for partial or split awards
- Spreadsheets showing application of conditional discounts
- Minutes of the meeting of the evaluation committee

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Differences between Contractors and Consultants

Consultants

- Services
- Terms of Reference (General work program)
- Two stage procedure
- Negotiations normally

Contractors

- Works
- Detailed Specifications
- Single stage procedure (normally)
- Negotiations only exceptionally

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Your Role as a Registered Engineer

- Choose the appropriate suppliers and service providers
- Get the best price for the services or works
- Negotiate and prepare air tight sales agreements
- Audit and minimize risks associated

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Bonus Content - Engineering

- Effective monitoring and auditing to ensure compliance
- Transparency and accountability - to fight waste and corruption
- Fairness/ equal opportunity for all in the bidding process
- Providing a more attractive investment climate by lowering risk
- Maximizing competition to satisfy customer needs & ensure value for money
- A streamlined procurement process through the gradual adoption of electronic commerce

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Bonus Content - Life

- Widespread corruption and malpractice
- Weak institutional framework e.g. Central Tender Boards
- High cost of doing business
- Prohibitive financial framework with high rates of interest
- Low capacity of the private sector to profitably participate in international tenders (credit, bid bonds and securities)
- Other related challenges.

KEY TAKE AWAYS?

LET'S TALK

THANK YOU!