



IMPROVING TRANSPARENCY AND ACCOUNTABILITY IN PUBLIC-PRIVATE PARTNERSHIPS

DISCLOSURE DIAGNOSTIC REPORT: UGANDA

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Acronyms

ATIA	Access to Information Act
CoST	Construction Sector Transparency Initiative
ERA	Electricity Regulatory Authority
FOI	Freedom of Information
GCIC	Government Citizens Interaction Centre
ICT	information and communications technology
IGG	Inspector General of Government
IPPs	independent power producers
KJE	Kampala Jinja Expressway
MDA	Ministries, Departments and Agencies
MoFPED	Ministry of Finance, Planning and Economic Development
MoICT&NG	Ministry of Information, Communication Technology and National Guidance
NDP	National Development Plan
OAG	Office of the Auditor General
OCDS	Open Contracting Data Standard
PPDA	Public Procurement and Disposal of Public Assets Authority
PPP	Public-Private Partnership
PPPC	Public-Private Partnerships Committee
RFP	Request for Proposals
RPQ	Request for Prequalification
SDGs	Sustainable Development Goals
SPC	special purpose company
UNRA	Uganda National Roads Authority
VfM	value for money

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Executive Summary

Between December 2017 and April 2018, a joint Government of Uganda and World Bank team conducted a study on public-private partnership (PPP) disclosure in Uganda, using the PPP Disclosure Diagnostic template recommended by the World Bank Framework for Disclosure of Information in PPPs. This study has been consolidated in the form of a PPP Disclosure Diagnostic Report (hereinafter Diagnostic Report) for Uganda. The Diagnostic Report examines the political, legal, and institutional environment for disclosure in PPPs. Based on a gap assessment exercise with key political, legal, institutional, and process findings benchmarked against the World Bank's framework, the Diagnostic Report makes specific recommendations to improve disclosure, including recommended customized guidelines for PPP disclosure in Uganda.

The findings suggest that there has been movement toward greater transparency and openness in all areas of government in Uganda, with several new initiatives having been launched in recent years. The 1995 Constitution of Uganda created new obligations on public bodies to promote more transparent governance structures. This was enhanced substantially with the enactment of the Access to Information Act 2005 (as well as the issuing of Access to Information Regulations in 2011), which, among other things, promotes proactive disclosure of information held by public authorities. Uganda has taken other progressive steps, such as signing the United Nations Convention Against Corruption and the African Union Convention on Preventing and Combating Corruption. In 2010, Uganda formulated its National e-Government Policy, which, among others, formed the basis for the establishment of the Ministry of ICT and National Guidance. The policy identifies several services and processes that are being progressively rolled out on Internet-based platforms for greater efficiency and transparency. These include government-to-government services, such as implementing financial management information systems; government-to-citizen, services, such as provision of passports and other certification services; and government-to-business services, such as e-procurement for government tenders.

However, given that PPPs are relatively recent in the Ugandan context, and that most of these initiatives are recent and still being institutionalized, their impact on improving disclosure in the PPP space, so far, has not been substantial.

Recent years have seen an increase in interest in the use of PPPs in Uganda, in part driven by the Uganda Vision 2040, which was launched by the National Planning Authority in 2013 and seeks to achieve a “Transformed Ugandan Society from a Peasant to a Modern and Prosperous Country within 30 years.” Uganda currently has a financing gap of about US\$1.4 billion a year for infrastructure investment,¹ which the government is addressing through several financing options, including PPPs, as indicated in the Second National Development Plan (2015–2020).

The Public-Private Infrastructure Database indicates that 28 PPP projects with a total investment commitment of US\$1.9 billion reached financial closure between 1990 and 2017 in Uganda. Most of them are in the energy sector and were operationalized prior to the enactment of the PPP Act in 2015.² Since then, a PPP project pipeline is being developed by the PPP Unit covering a variety of sectors, key

¹ See <http://www.worldbank.org/en/country/uganda/publication/leveraging-public-private-partnerships-to-plug-ugandas-deficit-in-infrastructure-finance>.

² See Uganda Country PPP Diagnostic, World Bank 2018.

among these being transport, energy, water, education, and health. Since the enactment of the PPP Act 2015, currently the most advanced project is the Kampala-Jinja Expressway project, for which the procurement process has commenced already.

In recent years, Uganda has begun to develop a comprehensive legal and institutional framework for PPPs. The National PPP Policy Framework was drafted in 2010, followed by the enactment of the PPP Act in 2015. Subsequently, several key enabling regulations and guidelines are now in the process of development. These include the development of PPP regulations and guidelines that will assist contracting authorities in developing PPP projects, a Fiscal Commitment and Contingent Liabilities framework, and an assessment framework for the selection of priority PPP projects. A PPP capacity-building program for contracting authorities and other stakeholders is also underway. The PPP Unit, which is housed in the Ministry of Finance, Planning and Economic Development (MoFPED), was established in 2015 and is being strengthened with technical, legal, procurement, PPP, and financial expertise.

In addition, Uganda has a fairly well-developed legal and policy framework that directly and indirectly affects PPP disclosure. Key legislation that supports proactive disclosure includes the Access to Information Act (ATIA), PPP Act, and Public Finance Management Act. Although the ATIA 2005 excludes private entities from disclosure obligations, access to PPP-related information is possible, as contracting authorities are public bodies that are repositories of information related to PPPs. At the same time, the PPP Act 2015 establishes transparency and accountability as key governing principles for the implementation of PPPs in Uganda and provides for the proactive disclosure of project agreements. This Act also requires contracting authorities to be accountable to the users of infrastructure and establishes a PPP Unit with the responsibility to collate and disseminate PPP-related information. The PPP Act 2015 also gives the Auditor General the mandate to audit each PPP project. The Public Finance Management Act 2015 provides parliamentary oversight over public expenditure, including in the context of PPPs.

Other laws relevant for transparency in PPPs include the Inspectorate General of Government (IGG) Act 2002, which allows the IGG to investigate the actions of bodies that administer public funds on behalf of the public, which inter alia includes PPPs, and the National Audit Act 2008, which establishes the office of the Auditor General with powers to examine, investigate, and report on the expenditure of public monies disbursed to a private organization or body in which the government may not have a controlling interest.

Despite this supportive legislation, very limited PPP-related information is available in the public domain. The PPP Unit currently does not have a website (although it is in the process of developing one), and the Privatisation Unit (MoFPED) website has very limited and outdated PPP-related information. Some sectoral information related to independent power producers (IPPs) is also available through the Electricity Regulatory Authority website and websites of various IPPs. In part, this is due to several challenges to effective PPP disclosure as identified in this report. These include the limitations of the ATIA, which mentions a broad range of exempted information and does not provide for an independent authority to implement and enforce the Act, and the absence of sanctions for nondisclosure of information. The lack of detailed regulations and guidelines on PPP disclosure and institutional challenges, such as poor record management and a shortage of competent human and technical resources, are some other key challenges that need to be addressed.

Given the above, it therefore becomes imperative to develop a synthesized and synergized system for optimal disclosure practices in the PPP space. This Diagnostic Report recommends a systematic structure for proactively disclosing information through customized guidelines for disclosure in PPPs in Uganda, including the elements of information to be disclosed, form of disclosure, and timelines and responsibilities for disclosure. The report suggests a holistic approach to disclosure through predefined standards, tools, and mechanisms, allowing for increased disclosure efficiency. It also provides recommendations for amending the PPP Act 2015 to streamline and strengthen disclosure-related clauses and provide guidance for disclosure in the PPP Regulations currently being drafted, as well as proposes standard contract clauses on disclosure that could be incorporated within each PPP agreement.

Uganda intends to use this framework as a tool to amplify its legal policy and statutory standards on PPP disclosure within the Ugandan jurisdiction. It is believed that this will result in enhancement of the credibility of the PPP program in the country.

Recommended Disclosure

The recommended design for Uganda follows the World Bank’s framework but is subject to and intended to be implemented within the structure of the governing national laws in Uganda. It is hierarchical and includes a logical framework that moves from a high-level mandate to disclose toward the basic elements that need to be disclosed. Table ES.1 provides a snapshot of the recommended features of the suggested guidelines for Uganda.

TABLE ES.1: SNAPSHOT OF RECOMMENDED DISCLOSURE

AREA	DESCRIPTION
LEGISLATIVE MANDATE	<p>Amend the PPP Act 2015 to specifically mention information that must be disclosed, including feasibility studies, evaluation criteria, and performance indicators; and include specific sections on disclosure within the draft PPP Regulations.</p> <p>Amend the Access to Information Act 2005 such that it supersedes all previous legislation that restricts disclosure, provides for an independent appellate authority to oversee implementation and enforcement, provides for sanctions for nondisclosure, narrowly defines information that is exempt from disclosure, and does not exclude operational information of public authorities from disclosure.</p>
DETAILED GUIDANCE	<p>Applicability of disclosure principles in the PPP Act (as well as other relevant legislation, regulations, and guidelines) to PPP contracts and project information</p> <p>Elements of disclosure during various phases of the PPP project process</p> <p>Timelines for disclosure</p> <p>Details of confidentiality provisions</p> <p>Template for disclosure</p> <p>Standard contract clauses</p>
DISCLOSURE DURING PROJECT IDENTIFICATION AND PREPARATION	<p>List of projects under development</p> <p>Basic project information</p> <p>Project progress tracker</p>

DISCLOSURE DURING PROCUREMENT	<p><i>Pre-tender:</i> Tentative procurement dates; Environmental and Social Impact Assessment (Feasibility Study with financial models redacted); Project Information Memorandum</p> <p><i>Tender:</i> RPQ, list of short-listed bidders, summary of RPQ evaluation, full RFP, summary of RFP evaluation, bid award</p>	
DISCLOSURE FOLLOWING CONTRACT SIGNING	<p>Basic project information</p> <p>Feasibility Study</p> <p>Material risks and allocation</p> <p>Reasons for choice of PPP</p> <p>Financing structure</p> <p>Guarantees, grants, annuity and availability payment schedule, land and asset transfers, and other support; revenue share</p> <p>Tariffs</p> <p>Project and contract documents</p> <p>Actual performance against targets, performance failures, links to independent engineer, audit, and SPC reports</p> <p>Termination and handback provisions</p> <p>Renegotiations or changes</p>	
CONFIDENTIAL INFORMATION	<p>Areas or elements that could be considered confidential (subject to overarching law and project-specific circumstances), where the competitiveness of the private provider may be jeopardized</p> <p>Exceptions and exemptions to the confidentiality clause</p>	
STANDARD CONTRACT PROVISIONS	<p>Records, documents, and other information the private provider should maintain and submit to the contracting authority; timelines for submission and disclosure</p> <p>Language on what constitutes confidential information, format for listing confidential information, and clause for disclosure of confidential information in public interest</p>	
PLATFORM	<p>A single platform with a user-friendly, integrated back end for use by multiple entities, with a hierarchy of roles related to uploading, validation, and disclosure of information; and a user-friendly front end, with structured content and regular updates to registered users</p>	
TIMELINES	Basic project information	<p>Within 21 days following the PPP Unit's approval of the project</p> <p>For unsolicited projects, upon the contracting authority's decision to accept the proposal</p>
	Project milestones	<p>Within 21 days from project registration, and within 21 days of each status change</p>
	<i>Procurement documents</i>	
	RPQ	Following approval for publication of the RPQ
	List of short-listed bidders, summary of the Evaluation Report	As soon as short-listed bidders are notified
	Full RFP	Following approval for publication of the RFP
	Summary of Evaluation Report, bid award	Following approval for publication

<i>Disclosure of other documents</i>	
Feasibility Report	At the time of publication of the RPQ with financial models redacted; full report within 21 days of execution of project agreement (commercial close)
Project summary (including project scope, parties to the PPP agreement, project risk matrix, government support, project value, tariffs, and pricing, termination clauses, handback provisions, key performance indicators with agreed target levels, duration of project, and implementation structure (SPC and any subcontractors))	Within 21 days of execution of project agreement (commercial close)
Financial information	Within 21 days of financial close This will apply to unsolicited projects as well.
Project documents (including redacted PPP agreement, VfM report for the project)	Within 21 days of execution of project agreement (commercial close) This will apply to unsolicited projects as well.
Renegotiations and renegotiated agreements and associated documents	Within 21 days of signature of renegotiated contract This will apply to unsolicited projects as well.
Where execution of the project agreement (commercial close) takes place but the project does not reach financial close	Within 21 days of decision
Performance information	Within one year of financial close, updated annually This will apply to unsolicited projects as well.
TEMPLATE AND DATA STANDARDS	A simple template with details of elements to be disclosed at various project phases Consistent, structured, machine-readable, and exploitable information Disclosure of information and data should be compliant with the Open Contracting Data Standard.

Note: PPP = Public-Private Partnership; RFP = Request for Proposals; RPQ = Request for Prequalification; SPC = special purpose company; VfM = value for money.

1. Introduction

Based on research and analysis over the past few years, the World Bank Infrastructure, Public-Private Partnerships and Guarantees Group has worked on creating a [Framework for Disclosure in Public-Private Partnerships](#) (the “Framework”), which suggests a systematic structure for disclosing information proactively at different phases of the public-private partnership (PPP) process. Two documents, [Jurisdictional Studies](#)³ and [Good Practice Cases](#), have been developed to provide relevant background and resources complementing the goals of the Framework. The Framework has undergone a public consultation process and has been implemented in [Ghana](#), [Honduras](#), [Kenya](#), and [Nigeria](#).

The Framework suggests the initiation of work with a PPP Disclosure Diagnostic (the “Diagnostic”) in countries. The objective of the Diagnostic is to help PPP policy makers and practitioners assess the status of PPP disclosure in the jurisdiction and identify customized PPP disclosure solutions to enable better disclosure.

The Diagnostic includes an examination of the following areas in a country:

- Preliminary overview of the general transparency environment
- History and outlook for PPP disclosure
- Political environment for disclosure
- Legal and policy framework
- Process and institutions
- Guidance on confidential information
- Information systems
- Technology and data standards.

Under each of the areas identified, the Diagnostic provides the key questions policy makers and practitioners should ask, analysis and techniques for assessing gaps, resources for learning more, and tools for establishing a customized PPP disclosure framework / guidelines for the jurisdiction. The relevance of each of the areas varies based on the unique circumstances within the country.

This Diagnostic Report is structured around the key themes that are relevant to Uganda’s disclosure environment, as summarized in table 1.

³ These studies were carried out at the national and subnational levels and include British Columbia (Canada); Chile, Colombia, Honduras, India, Karnataka (India), Kenya, Minas Gerais (Brazil), New South Wales (Australia), the Philippines, South Africa, the United Kingdom, and Victoria (Australia).

TABLE 1: DISCLOSURE ENVIRONMENT IN UGANDA

THEME	KEY QUESTION	SECTION
TRANSPARENCY AND OPENNESS IN GOVERNANCE	Is there a transparent and open governance environment in Uganda?	2
PPP EXPERIENCE	Does the government have substantial experience in PPPs? Does the government have an ongoing PPP program?	3
INSTITUTIONAL FRAMEWORK FOR PPPs	What are the institutions supporting the preparation, procurement, and implementation of PPPs?	4
LEGAL AND INSTITUTIONAL FRAMEWORK FOR PPP DISCLOSURE	Is the legal and regulatory environment sufficiently conducive to PPP disclosure? Is there right-to-information legislation that supports proactive disclosure? Do PPP legislation/regulations provide clarity on the elements, timing, institutional structure, and processes for disclosure? Do other related legislation and regulations support disclosure? Are there guidelines and processes in place to guide disclosure? Are there standardized disclosure contract clauses and templates? Is there a web portal(s) available with a user-friendly back-end and front-end design in machine-readable format, and compliant with OCDS?	5
DISCLOSURE IN PRACTICE AND KEY CHALLENGES	What information is disclosed in practice? What are the key challenges to disclosure?	6

Note: OCDS = Open Contracting Data Standard; PPP = public-private partnership.

The findings related to these questions are further analyzed in section 7, which assesses the gaps in the political, legislative, and institutional contexts. Section 8 provides recommendations on how to address these gaps. Annex A provides suggested amendments to the PPP Act. Annex B provides suggested text for Disclosure Guidelines for PPPs in Uganda. Annexes C and D contain a template for disclosure and suggested standard contractual clauses, respectively. Annex E presents a comparison of the World Bank’s Framework for Disclosure, current disclosure practice in Uganda, and the proposed disclosure guidelines for Uganda.

2. Transparency and Openness in Uganda

Overview

Access to information is a constitutional right guaranteed under Article 41 of the Constitution of Uganda 1995. The Article provides that “Every citizen has a right to access information in the possession of the State except where the release of the information is likely to prejudice the security or sovereignty of the state or interfere with the right to privacy of any other person.” Uganda was among the first African countries to create enabling legislation for the right to access information, by enacting the Access to Information Act (ATIA) in 2005. This was followed by the enactment of the Access to Information Regulations in 2011 to operationalize the Act.⁴ The ATIA and its Regulations specify the classes of information accessible to the public and the procedure for obtaining such information and defines restricted classes of information. In case information is denied to a requestor, the ATIA provides two appeal mechanisms. A citizen can lodge an internal appeal within the public body that denied the access⁵ or he/she may lodge a complaint to the Chief Magistrate.⁶ However, both processes can be challenging. With respect to the former, neither the Act nor its Regulations provide any guidance on how an internal appeal can be made, making it difficult to operationalize. In the latter, ordinary court processes are often plagued with delays and corruption.

In addition to the ATIA, several other laws embed transparency and accountability in governance. These include the Public Finance Management Act 2015, which provides a framework for transparency and accountability in government expenditure; the National Audit Act 2008, which establishes the powers and functions of the Auditor General, including a mandate to uphold accountability and transparency in public authorities as well as private entities that utilize public funds; the Leadership Code Act 2002, which provides a minimum standard of behavior and conduct for leaders; the Anti-Corruption Act 2009, which provides the legal framework for prevention of corruption in the public and private sectors; and the Inspectorate of Government Act 2002, which establishes the office of the Inspector General of Government with a mandate to address corruption and abuse of authority. In addition, the Public-Private Partnership Act identifies accountability and transparency as key governance principles for the implementation of PPPs in Uganda. Section 5 of this report provides a detailed discussion on these laws.

In addition, Uganda has ratified several international instruments that promote the right of access to information, such as the Universal Declaration of Human Rights, the International Convention on Civil and Political Rights, the United Nations Convention against Corruption, the African Charter on Human and People’s Rights, the African Union Convention on Preventing and Combating Corruption, and the African Union Youth Charter.

⁴ State of Right to Information Report in Africa 2017, <https://africafoicentre.org/download/the-state-of-the-right-to-information-in-africa-report-2017>; Policy Centre for Eastern and Southern Africa Position Paper: The State of Access to Information in Uganda.

⁵ Section 16 (3) (c), ATIA.

⁶ Section 37, ATIA.

Despite the legislative context, several challenges to improving government transparency and accountability remain.⁷ Some of these challenges are presented by clauses within the ATIA itself, which limit the effective operationalization of the right to access information recognized under Article 41 of the 1995 Constitution. While the Constitution provides for only one exception to disclosure, that is, if the information in question “is likely to prejudice the security or sovereignty of the state or likely to interfere with the right to privacy,” Section 33 of the ATIA provides for a wide range of exemptions that include “an opinion, advice, report or recommendation obtained or prepared.” Exemption from disclosure is also extended to Cabinet minutes and information related to the internal operations of a public authority.⁸ Although a public interest override is provided in the context of all exemptions, it can only be applied on a case-by-case basis when deemed so by the public authority. Relatedly, Uganda has several other laws that can be used to deny requests for and release of information. These include the Official Secrets Act Cap 302, which criminalizes public officials disclosing certain categories of information received by them in their official capacity; the Oaths Act Cap 19, by which chief executive officers of government bodies are subject to an oath of secrecy; and the Evidence Act Cap 6, which prohibits the use of unpublished official records as evidence in court except with the permission of the head of the concerned department. The Official Secrets Act is particularly vulnerable to abuse. The Act seeks to protect information related to national security in the possession of the government security apparatus. The short title of Uganda’s Official Secrets Act defines it as “*An Act relating to State Security*” and broadly relates to prejudicial dealings with foreign governments.⁹ Nevertheless, in practice, the Act inhibits disclosure of information, as it has been misconstrued or extended beyond classified state security information to other types of government documents, and thus it constrains efforts to establish transparency and enforce accountability. Further work will need to be done for better informing the public that the Act is limited in its application to documents that pose a serious and demonstrable risk to state security. Further, the ATIA does not provide for an independent appellate mechanism—should information be refused to a citizen, he/she can only seek redress through the regular judicial system.

However, with the Constitution recognizing access to information as a key right of citizens, Uganda continues to move toward improving the openness of public authorities. This process has been supported significantly by civil society organizations such as the Human Rights Network Uganda, Advocates Coalition for Development and Environment, Transparency International (Uganda Chapter), Construction Sector Transparency Initiative (CoST Uganda), and Anti-Corruption Coalition of Uganda, which regularly organize trainings and workshops to sensitize the public on their right to information.

Open Data and e-Government Initiatives

The Government of Uganda has been making several efforts to improve access to information through embracing information technology. In June 2006, the government established the Ministry of Information and Communications Technology and National Guidance (MoICT&NG) with a mandate to formulate and implement ICT policies and sustain, manage, and oversee ICT infrastructure in Uganda.¹⁰ One of the

⁷ This is partly reflected in Uganda being ranked 151 of 176 countries in the Corruption Perceptions Index 2016.

⁸ Access to Information Act 2005, Part III.

⁹ The Solicitor General’s office also holds the opinion that the Official Secrets Act primarily relates to the regulation of agents of foreign powers in the context of state security and therefore does not directly restrict the ATIA.

¹⁰ <https://www.ict.go.ug/ict/background>.

initiatives of the MoICT&NG has been the development of the e-Government Policy Framework (2010), which has the objective to improve continuously the efficiency of and access to government information and services to meet citizen expectations.¹¹ The e-Government Policy Framework provides for a range of ICT platforms through which government services are to be delivered, such as the Internet, telephone, electronic media, and communication centers. The Framework also identifies several e-government projects that the government intends to implement in three broad areas—government-to-government, government-to-citizens, and government-to-business services. These include electronic birth and death registrations, a public electronic recruitment system, a financial management information system, a government Internet portal that would make all available government information public, land registry, passport and immigration services, environmental information management system, and an e-procurement system for all public procurement.

Work on e-procurement has been initiated already. The government, in partnership with the World Bank, has contracted a firm to develop, install, and maintain such a system in Uganda. The project is being implemented by the Public Procurement and Disposal of Public Assets Authority (PPDA), National Information Technology Authority Uganda, and Ministry of Finance, Planning and Economic Development (MoFPED). The e-procurement system is expected to promote efficiency, transparency, and accountability in public procurement and will be piloted in 10 selected procuring and disposing entities (contracting authorities) in 2018, including MoFPED, Ministry of Water and Environment, Uganda National Roads Authority, Kampala Capital City Authority, Civil Aviation Authority, National Information Technology Authority Uganda, PPDA, National Social Security Fund, and Jinja District Local Government.¹² The selected procuring entities will be required to conduct the entire procurement process through an online system, including advertisement of bid notices, dissemination of bid/tender documents, and payments to suppliers. This process will be in compliance with the Open Contracting Data Standard (OCDS), although evaluation reports will be exempt from disclosure as per the PPDA Act. However, it is unlikely that this process will apply to PPP projects, as e-procurement is a program that is being championed by the PPDA and is guided by the Strategy for Implementing e-Government Procurement in Uganda. The Strategy identifies the PPDA Act and its Regulations as the governing legislation and does not mention PPPs.

The government also introduced the Government Communication Strategy in 2011, to establish an effective, well-coordinated, and proactive communication system within the government as well as with the public to meet the nation's information needs.¹³ The strategy proposes improving the capacity of ministries, departments, and agencies to use ICT to collect, disseminate, and archive information about government programs and projects, as well as creating mechanisms to provide relevant and timely information to the general public during times of crisis, such as natural disasters. The government also provides public education airtime on radio stations in every district across the country to sensitize the public on service delivery and development issues.¹⁴

In August 2014, the MoICT&NG, along with the Collaboration on International ICT Policy in East and Southern Africa and the Africa Freedom of Information Centre, launched the online platform www.askyourgov.ug. The platform is one of several efforts aimed at improving the accessibility of

¹¹ National e-Government Policy Framework, June 2010, p. 6.

¹² <https://www.ppda.go.ug/e-government-procurement-e-gp-project-governance-structure-inaugurated/>.

¹³ https://www.gou.go.ug/.../Government_Communication_Strategy_September_2011_.

¹⁴ Policy Centre for Eastern and Southern Africa Position Paper: The State of Access to Information in Uganda.

information to the citizens of Uganda. Citizens can make information requests to different public bodies via e-mail. The e-mailed query is shared publicly on the website and an e-mail is sent directly to the relevant information officer, who must provide a response within 21 days.¹⁵ The responses are also published on the Ask Your Government website and can be viewed by the public (figure 1).

The government established the Government Citizens Interaction Centre (GCIC) in 2017 as a primary contact center for citizens, to enhance the monitoring of service delivery and provide a channel for feedback and suggestions from citizens (figure 2).¹⁶ Through GCIC, the public can communicate with the government through various channels, make inquiries, and obtain government information and documents. GCIC has a database of key government institutions and a resource center that contains information on various ongoing government projects, for example, on the National ICT Initiatives Support Programme, which aims to create an ICT-enabled ecosystem in Uganda that brings together public authorities, enterprises, and individuals to support innovation and access to new markets.¹⁷

In 2013, Uganda became the fifth African country to join CoST. In 2017, CoST conducted a scoping study on the Infrastructure Data Standard in Uganda. The study revealed that although there was political willingness to promote disclosure, full and effective implementation of the ATIA is limited by a lack of administrative appeal mechanisms,¹⁸ negative attitudes of public officials toward information requesters, general lack of awareness about the law, poor information storage and retrieval systems, as well as inadequate financing.¹⁹

In sum, despite several challenges, the Government of Uganda has clearly identified transparency, accountability, and openness as key principles of governance, and continues to improve implementation through policy and strategic and technology-aided interventions. A list of other e-government initiatives not mentioned above is provided in table 2.

TABLE 2: E-GOVERNMENT INITIATIVES IN UGANDA

NAME	DESCRIPTION
Budget Monitoring Portal http://www.budget.go.ug	The portal enables citizens to access and give feedback on budget performance at the national and local levels and makes available all budget allocation figures in MS Excel and PDF formats.
Integrated Management Information System http://ugandadata.org/imis/	The integrated Management Information System promotes access to and analysis of census and other data for informed decision making for sectoral and local development programs and policies. Currently, it is being used by the Ministry of Health.

¹⁵ Promoting Access to Information in Uganda User Guide, p. 7.

¹⁶ <http://gic.gou.go.ug/>.

¹⁷ <http://gic.gou.go.ug/national-ict-initiatives-support-programme/>.

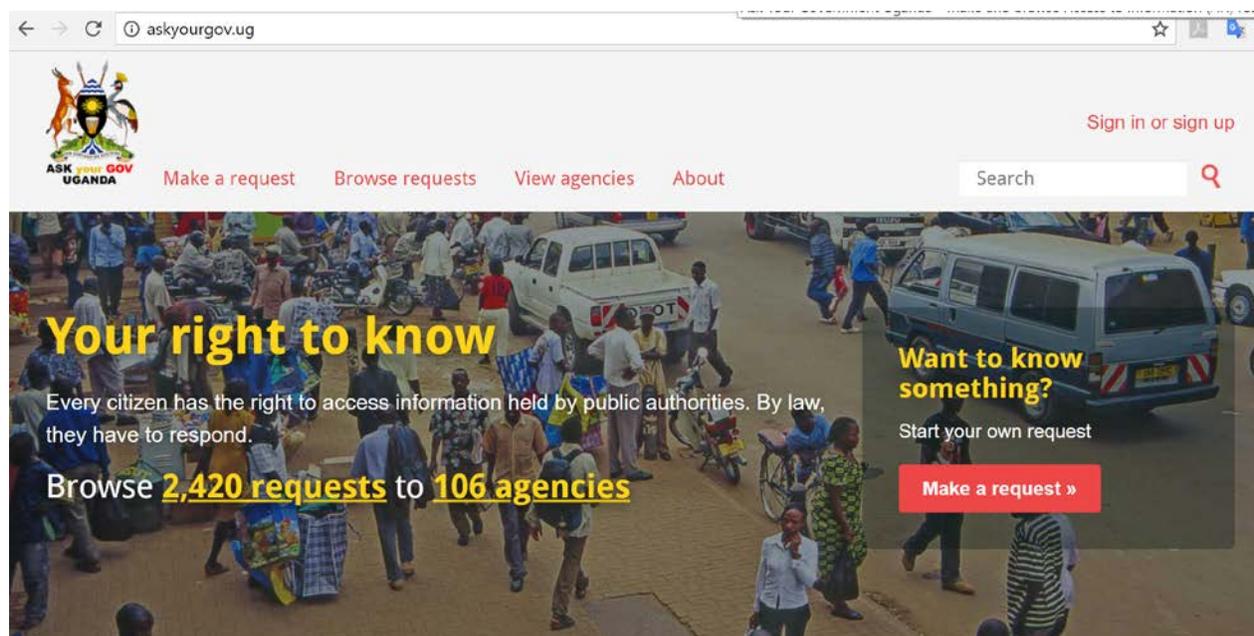
¹⁸ Under the ATIA, a person aggrieved with the decision of the Information Officer has recourse in filing a complaint to the Chief Magistrate (Section 37) and, in respect of a request for information that is exempted under Part III and upon denial of a waiver to disclose such information by a third party, by filing an appeal to the High Court.

¹⁹ <https://www.cost.or.ug/download-category/scoping-study-and-research/>.

Uganda Bureau of Statistics, National Data Archive http://www.ubos.org/unda/index.php/home	The Uganda National Data Archive provides data sets that have been documented and released for user access across the national statistical system per the Plan for National Statistical Development.
Development Assistance Management System http://www.finance.go.ug/amp/portal	This is the government's official online database of aid-funded projects and programs. Managed by the Aid Liaison Department in the Ministry of Finance, it provides details of loans, grants, and guarantees received through foreign aid.
Ministry of Water and Environment, Uganda Water Supply Database http://ipsanad.com/	The database provides citizens with data on current safe water supply coverage and the functionality and distribution of water, among others.
Inventory of Public Sanitation Facilities http://www.publicsan.ug/index.php	This is a web-based database containing information on all public toilets in small towns and rural growth centers in Uganda. It is managed by the Ministry of Water and Environment through the Urban Water and Sewerage Department.
National Government Portal http://www.gou.go.ug/services	Currently, this website lists the government services that will be provided through this portal in the future. These include birth and death registration, applying for a driving license, emergency services, engineering services, legal services, registration of companies, studying in Uganda, tax and customs, and travel documents.

Source: State of Open e-government Index in Uganda 2016.

FIGURE 1: ASK YOUR GOVERNMENT PORTAL

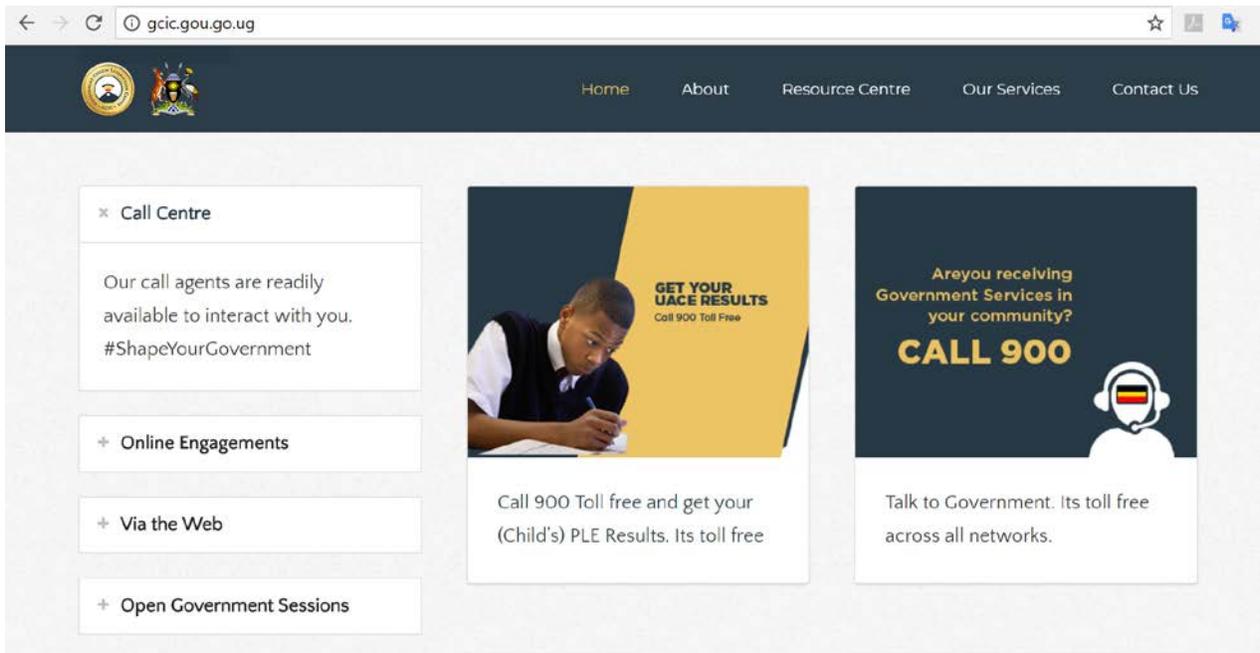


Who can I request information from?

What information has been released?

Source: <http://askyourgov.ug/>.

FIGURE 2: GOVERNMENT CITIZENS INTERACTION CENTRE PORTAL



Source: <http://gic.gov.go.ug/>.

3. PPP Experience in Uganda

The Public-Private Infrastructure database indicates that 28 PPP projects with a total investment commitment of US\$1.9 billion reached financial closure between 1990 and 2017 in Uganda.²⁰ Most of the projects are in the energy sector and were done as part of Uganda’s Privatization and Utility Sector Reform Program under the mandate provided by the Public Enterprise Reform and Divestiture Act 1993 and were operationalized prior to the enactment of the PPP Act in 2015. Since then, several projects have been submitted for inclusion in the project pipeline that is being developed by the PPP Unit covering a variety of sectors, key among these being transport, energy, water, education, and health.

Energy Sector²¹

The energy sector in Uganda was liberalized following the adoption of the Uganda Power Sector Restructuring and Privatization Plan in 1999. The plan proposed several structural changes in power generation, transmission, and distribution, as well as rural electrification and regulation of the electricity sector. Consequently, in 2000, the Uganda Electricity Board was unbundled into three successor companies—the Uganda Electricity Generation Company Limited, the Uganda Electricity Transmission Company Limited, and the Uganda Electricity Distribution Company. Soon after, several public-private arrangements were also initiated to operationalize the newly separated roles of generating and distributing electric power.

On March 1, 2005, the Uganda Electricity Distribution Company handed over the electricity distribution network to Umeme Limited through a 20-year concession for the distribution and supply of electricity to customers. Umeme’s mandate under this arrangement involves the operation, maintenance, and upgrading of electricity distribution infrastructure, electricity retail, and provision of related services. Over the past 12 years, Umeme’s investments in the distribution infrastructure (estimated at US\$500 million) have led to several successes, namely: loss reduction from 38 to 17.2 percent, increased access to electricity with an estimated 1.2 million customers now connected to the grid compared to 296,000 before the concession was operationalized, and improvement in distribution efficiency from 50 to 83 percent; the addition of 10 new substations to the network; the deployment of innovations such as automated meter reading technology; and the construction of 45,000 kilometers of distribution network.

Uganda has also engaged in several independent power producer (IPP) in the electricity generation sector. These include Eskom’s 20-year concession to manage existing power stations at Kira and Nalubaale on behalf of the Uganda Electricity Generation Company Limited; Kakira Sugar’s 52-megawatt bagasse power plant; Jacobsen Uganda Limited’s 50-megawatt thermal plant; and the Bujagali Hydroelectric Power Project, Uganda’s flagship electric power generation project. These arrangements have supported the government’s objective of increasing the supply of electricity to meet rapidly expanding demand. However, the level of access to and the cost of power have been contentious issues, raising questions related to the structure of these contracts, including the methods for establishing tariffs and risk

²⁰ See <https://pppknowledgelab.org/countries/uganda>.

²¹ Source: World Bank: Uganda Economic Update, 9th edition, May 2017.

allocation. The government is currently considering various options to restructure the financing of these projects, to reduce costs and provide more affordable electricity to consumers.

Transport Sector²²

Uganda initially engaged in PPPs in the railways subsector, followed more recently by the roads subsector. The 25-year Rift Valley Rail joint concession (between Uganda and Kenya) commenced in 2006 to facilitate the construction and provision of railway services between Kampala and Mombasa. Although the concession recorded positive results in the beginning, including a 60 percent increase in operating efficiency and an 80 percent reduction in inland cargo transit time to Kampala, the concession had to be restructured, as the special purpose company (SPC) failed to comply with several obligations under the concession agreement. These included the failure to pay concession fees, meet freight volume targets, carry out rehabilitation and maintenance of conceded assets, and submit timely operational reports and safety management plans to Uganda Railways Corporation. As a result, this concession has since been terminated.

The Kampala-Jinja Expressway (KJE) will be the first PPP to be implemented after the enactment of the PPP Act. The KJE PPP is expected to be a 30-year greenfield design, build, finance, operate, and maintain arrangement for a 77-kilometer mainline from Kampala to Jinja and an 18-kilometer bypass to the south of Kampala city, with an estimated cost of about US\$1.5 billion. The Feasibility Study for the KJE project has been approved by the PPP Committee as required by the PPP Act. The contracting authority for this project, Uganda National Roads Authority (UNRA), has commenced the procurement process. In this context, the government has recently passed the tolling policy, which will enable the tolling of roads. This has been reflected in the draft roads bill that will soon be debated in the Parliament.

Given the increasing interest and activity in PPPs in Uganda, the government, with the support of the World Bank and U.K. Department for International Development, has embarked on establishing the regulatory and institutional framework for the development of PPPs. This includes finalizing the PPP Regulations and drafting the Guidelines that will assist contracting authorities to develop PPP projects. This support also includes a PPP capacity-building program for contracting authorities and other stakeholders, and the development of a Fiscal Commitment and Contingent Liabilities Framework. An assessment framework for the selection of priority PPP projects has also been developed.

A pipeline of PPP projects is being developed by the PPP Unit with technical support from the World Bank. Details of the same are provided in table 3.

²² Source: World Bank: Uganda Economic Update, 9th edition, May 2017.

TABLE 3: PROJECTS CONSIDERED BY THE PPP UNIT FOR POTENTIAL INCLUSION IN THE PROJECT PIPELINE²³

No	Project Name	Contracting Authority	Sector	Project Description	Estimated Project Cost (USD millions)	Estimated Project Cost (UGX million)	Project Status
1	Mixed-Use Development	Makerere University	Education	The project is to build a 5-star hotel.	70.00	255,500.00	PPP legal assessment complete, project will be implemented as a development lease. Makerere University issued a Request for Quotation in December 2017
2	3-Star Hotel and Convention Centre	Makerere University	Education	The project aims to build a 150 bed Three-Star hotel.	18.00	65,700.00	PPP legal assessment complete, project will be implemented as a development lease.
3	Middle Income Housing	Makerere University	Education	The project aims to a middle income gated community	25.50	93,075.00	PPP legal assessment complete, project will be implement-ted as a development lease.
4	Student Centre	Makerere University	Education	The project will develop a one stop information Centre for students and faculty members.	16.40	59,860.00	PPP legal assessment complete, project will be implemented as a development lease.
5	Additional Student Accommodation	Makerere University	Education	The project will provide additional housing to students.	28.90	105,485.00	PPP legal assessment complete, project still under consideration for one of the four sites proposed. Need Board approval to proceed as a PPP. However, the President has publicly announced providing student housing is not the responsibility of the Government.
6	Kampala Solid Waste Management PPP	Kampala Capital City Authority	Water & Environment	The project will repurpose and provide resource recovery at Kitezi landfill and construct a new landfill in Dundu.	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Full PPP feasibility study ongoing

²³ Estimated costs in UGX and USD may not be consistent across projects due to variations in foreign exchange rates over a period of time.

No	Project Name	Contracting Authority	Sector	Project Description	Estimated Project Cost (USD millions)	Estimated Project Cost (UGX million)	Project Status
7	AGBINIKA 2.2 MW SHPP	Uganda Electricity Generation Company Limited	Electricity	The project aims to provide 2.2 MW installed capacity, 9.3 GWh annual power production.	8.00	29,200.00	Prefeasibility study completed
8	OKULACERE 6. MW SHPP PROJECT	Uganda Electricity Generation Company Limited	Electricity	The project will provide 6.3MW installed capacity, 21.7GWh annual power production.	26.00	94,900.00	Prefeasibility study completed
9	Kampala Street Lighting	Kampala Capital City Authority	Electricity	Provide 4500 Units of street lights (bulbs) over the next five years to light up the city.	117.00	No information submitted by Contracting Authority	Concept stage
10	Design and Construction of the Ministry of Works and Transport Head-quarters Building	Ministry of Works and Transport	Works and Transport	Office accommodation for MoWT Head-quarters, Statutory Boards, Commissions and Agencies under the MoWT	28.00	102,200.0	Concept stage
11	Construction of a New Ship to replace MV Kabalega	Ministry of Works and Transport	Works and Transport	The project will provide transport services (freight) by ship.	35.40	129,210.00	Concept stage
12	Lake Victoria Transport Program	Ministry of Works and Transport	Works and Transport	The project will provide services between ports, to ease business transactions. It will provide access to hinterland and remote areas.	150.00	547,500.00	Concept stage
13	Development of Bus Rapid Transit in Kampala	Ministry of Works and Transport	Works and Transport	The Project will provide transport services by big buses which shall operate on dedicated lanes.	17.50	63,875.00	Full technical feasibility study completed
14	Development of Gulu Logistics Hub	Ministry of Works and Transport	Works and Transport	The project aims to promote trade in the northern part of the country and Uganda as a whole.	18.30	66,795.00	Prefeasibility study completed

No	Project Name	Contracting Authority	Sector	Project Description	Estimated Project Cost (USD millions)	Estimated Project Cost (UGX million)	Project Status
15	Development of Logistic Hubs (Tororo, Kampala and Mbarara)	Ministry of Works and Transport	Works and Transport	The project will provide modal shift function between rail, truck and inland water way, to provide container depot function to reduce export cost and provide logistic services including warehouse distribution Centre and one stop shop.	90.00	328,500.00	Full technical feasibility study completed
16	Mbarara University Inn	Mbarara University of Science and Technology	Education	The project is to operate a 3-star hotel.	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Concept stage
17	Kenya-Uganda-Rwanda 400kV Transmission Line Project	Uganda Electricity Transmission Company Limited	Energy	The project aims to provide transmission capacity of over 1200MW to cater for Grid Inter-connection between Kenya, Uganda and Rwanda	318.70	1,163,255.00	Full technical feasibility study completed.
18	Kinyara-Kafu 200kV Transmission Line Project	Uganda Electricity Transmission Company Limited	Energy	This project will provide infrastructure to meet the power supply needs of the western Uganda and evacuate mini-hydro power	65.10	237,615.00	Full technical feasibility study completed. The project will be implemented under an Engineering Procurement Construction and Financing contract. MOU has been signed.
19	Mirama-Nsongezi 132KV Line and Associated Substation	Uganda Electricity Transmission Company Limited	Energy	The project aims to strengthen the backbone grid to support electrification of south western Uganda	32.90	120,085.00	Full technical feasibility study completed. Investor identified.
20	Nkenda-Beni-Bunia Project 200kV	Uganda Electricity Transmission Company Limited	Energy	The project will provide transmission infrastructure to cater for future grid interconnections to the East African Power Pool (SAPP), and the Great Lakes States Grid.	22.20	81,030.00	Full technical feasibility study completed.

No	Project Name	Contracting Authority	Sector	Project Description	Estimated Project Cost (USD millions)	Estimated Project Cost (UGX million)	Project Status
21	Kampala-Bombo Expressway	Uganda National Roads Authority	Works and Transport	The project will link Kampala to South Uganda. The expressway will act as the primary transit corridor for transportation of imports via Kenya and Uganda to other landlocked countries such as South Sudan and Democratic republic of Congo.	500.00	1,825,000.00	Full technical feasibility study completed.
22	Kampala-Busunju Expressway	Uganda National Roads Authority	Works and Transport	This project aims to link Kampala-Busunju in the central region to Hoima-Kiboga road that connects to the Albertine region where oil exploration is underway.	500.00	1,825,000.00	Concept stage
23	Kampala-Entebbe Expressway	Uganda National Roads Authority	Works and Transport	The project will link Entebbe International Airport to the Greater Kampala metropolitan area.	476.00	1,737,400.00	Transaction Advisor Hired
24	Kampala-Outer Beltway	Uganda National Roads Authority	Works and Transport	The Beltway links City of Kampala with other expressways such as Kampala-Jinja, Kampala Southern Bypass, Kampala – Bombo, Kampala-Mpigi and Kampala-Entebbe	900.00	3,285,000.00	Full technical feasibility study completed.
25	Kibuye-Busega-Mgipi Expressway	Uganda National Roads Authority	Works and Transport	The Expressway will improve mobility along the congested southern and western corridors of Greater Kampala by diverting traffic from the existing road.	327.00	1,460,000.00	Full technical feasibility study completed.

No	Project Name	Contracting Authority	Sector	Project Description	Estimated Project Cost (USD millions)	Estimated Project Cost (UGX million)	Project Status
26	Multipurpose Water for Production Infrastructure and Facilities' Development Project in Isingiro District	Ministry of Water and Environment	Water	The project aims to construct a dam and multipurpose water system and facilities for irrigation of 433ha. It will also provide bulk water supply from Nsongezi Offtake based on R. Kagera abstraction for livestock and irrigation of 1500ha.	47.29	172,608.50	Prefeasibility study completed.
27	Lopei Multipurpose Water Development Project	Ministry of Water and Environment	Water	The project aims to construct a multipurpose dam that has a storage capacity of 120 MCM and a 5000ha Irrigation scheme in Lopei.	65.00	237,250.00	Prefeasibility study completed.
28	Biiso Irrigation Scheme Development Project	Ministry of Water and Environment	Water	The project aims to construct irrigation infrastructure, establish sustainable farmer based institutional management system for irrigation scheme and provide scheme maintenance equipment.	23.00	83,950.00	Full technical feasibility study completed.
29	Ngoma Wakyato Rural Water Supply System in Nakaseke District	Ministry of Water and Environment	Water	The project aims to construct 35 KM of transmission pipelines to increase rural water supply coverage to 75, 486 people in Nakaseke district.	19.00	69,350.00	Full technical feasibility study completed.
30	Bulk Water Supply System for the Oil Refinery	Ministry of Water and Environment	Water	The project will provide water for oil refinery. The project will install a bulk water supply infrastructure for the proposed oil refinery.	116.30	424,495.00	Concept stage

No	Project Name	Contracting Authority	Sector	Project Description	Estimated Project Cost (USD millions)	Estimated Project Cost (UGX million)	Project Status
31	Kampala Jinja Expressway	Uganda National Roads Authority	Works and Transport	The project will relieve congestion on the existing "Kampala Jinja Highway" by constructing a toll expressway between Kampala and Jinja.	1,000.00	3,650,000.00	Full PPP feasibility study completed
32	IT Parks	National Information Technology Authority Uganda	Information Communications & National Guidance	The project will provide a fully functional IT complex covering an area of about 17 acres with amenities that will host the multi-national IT companies.	155.20	566,480.00	Full technical feasibility study completed and have hired a TA for PPP feasibility study
33	Managed Equipment Services	Ministry of Health	Health	The project will manage equipment in 2 national and 15 regional referral hospitals	500.00	1,825,000.00	Concept stage
34	Medical Waste Management	Ministry of Health	Health	The project will manage medical waste in 2 national and 15 Regional Referral Hospitals, and General Hospitals	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Concept stage
35	Oncology Cardiac Renal Centre	Ministry of Health	Health	The project will provide specialized oncological, cardiac and renal diseases diagnostic and management services.	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Concept stage
36	Uganda eHealth Project	Ministry of Health	Health	The project will manage IT equipment, platforms and databases in MOH, hospitals, health center	60.00	219,000.00	Concept stage
37	Uganda Emergency Medical Services Project	Ministry of Health	Health	The project will provide emergency medical service	60.00	219,000.00	Concept stage
38	Kampala Annuity Roads PPP	Kampala Capital City Authority	Roads	The project will expand, improve and upgrade the city road network in Kampala.	100.00	365,000.00	Prefeasibility study completed

No	Project Name	Contracting Authority	Sector	Project Description	Estimated Project Cost (USD millions)	Estimated Project Cost (UGX million)	Project Status
39	Re-Development of Kampala Old Taxi Park	Kampala Capital City Authority	Transport	The project aims to redevelop the old taxi park to decongest the city and improve traffic flow in the city.	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Prefeasibility study completed
40	USAFI Market & Taxi terminal Re-Development	Kampala Capital City Authority	Market Infrastructure	The project will redevelop a taxi terminal into a modern transport hub to improve mobility in the city. It will create workspaces for up to 50,00 vendors and artisans and formalize businesses.	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Concept stage
41	Greater Kampala Light Rail Mass Transit (LRT) (Phase 1)	Ministry of Works and Transport	Transport (Railway)	The project aims to construct a rail based rapid transit system that is powered by electricity in Greater Kampala. The project (first phase) will construct 45 kilometers of light railway network.	1,044.00	3,754,000.00	Prefeasibility study completed
42	Multipurpose Convention Centre	Makerere University Business School	Education and Recreation	The project will develop a multi-purpose convention center to facilitate seminars, conferences, for meetings, student training at the hotel, and lectures. The center will also have restaurants and a business center.	No information submitted by Contracting Authority	35,000.00	Concept stage
43	The MUBS Sports Complex	Makerere University Business School	Sports, Education and Recreation	The project aims to develop a sports complex center that offers a wide variety of facilities to the community. The facility will serve both public and university clients.	1.21	4,500.00	Concept stage
44	Albertine Graben Regional Water Supply and Sanitation Infrastructure	Ministry of Water and Environment	Water and Environment	The project will construct regional water supply systems covering 30 towns located in the Albertine Graben Region	367.10	1,355.00	Prefeasibility study completed. Funding for full PPP feasibility study under negotiation with UK Export Finance

No	Project Name	Contracting Authority	Sector	Project Description	Estimated Project Cost (USD millions)	Estimated Project Cost (UGX million)	Project Status
	Development Project (AGR-WSSIP)			(Hoima, Buliisa, Masindi, Nwoya and Nebbi districts). Public sanitation facilities and fecal sludge treatment facilities will also be constructed.			Agency.
45	Kabaale International Airport	Ministry of Energy and Works	Works and Transport	<p>Ministry of Energy and Works wish to develop an international airport in the Albertine region (Kabaale) to facilitate the oil refinery process and transportation of other logistics.</p> <p>The project is planned to accommodate 3,500 m runway with orientation of 160°/340° (16/34). The project will be developed in 2 phases.</p> <p>Phase 1 includes facilities like runway, taxiways, apron, fuel firm, fire stations, multi-purpose hangar, perimeter fence, drainage facilities, terminal building, basic landing instruments</p> <p>Phase 2 targets airport capacity enhancements – expansion of the passenger terminal building, permanent cargo complex, permanent control tower, construction of a parallel runway.</p>	280.00	1,033.62	Already contracted, Joint venture between Colas of UK and SBI/Israel
46	Ayago Hydro Power Station	Uganda Electricity Generation Company Limited	Energy	Ayago Power Station is a proposed 840 MW project to be located at Ayago on the Victoria Nile – Nwoya & Kiryandongo districts. Ministry of Energy appointed UEGCL as the implementing	1,970.00	7,272,255.00	Full technical feasibility study completed.

No	Project Name	Contracting Authority	Sector	Project Description	Estimated Project Cost (USD millions)	Estimated Project Cost (UGX million)	Project Status
				agency for this project on behalf of Government. The project cost is approximately USD 1.97 Bn. the initial plan was execute this project within 72 months.			
47	Oil Refinery Project	Ministry of Energy and Works	Energy	Government through Energy Ministry plans to construct Oil Refinery Facility with the capacity of 60,000 bbl/day but starting with 30,000 bbl/day. Government has already made a position to develop this project through a PPP process – Joint Venture arrangement. The proposed share-holding is 60% private and 40% Government.	4,500.00	16,611,750.00	Full technical feasibility study completed.
48	Crude Oil Pipeline	Ministry of Energy and Works	Energy	Following the discovery of oil deposits in Uganda (Albertine region), government plans to construct and maintain pipeline covering 1,403 Km to transport crude oil from Hoima in Uganda to Tanga Port in Tanzania – to link the oil fields to refineries. The pipeline estimated capacity is 200,000 barrels of crude oil per day.	4,000.00	14,766,000.00	Full technical feasibility study completed.
49	Water transport facilities	Ministry of Energy and Works	Water	Ministry of Energy is considering developing water transport facilities to transport refined oil as well as other facilities to enhance oil production and Ministry intends to involve private sector participation.	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Concept stage

No	Project Name	Contracting Authority	Sector	Project Description	Estimated Project Cost (USD millions)	Estimated Project Cost (UGX million)	Project Status
50	Latoro Small Hydro	Uganda Electricity Generation Company Limited	Energy	No information submitted by Contracting Authority	18.00	66,447.00	Concept stage
51	Masiba Small Hydro Plant	Uganda Electricity Generation Company Limited	Energy	No information submitted by Contracting Authority	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Concept stage
52	O&M of Karuma, Nyagak, and Isimba Dam Hydro Power Plants	Uganda Electricity Generation Company Limited	Energy	UEGCL has decided to use O&M Concessions (PPP) to run the HPP under construction. However, UEGCL's current plan is to engage the private sector on a small scale/short term basis. The idea is to develop local capacities in managing hydro power projects. In addition, UEGCL plans to partner with the private sector to build Hydropower Training Hubs through an SPV arrangement.	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Concept stage
53	Mutukula Market	Iganga Municipal Council	Works and Transport	The Council intends to use PPP arrangement to deliver this project as part of its efforts to expand its revenue.	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Concept stage
54	Car Parking Project	Mulago National Referral Hospital	Works and Transport	Construction of a modern multi-level parking space and commercial amenities (shops, supermarkets, food, medical courts and office space) on a built-up space of approximately 26311 square meters with capacity for 1550 cars through Design, Finance, Build, Operate and Transfer (DFBOT)	19.1	70,507.00	Prefeasibility study completed

No	Project Name	Contracting Authority	Sector	Project Description	Estimated Project Cost (USD millions)	Estimated Project Cost (UGX million)	Project Status
				Concession of 15 years. This is a Turnkey Project with estimated operational expenses projected at 75% for the first 6 years and 60% of the remaining 9 years of the concession.			
55	Specialized Housing and Mixed-use Real Estate Projects	Mulago National Referral Hospital	Works and Transport	In line with Government's Policy to minimize subsidies, Mulago intends to enter into partnership with the private sector to develop and operate these projects with an aim of providing efficient services to the public, income generation and provision of employment opportunities to Ugandans in line with the NDP II	158.10	583,257.00	Prefeasibility study completed
56	Redevelopment of Posta Properties	Posta Uganda	Housing	Posta intends to develop its properties – Mengo Post office, Postal Building, clock Tower Post office and General Post office through a PPP arrangement with the aim of improving the company's cash flow, improve its rental earning as well as maximize value for money from the company's estate by enhancing space utilization and improving occupancy of the properties.	117.45	435,000.00	Procuring a Technical Advisor

No	Project Name	Contracting Authority	Sector	Project Description	Estimated Project Cost (USD millions)	Estimated Project Cost (UGX million)	Project Status
57	Public Servants Housing Scheme Project	Ministry of Lands, Housing & Urban Development	Housing	The Ministry proposes to construct and sale 10,000 housing units to the public servants in Kampala and 12 other urban areas across the country.	4,000.00	14,766,000.00	Concept stage
58	Construction of Ministry Headquarters at Kyambogo	Ministry of Education and Sports	Housing	No information submitted by Contracting Authority	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Prefeasibility study completed
59	Redevelopment of Sport Facilities at Lugogo Kampala and Construction of other Stadiums	National Council of Sports	Sports/recreation	The project will redevelop the Sport complex in Lugogo.	15.00	55,372.00	Prefeasibility study completed
60	Construction of Army Barracks for 30,000 Units	Ministry of Defense	Housing/Defense	The project aims to develop accommodation to army officers, offices and construction of a modern mess equivalent to 4-star hotel to serve the UPDF and the public.	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Procuring a transaction advisor
61	Relocation of Kigo Prison and Redevelopment of Luzira Prison	Uganda Prisons	Housing/Defense	Uganda Prisons plans to decongest Luzira Prison which was originally designed to accommodate 1000 inmates and now is over congested with approximately 4200 inmates, construct its new headquarters, and relocate Kigo prison to Kasanje.	44.50	165,000.00	Project stalled
62	Uganda Police Force Accommodation	Uganda Police Force	Housing	UPF intends to implement an accommodation project comprising of residential accommodation facilities, police training facilities, headquarter and services support systems through a PPP arrangement	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Project stalled

No	Project Name	Contracting Authority	Sector	Project Description	Estimated Project Cost (USD millions)	Estimated Project Cost (UGX million)	Project Status
63	National Data Center and Disaster Recovery Facility	National Information Technology Authority Uganda	Information Communications Telecommunications	<p>NITA-U is implementing the National Data Centre aimed at connecting all major towns onto the National Backbone through the laying of Optical Fiber cable (2294 km)</p> <p>The project will entail;</p> <ul style="list-style-type: none"> ▪ Building construction of the center ▪ National data center infrastructure <p>National data center management systems – Systems for Integrated O&M, Integrated Security & Command & Control</p>	44.00	162,426.00	NITA-U reconsidering project structure
64	Digital Terrestrial Television	Uganda Broadcasting Corporation	Entertainment	Movement from an analog to digital signal for terrestrial television	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Transaction advisor procured
65	Redevelopment of UNCC	Uganda National Cultural Center	Culture	<p>UNCC in line with its mandate plans to redevelop its prime property with an Ultra-modern cultural center with 3 theatres, resource center, crafts center, Uganda traditional medicine, recreation center, art gallery, office space and 5-star hotel.</p> <p>The project is meant to generate revenue for UNCC and promote Uganda's culture in the region and international spheres.</p>	200.00	812,130.00	Full technical feasibility study underway.

No	Project Name	Contracting Authority	Sector	Project Description	Estimated Project Cost (USD millions)	Estimated Project Cost (UGX million)	Project Status
66	Source of the Nile River Project	Ministry of Tourism	Tourism	The Ministry plans to utilize the value of having the source of River Nile in Ugandan to attract both local and international tourists. The project will comprise; development of tourism facilities, hotels, entertainment facilities, recreational facilities at the Source of River Nile through PPP arrangement	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Concept stage
67	Cable Car Project	Ministry of Tourism	Tourism	The Ministry plans to develop and implement a Cable Car project on Mt. Rwenzori National Park as part of its promotion of tourism and Mt. Rwenzori. The project will entail establishment of cable cars in the peaks of Mt. Rwenzori, construction of tourists' facilities – restaurants, hotels.	34.00	125,511.00	Prefeasibility study completed
68	High-level Bridge at Murchison Falls	Ministry of Tourism	Tourism	The Ministry plans to construct a start art bridge at Murchison falls where local and international tourists will be in position to view the falls and the wild life.	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Concept stage

No	Project Name	Contracting Authority	Sector	Project Description	Estimated Project Cost (USD millions)	Estimated Project Cost (UGX million)	Project Status
69	Wildlife Satellite Centers	Ministry of Tourism	Tourism	The Ministry plans to develop regional wildlife satellite centers starting with Mbale, Mbarara, Fort Portal. So far, the Ministry has identified land for these projects in Fort Portal (Toro Kingdom has offered land for this project, Mbarara and Mbale.	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Full technical feasibility study completed.
70	Wildlife Collaborative Management	Uganda Wildlife Authority	Tourism	Since 2010, UWA has been involving the private sector in the conservation of wildlife through concession agreements given to the private sector partners procured through a competitive process to develop tourism facilities, market tourism outside Uganda as well as carryout legal hunting in the designated areas/parks.	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Concept stage
71	Karuma – Kawanda 400 kV of approximately 265 km, Karuma – Lira 132	Uganda Electricity Transmission Company Limited	Energy	No information submitted by Contracting Authority	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Under construction
72	Ayago Interconnection	Uganda Electricity Transmission Company Limited	Energy	No information submitted by Contracting Authority	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Full technical feasibility study completed. MOU signed with Guangzhou to consider EPC + F procurement
73	Mbale Bulambuli (132 Kw) Transmission	Uganda Electricity Transmission Company Limited	Energy	No information submitted by Contracting Authority	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Full technical feasibility study ongoing. UETCL considering donor funding for the project

No	Project Name	Contracting Authority	Sector	Project Description	Estimated Project Cost (USD millions)	Estimated Project Cost (UGX million)	Project Status
74	Nalubale – Lugazi Transmission	Uganda Electricity Transmission Company Limited	Energy	No information submitted by Contracting Authority	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Project no longer under consideration
75	Standard Gauge Railway Substation and Transmission Line	Uganda Electricity Transmission Company Limited	Energy	No information submitted by Contracting Authority	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Full technical feasibility study completed
76	City Hospitals Project	Kampala Capital City Authority	Health	No information submitted by Contracting Authority	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Concept stage
77	Market Infrastructure improvement	Kampala Capital City Authority	Housing	No information submitted by Contracting Authority	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Concept stage
78	Education for pay services	Kampala Capital City Authority	Education	No information submitted by Contracting Authority	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Concept stage
79	Housing and Slum upgrade project	Kampala Capital City Authority	Housing	No information submitted by Contracting Authority	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Concept stage
80	Kampala Electricity Generation Project	Kampala Capital City Authority	Energy	No information submitted by Contracting Authority	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Concept stage
81	Victoria Cruise Facility	Kampala Capital City Authority	Works and Transport	No information submitted by Contracting Authority	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Concept stage
82	Kampala Green Buses project,	Kampala Capital City Authority	Works and Transport	No information submitted by Contracting Authority	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Concept stage

No	Project Name	Contracting Authority	Sector	Project Description	Estimated Project Cost (USD millions)	Estimated Project Cost (UGX million)	Project Status
83	Divisional Administrative and Commercial land development project	Kampala Capital City Authority	Housing	No information submitted by Contracting Authority	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Concept stage
84	Cable buses transport	Kampala Capital City Authority	Works and Transport	No information submitted by Contracting Authority	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Concept stage
85	New Nile River Bridge at Jinja	Uganda National Roads Authority	Works and Transport	No information submitted by Contracting Authority	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Project under implementation
86	Upgrade and Expansion of Entebbe International Airport	Civil Aviation Authority	Works and Transport	No information submitted by Contracting Authority	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Project under implementation
87	GKMA water supply and sewerage expansions and extensions	National Water and Sewerage Corporation	Water	No information submitted by Contracting Authority	No information submitted by Contracting Authority	No information submitted by Contracting Authority	Procurement Stage

4. Legal and Institutional Framework for PPPs

The legal and institutional framework for PPPs in Uganda is provided by the PPP Framework Policy 2010 and the PPP Act 2015. The PPP Act provides the legal basis for private sector participation in the provision of public infrastructure using PPPs. In 2010, the PPP Framework Policy was adopted as a formal articulation of the government's commitment to use PPPs in the provision of public services. The PPP Framework Policy provides for objectives that should be attained through PPPs and the principles governing the use of PPPs and identifies key stakeholders and their responsibilities in the PPP procurement process.

PPPs are expected to bring about better utilization and application of public funds, facilitate more efficient development and delivery of public infrastructure, ensure good quality public services, as well as boost economic growth and foreign direct investments. The PPP Framework Policy spells out the principles governing the use of PPPs, namely, value for money, public interest, optimal risk allocation, output orientation, transparency, accountability, and competition.

The PPP Framework Policy further identifies the key stakeholders in PPPs, including the PPP Unit, contracting authorities, MoFPED, the Cabinet, and the Auditor General. The PPP Unit under MoFPED performs the lead role as “the center of knowledge and expertise on PPPs” and is mandated to provide guidance to contracting authorities in the procurement and performance of PPP projects. Contracting authorities are responsible for identification, development, procurement, and management of PPP projects. In addition, the PPP Framework Policy mandates stakeholder consultations, including consultations with potential service users, the government entities involved, and the general public.

The PPP Act 2015 operationalizes the PPP Policy Framework and provides the legal framework for the preparation, procurement, and management of all PPPs in Uganda. Section 4 of this Act defines a PPP as “a commercial transaction between a contracting authority and a private party, where the Private Party performs a function of the contracting authority for a specified period and acquires the use of property, equipment or other resource of the contracting authority for the purposes of executing the agreement; assumes substantial financial, technical and operational risk in connection with the performance of the function or use of the property; or receives a benefit for performing the function through payment by the contracting authority or charges or fees collected by the private party from the users of the infrastructure or service or both.” Detailed Regulations and Guidelines to implement the Act are currently in an advanced stage of development.

In addition, the Act (as well as the draft Regulations and Guidelines) specifies the roles of various stakeholders, such as the PPP Unit, the Cabinet, and the Auditor General, among others, in the PPP procurement and management process. Table 4 and figure 3 provide details of the roles and responsibilities of various stakeholders throughout the PPP life cycle.

TABLE 4: INSTITUTIONAL FRAMEWORK FOR PPPs IN UGANDA

INSTITUTION	ROLE IN THE PPP PROCESS
CONTRACTING AUTHORITY	<p>A contracting authority is defined by the PPP Act as a ministry, department of government, or other body established by the government and mandated to carry out a public function.</p> <p>The contracting authority is the initiator of a PPP project. The contracting authority will identify, appraise, develop, procure, and monitor the project.</p>
PPP UNIT	<p>The PPP Unit established under MoFPED is the center of knowledge and expertise for PPPs. It provides technical, financial, and legal expertise to the PPP Committee and the contracting authorities.</p> <p>The PPP Unit is responsible for guiding contracting authorities on the appropriate use of PPPs. It advises contracting authorities on the PPP projects they are undertaking, especially regarding identification, development, procurement, implementation, and monitoring of projects. In addition, the PPP Unit collects and disseminates PPP-related information to create awareness of PPPs.</p> <p>Other functions include</p> <ul style="list-style-type: none"> Maintaining an inventory of prospective PPP projects Conducting research and gap analysis to ensure continuous improvement in the implementation of PPPs Assisting the PPP Committee in the performance of its duties Developing guidelines and standard documentation Maintaining a record of all project documentation Liaising with and assisting contracting authorities in the performance of their duties Assisting the PPP Committee in the performance of its duties Monitoring contingent liabilities arising from PPPs Reviewing and assessing requests for government support for PPP projects Ensuring that the procurement process conforms to the PPP Act Developing measures that eliminate constraints to PPPs.
PPP COMMITTEE	<p>The PPP Committee is comprised of representatives of various stakeholders, including the Attorney General's Office, Ministry of Finance, Office of the Prime Minister, National Planning Authority, Ministry of Lands, and Ministry of Local Government. The Committee must also have four nonpublic officers representing the private sector, Uganda Investment Authority, academia, as well as a retired judge. The PPP Committee is chaired by the permanent secretary of the Ministry of Finance.</p> <p>The PPP Committee is responsible for policy formulation and reviewing and updating the legal and regulatory framework for PPPs. The PPP Committee is also responsible for approving project proposals, Feasibility Studies, and any financial support to projects. In addition, it is the responsibility of the PPP Committee to ensure that all projects are in line with national priorities, and that project agreements are in consonance with the provisions of the PPP Act. The PPP Committee also has an oversight role in the efficient implementation of PPP projects.</p>
ACCOUNTING OFFICER	<p>The accounting officer of a contracting authority is responsible for appointing the project team. He/she signs the PPP agreement on behalf of the contracting authority and is responsible for monitoring the contract.</p>
PROJECT OFFICER	<p>The project officer heads the project team, manages the procurement of a project, and monitors the performance of the private party.</p>

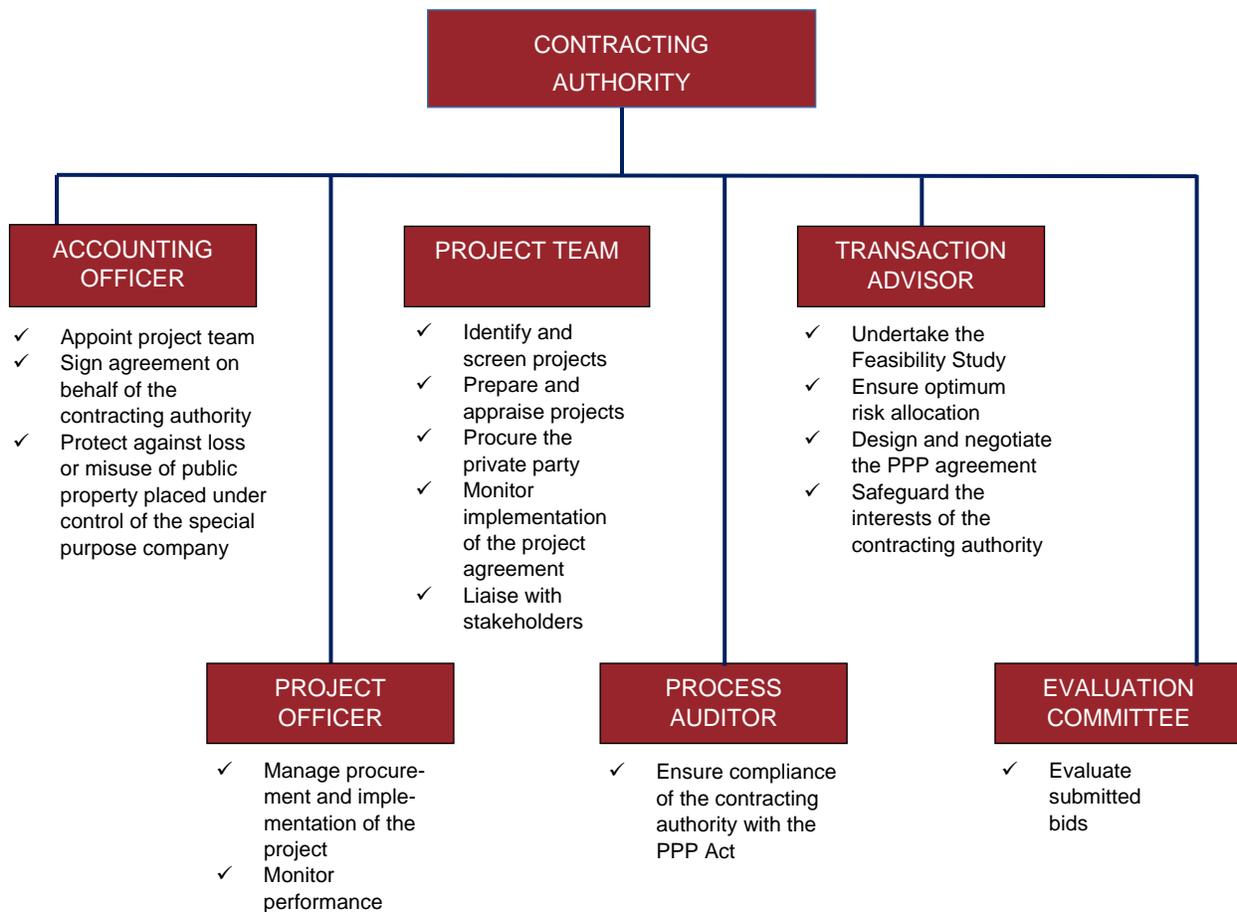
PROJECT TEAM	<p>The project team performs the following functions:</p> <ul style="list-style-type: none"> Identifying, screening, and prioritizing projects Preparing and appraising PPP projects Procuring the private party Ensuring the parties comply with the project agreement Monitoring the implementation of a project agreement Maintaining a record of all documentation and agreements relating to a PPP project Preparing projects in accordance with the Guidelines issued by the Committee. <p>The project team reports to the PPP Committee.</p>
PROCESS AUDITOR	<p>The process auditor ensures that the contracting authority is following the PPP Act in the implementation of a PPP project.</p>
TRANSACTION ADVISOR	<p>The transaction advisor is a firm that possesses the requisite technical skills to prepare and procure a PPP project. The transaction advisor consists of financial, technical, legal, and any other experts.</p> <p>The transaction advisor performs the following functions:</p> <ul style="list-style-type: none"> Conducts a comprehensive Feasibility Study for the project Designs and negotiates a PPP agreement Safeguards interests of a contracting authority in the management and execution of a project Ensures optimum risk allocation in a PPP agreement.
EVALUATION COMMITTEE	<p>The Evaluation Committee evaluates submitted bids to verify the economic and financial standing of a bidder as well as the bidder's technical and professional capability.</p>
MINISTRY OF FINANCE, PLANNING AND ECONOMIC DEVELOPMENT	<p>MoFPED performs an oversight role and monitors the performance of contracting authorities and private parties in implementation of a PPP project. The Minister of Finance receives reports on the project status from the contracting authority and private party.</p> <p>In addition, MoFPED advises the government on the financial implications of a proposed project and provides funding for the implementation of a project where necessary.</p>
CABINET	<p>The Cabinet is responsible for approving PPP agreements as well as amendments to PPP agreements. The Minister has the mandate to specify the value of projects for which Cabinet approval is required. This is yet to be done.</p>
PRIVATE PARTIES	<p>A private party is a special purpose company incorporated under the laws of Uganda to implement a specific PPP.</p> <p>The private party bears the responsibility and risks of financing the project.</p>
AUDITOR GENERAL	<p>The Auditor General is required to audit a PPP project from its inception to completion. The audit is carried out in each financial year and a report of the same is submitted to the Parliament within nine months of the end of the audit.^a</p>
ACCOUNTANT GENERAL	<p>The Accountant General prescribes the accounting and financial reporting rules to be adopted by the private parties.</p>

Source: PPP Act 2015.

Note: MoFPED = Ministry of Finance, Planning and Economic Development; PPP = Public-Private Partnership.

a. The National Audit Act 2008 provides the Office of the Auditor General (OAG) discretionary powers to audit private entities that utilize public moneys. At the same time, the PPP Act 2015 places an obligation on the OAG to carry out annual audits of PPPs. This issue is discussed in greater detail in section 5.

FIGURE 3: ROLES AND RESPONSIBILITIES OF PERSONNEL OF THE CONTRACTING AUTHORITY



Source: PPP Act 2011

Prior to 2010, most of the PPPs that were undertaken were implemented under the Public Enterprise Reform and Divestiture Act 1993, which provided the legal basis for the privatization program. These PPPs included the Umeme distribution concession, the joint Uganda-Kenya railways concession, and the Nile Hotel concession. The Public Procurement and Disposal of Public Assets Act 2003 also required contracting authorities to consult the PPDA on the applicable procurement procedures and documents for contracts involving the mobilization of private sector resources for the purpose of public financing, construction, and operation and maintenance of development projects or concessioning.²⁴ These arrangements were defined to include financing through various PPP arrangements, including build, own,

²⁴ Section 88L (1), PPDA Act 2003.

operate; build, own, transfer; and build, own, operate, transfer. Section 52 of the PPP Act 2015 later repealed this section of the PPDA Act.²⁵

The PPP Act 2015 provides the procedure for the preparation and procurement of PPP projects. PPP procurement involves the following stages: project inception, Feasibility Study, procurement, negotiation, commercial close, and financial close.

1. Project Inception

Contracting authorities that intend to enter into PPP agreements are required to appoint a PPP project team.²⁶ The team is comprised of staff with the necessary technical skills and is headed by a project officer. The PPP project team is required to identify, screen, and prioritize projects based on guidelines issued by the PPP Committee.²⁷ The project team performs the following functions throughout the project life cycle:

- a. Overseeing preparation and appraisal of projects
- b. Undertaking the procurement of projects
- c. Maintaining a record of all documentation and agreements relating to PPP projects
- d. Overseeing the implementation of projects.

Once the PPP project team has identified a project to be implemented as a PPP, the contracting authority, typically through the project team, is required to conduct a preliminary economic cost-benefit analysis of the project. The analysis must include the following:²⁸

- a. Strategic objectives of implementing the project as a PPP
- b. Projected cost of the project
- c. The benefit of the project to the contracting authority
- d. The projected policy outcomes of the project
- e. How the project is to be managed by the contracting authority.

Although the PPP project team is required to use the cost-benefit analysis as a basis for assessing the suitability of implementing the project as a PPP,²⁹ this may not be the most appropriate tool, as the objective of any cost-benefit analysis is to determine the economic costs and benefits of the project irrespective of how it is to be financed. A PPP Screening Tool has been developed to assist contracting authorities in assessing whether a project may be suitable as a PPP at the preliminary stage.

²⁵ Section 88L (2), PPDA Act 2003.

²⁶ Section 15 (1), PPP Act 2015.

²⁷ Section 16 (1) (a), PPP Act 2015.

²⁸ Section 21 (2), PPP Act 2015.

²⁹ Section 21 (3), PPP Act 2015.

The contracting authority is required to submit this analysis to the PPP Unit for registration³⁰ and approval by the PPP Committee³¹ and inform the PPP Unit of the expertise available within the contracting authority to execute the project as a PPP. Once the proposal is approved, the contracting authority is required to appoint a transaction advisor to undertake a Feasibility Study.

PPP projects can also be initiated through the Public Investment Management process, which is guided by the Development Committee Guidelines that detail the process for identification, preparation, appraisal, and implementation of public projects. The revised Development Committee Guidelines apply to all projects in the public sector. To ensure that public resources are allocated to the most productive investments that have the maximum positive impact on national welfare, the government has adopted the integrated project approach to the project appraisal process. This approach calls for all new projects to be subject to Prefeasibility and Feasibility Studies. The project-sponsoring agency is required to undertake a Prefeasibility Study whose objective, among others, is to identify whether the project objectives are best achieved through financing using the traditional public sector model or the PPP model. Where a project is found to be best suited for implementation as a PPP, it may be forwarded to the PPP Unit in line with the requirements of the PPP Act.³²

PPP projects can also be initiated through unsolicited proposals submitted by private parties.³³ Contracting authorities may accept unsolicited proposals for PPPs if they are independently originated and developed by the proposer of the unsolicited proposal and prepared without the supervision of the contracting authority.³⁴ An unsolicited proposal can only be considered where the project satisfies the objectives of the National Development Plan and a Feasibility Study of the project has been provided.³⁵ The infrastructure or service to be provided should also involve an innovative design or an innovative approach to project development and management, and it should present a new and cost-effective method of service delivery.³⁶

2. Feasibility Study

The Feasibility Study specifies the service need; outputs; options available to provide the service; functions to be performed by the private party; technical, economic, financial, and legal feasibility of the project; environmental and social impact assessment; and any potential contingent liability, among others. The Feasibility Study also demonstrates the suitability or otherwise of conducting the project as a PPP and confirms whether the project provides value for money and is affordable for the government.

³⁰ Section 21 (3) (a), PPP Act 2015.

³¹ Section 7 (d), PPP Act 2015.

³² Guideline 3.11, Revised Development Committee Guidelines 2016.

³³ Section 34, PPP Act 2015.

³⁴ Section 34 (2), PPP Act 2015.

³⁵ Section 34 (2), PPP Act 2015.

³⁶ Section 34 (4), PPP Act 2015.

Draft Guidelines currently under development elaborate Section 22 of the PPP Act and indicate the elements that would form a part of the Feasibility Study. These are likely to include the following:

1. Demand study
2. Technical study
3. Social impact assessment
4. Environmental impact assessment
5. Legal due diligence
6. Economic assessment
7. Financial analysis
8. Value-for-money assessment
9. Fiscal impact assessment
10. Risk analysis
11. Market sounding
12. Implementation and procurement plan.

Once completed, the Feasibility Study, along with the procurement documentation, evaluation criteria, and draft PPP agreement, is submitted to the PPP Committee for approval.³⁷ The PPP Committee reviews the report and documents and approves or rejects the Feasibility Study.³⁸ Following approval, the contracting authority proceeds to the procurement stage.

3. Procurement

The contracting authority issues an invitation to tender specifying the minimum qualifications of the bidder and relevant information on the project in more than one newspaper of wide circulation. Any of the bidding methods identified in Part IV of PPP Act 2015, including competitive bidding methods such as open and restricted bidding and noncompetitive methods such as direct procurement, may be used to procure a private party in a fair, transparent, equitable, competitive, and cost-effective manner. The direct procurement method may be used where circumstances do not allow the use of competitive bidding methods to achieve efficient and timely procurement. However, the use of this method must be approved by the Cabinet.³⁹

Although the PPP Act is silent on the number of stages required in the procurement process, the draft Regulations currently under development identify a two-stage process and indicate that prior to inviting bids using the open bidding process, the contracting authority will need to invite prospective bidders to

³⁷ Section 22 (4), PPP Act 2015.

³⁸ Section 7 (g), PPP Act 2015.

³⁹ Section 33 (3), PPP Act 2015.

apply for prequalification through a “Request for Prequalification” (RPQ).⁴⁰ This process would necessarily include sharing project information as well as providing evaluation criteria for prequalification. The contracting authority may also promote the project to prospective bidders through road shows, direct marketing, or investment promotion bulletins.⁴¹ The Contracting Authority may also hold a prequalification meeting with prospective bidders to clarify key issues in relation to the RPQ. The draft Regulations also indicate that prequalified bidders will be identified by an Evaluation Committee set up by the contracting authority. Subsequently, the contracting authority would proceed with the procurement process by inviting bids from prequalified bidders using an invitation to bid and bidding documents. The bids received in response would be evaluated by an Evaluation Committee appointed by the accounting officer.⁴² The Evaluation Committee may be composed of officials from within the staff of the contracting authority or from outside, but must possess the technical skills required for the evaluation of a bid.⁴³ The Evaluation Committee is required to verify the technical and professional capabilities of the bidder, its economic and financial standing, and its ability to secure credit. The Evaluation Committee is subsequently required to prepare a report of the evaluation process indicating how the criteria of affordability, value for money, and substantial technical, operational, and financial risk transfer were applied in the evaluation of the bids, and how they were satisfied by the preferred bidder.⁴⁴

4. Contract Signing

Prior to the conclusion of a PPP agreement, the preferred bidder is required to incorporate a special purpose company under the laws of Uganda for the implementation of a PPP. The agreement is signed by the accounting officer on behalf of the contracting authority. Where the value of the project is above the prescribed threshold, Cabinet approval is required prior to contract signing.⁴⁵ In such cases, the accounting officer must provide to the Cabinet documentation indicating that the best evaluated bid meets the requirements of affordability, value for money, and substantial technical, operational, and financial risk transfer. The accounting officer must also confirm that satisfactory due diligence has been carried out on the private party in relation to the competence and capacity of the private party to enter into the agreement, and the contracting authority has put in place a plan that includes the mechanisms and procedures of the contracting authority to implement, manage, enforce, monitor, and report on the project effectively.⁴⁶

The PPP agreement itself is required to contain clear and detailed descriptions of the rights and obligations of the contracting authority.⁴⁷ Further, the PPP Act details certain information that should be incorporated within the PPP agreement, including the protection of intellectual property rights⁴⁸; the

⁴⁰ In other jurisdictions, this could be referred to as Expression of Interest and/or Request for Qualification (RFQ).

⁴¹ Section 23 (5), PPP Act 2015.

⁴² Section 19 (1), PPP Act 2015.

⁴³ Section 19 (2), PPP Act 2015.

⁴⁴ Section 25 (2) (a), PPP Act 2015.

⁴⁵ Section 26 (1), PPP Act 2015.

⁴⁶ Section 26 (4), PPP Act 2015.

⁴⁷ Section 26 (5), PPP Act 2015.

⁴⁸ Section 26 (6) (i), PPP Act 2015.

financing of the implementation of the project⁴⁹; the amounts to be paid for the use of the infrastructure or service; the manner in which the payments are to be collected⁵⁰; the mode of operation, maintenance, and exploitation of the project; penalties for failure to meet performance standards⁵¹; and the methods to be used to monitor the performance and operation of the infrastructure or provision of the service.⁵² The PPP Act also requires that all PPP agreements are published on the MoFPED website⁵³ after redacting any information that⁵⁴:

- a. Will prejudice the security or sovereignty of the state
- b. Will interfere with the right to privacy of any person
- c. Will amount to a breach of the law, impede law enforcement, or not be in the public interest
- d. Contains proprietary information protected by law or by an international treaty to which Uganda is a party
- e. Contains scientific or technical information, the disclosure of which is likely to cause harm to the interests of the proper functioning of the contracting authority
- f. Contains information supplied in confidence by the bidder, the disclosure of which could reasonably be expected to put that bidder at a disadvantage in contractual commercial negotiations or prejudice the bidder in commercial competition.

The signed agreement is required to be laid on the floor of the Parliament by the Minister of Finance.

5. Financial Close

Within the period following commercial close as defined in the agreement, the SPC is expected to obtain financing and commence work on the project.

6. Project Implementation and Monitoring

The contracting authority ensures that the private party complies with the conditions of the PPP agreement throughout the life of the contract. The private party is required to maintain proper books of accounts and is required to prepare and submit financial statements and an annual report at the end of each financial year.

A summary of the PPP process detailed above is provided in table 5 and an overview is shown in figure 4.

⁴⁹ Section 26 (6) (d), PPP Act 2015.

⁵⁰ Section 26 (6) (k), PPP Act 2015.

⁵¹ Section 26 (6) (j), PPP Act 2015.

⁵² Section 26 (6) (w), PPP Act 2015.

⁵³ Section 47 (3), PPP Act 2015.

⁵⁴ Section 47 (2), PPP Act 2015.

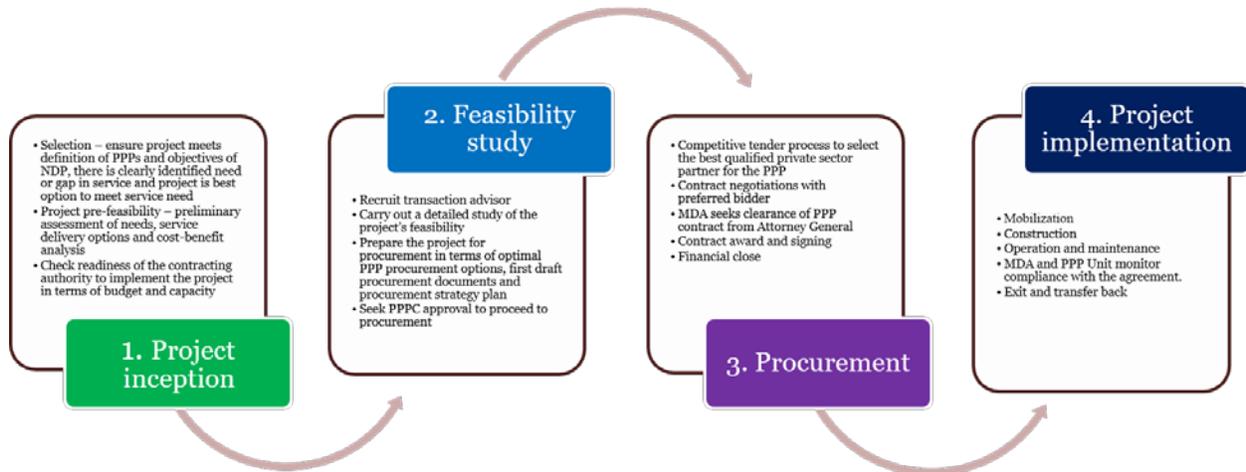
TABLE 5: PPP PROCESS IN UGANDA (BY INSTITUTION AND PHASE)

NO.	INSTITUTION(S)	ACTIONS
<i>Project identification phase</i>		
1	Contracting authority or MDA	Identify PPP project (through, for example, the use of screening tools); appoint project officer and project team to implement its functions; conduct preliminary economic cost-benefit analysis
2	PPP Unit	Advise contracting authority on the viability of a proposed PPP project; accept or reject the project for registration with the PPP Unit
<i>Project development and preparation phase</i>		
3	Contracting authority	Register the project with the PPP Unit; appoint transaction advisor
4	Contracting authority (through transaction advisor)	Conduct a Feasibility Study to assess the viability of the proposed project
5	PPP Unit	Offer technical assistance to the contracting authority
6	PPP Committee	Approve the Feasibility Study Report, tender documents, evaluation criteria, and draft agreement
<i>Procurement phase</i>		
7	Contracting authority	Commence procurement of private party in a transparent, competitive, and cost-effective manner
8	Contracting Authority (through respective Evaluation Committees)	Evaluate submitted prequalification bids (through RPQ) and final bids (through RFP) to select the preferred bidder
9	Contracting authority and private party	Conclude contract with the preferred bidder
10	Minister of Finance	Confirm availability of funds needed for implementation of the project where the contracting authority is partially or fully funding the project
11	Cabinet	Approval prior to signing of the PPP agreement
12	Minister of Finance	Presentation of the PPP agreement before Parliament
<i>Implementation phase</i>		
13	Private party	Implement the project; assume the financial responsibility and risks for implementation of the project, partially or fully; acquire the permits necessary for the operation of the project
14	Contracting authority	Monitor the implementation of the project
15	Contracting authority and private party	Submit periodic and annual reports respectively to the Minister of Finance
16	Auditor General	Audit the PPP project annually

Source: PPP Act 2015.

Note: MDA = ministry, department, or agency; PPP = Public-Private Partnership; RFP = Request for Proposals; RPQ = Request for Prequalification.

FIGURE 4: OVERVIEW OF THE PPP PROCESS



TASKS

<ul style="list-style-type: none"> • Contracting Authority identifies the PPP Project • Appoints project team & officer • Prepares project concept note • Submits concept note to PPP Unit • PPP Committee considers and approves 	<ul style="list-style-type: none"> • Contracting Authority carries out Feasibility Study and submits to PPP Unit • PPPC assesses the affordability, value for money and risk transfer of the project • PPPC considers and approves Feasibility Study, if appropriate 	<ul style="list-style-type: none"> • Contracting Authority undertakes transparent tender process with support of Transaction Advisor. • Contracting Authority submits negotiated PPP contract to PPP Unit for approval 	<ul style="list-style-type: none"> • Contracting Authority monitors performance of PPP project • Auditor General conducts periodic value for money audits • PPP Unit monitors overall performance of PPP
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Source: PPP Unit based on the PPP Act 2015.

Note: MDA = ministry, department, or agency; NDP = National Development Plan; PPP = Public-Private Partnership; PPPC = PPP Committee.

5. Legal and Policy Framework for PPP Disclosure

Disclosure under the Access to Information Act

The Constitution of Uganda 1995 accords citizens the right to access information that is in the possession of the state or any of its agencies except where the release is prejudicial to the sovereignty or security of the state or interferes with the right of privacy of any person.⁵⁵ This right is operationalized by the ATIA 2005 and its Regulations. The purpose of the Act is to promote an efficient, transparent, and accountable government and empower the public to scrutinize effectively and participate in government decisions.⁵⁶

Pursuant to the ATIA, citizens can access all information and records in the possession of a public body.⁵⁷ A public body is defined as a government, ministry, department, statutory corporation, authority, or commission. This definition encompasses all contracting authorities,⁵⁸ which by extension implies that citizens can access all information pertaining to PPPs in the possession of a contracting authority, including, among others, PPP agreements, Feasibility Study Reports, and evaluation reports. At the same time, Section 4 of the ATIA excludes private companies from disclosure obligations. This means that although private parties remain key players in PPP projects, it can be a challenge for citizens to hold them directly accountable. This challenge also extends to SPCs that may be created under a PPP agreement.

In addition, Section 33 (1) of the ATIA exempts information held by a public authority that contains the following:

- a. An opinion, advice, report, or recommendation obtained or prepared; or
- b. An account of a consultation, discussion, or deliberation that has occurred, including, but limited to, minutes of a meeting, for the purpose of assisting to take a decision in the exercise of a power or performance of a duty conferred or imposed by law; or
- c. If the disclosure of the record could reasonably be expected to frustrate the deliberative process in a public body or between public bodies by inhibiting the communication of an opinion, advice, report, or recommendation, or the conduct of a consultation, discussion, or deliberation.

In effect, such omnibus exemption clauses related to the operations of a public authority could provide ample grounds for refusal of PPP-related information held by a contracting authority.

However, Section 34 of the ATIA provides a public interest override that allows mandatory disclosure of otherwise exempt information where disclosure may reveal evidence of substantial contravention of the law or an imminent or serious public safety, public health, or environmental risk, and where public interest in the disclosure of the record would outweigh any harm that may be caused by its disclosure.

⁵⁵ Article 41, Constitution of Uganda 1995.

⁵⁶ Section 3, ATIA.

⁵⁷ Section 2, ATIA.

⁵⁸ Section 4, PPP Act 2015, defines as the contracting authority as a ministry, department of government, or any other body established by the government and mandated to carry out a public function.

Disclosure under the PPP Act

The PPP Act establishes transparency and accountability as key governing principles for the implementation of PPPs in Uganda.⁵⁹ The principle of transparency requires that all bid notices are advertised and all bidders are given access to the same information.⁶⁰ The principle of accountability requires that a contracting authority is accountable to the users of the infrastructure.⁶¹ A major responsibility of the PPP Unit is to disseminate PPP-related information by virtue of its mandate to serve as a resource center on all matters related to PPPs.⁶² Section 11 (2) (g) of the PPP Act provides that the PPP Unit has the duty to collate and disseminate information on PPP projects.

The PPP Act 2015 also requires contracting authorities to publish proactively invitations to tender for a PPP project in more than one newspaper of wide circulation.⁶³ In addition, all PPP agreements are required to be published on the website of the Ministry of Finance.⁶⁴

Further, Section 47 of the PPP Act imposes on-demand disclosure obligations on contracting authorities. A person who wishes to obtain information related to a PPP project must make a written request to the relevant contracting authority.⁶⁵ While the contracting authority is obliged to disclose the requested information, no penalty has been prescribed for failure to disclose. In addition, a request for information may be denied where it is deemed to be prejudicial to the security or sovereignty of the state, interferes with the right of privacy of any individual, amounts to a breach of law, or contains commercial information whose disclosure is likely to affect the interest of the contracting authority. Importantly, the Act excludes private parties from any kind of proactive or on-demand disclosure obligations.

Disclosure under Other Laws

In addition to the ATIA and PPP Act, several other laws have an impact on PPP disclosure. The Public Finance Management Act creates a framework for transparency and accountability in government expenditures. The Act establishes parliamentary oversight of government expenditure to enhance transparency and accountability. Section 12 (2) of the Act provides that the Parliament shall ensure that public resources are held and utilized in a transparent, accountable, efficient, effective, and sustainable manner and in accordance with the Charter for Fiscal Responsibility and the Budget Framework Paper. To this end, the Parliament has the duty to review and approve all government expenditures. Multi-year financial commitments in the context of PPP contracts must also be approved by the Parliament. In the context of PPPs, accounting officers of contracting authorities are obliged to provide to the Parliament details of all activities and expenditures related to a PPP project.

⁵⁹ Section 3, PPP Act 2015.

⁶⁰ Section 3, PPP Act 2015.

⁶¹ Section 3, PPP Act 2015.

⁶² Section 11 (2), PPP Act 2015.

⁶³ Section 31 (1), PPP Act 2015.

⁶⁴ Section 47 (3), PPP Act 2015.

⁶⁵ However, a detailed procedure to request information (for example, in which format, addressed to whom, and so forth) has not been indicated in the Act.

The Inspectorate General of Government (IGG) Act 2002 establishes the office of the IGG, whose role is to eliminate corruption, promote good governance in public offices, and investigate the conduct of any public officer related to abuse of authority or economic malpractice.⁶⁶ The IGG also has the jurisdiction to investigate the actions of bodies that administer public funds on behalf of the public.⁶⁷ This implies that the IGG has the mandate to investigate the activities of contracting authorities in the context of a PPP project. The IGG can also investigate the activities of private parties in PPP projects where public funds have been used. A complaint to the IGG can be lodged by any person.⁶⁸ However, recourse to the IGG only takes place where there is a likelihood or suspicion that malpractice or abuse of office has been committed. It does not necessarily enable the public to obtain regular information on the progress and expenditures of PPP projects.

In addition, the National Audit Act 2008 establishes the Office of the Auditor General with powers to audit and report on the public accounts. It also states that the “Auditor General may inquire into, examine, investigate and report, as he or she considers necessary, on the expenditure of public monies disbursed, advanced or guaranteed to a private organisation or body in which Government has no controlling interest.”⁶⁹ This generally gives the Auditor General discretionary powers to investigate and report on the expenditures in a PPP project. At the same time, the PPP Act 2015 requires the Auditor General to audit each PPP project⁷⁰ and present an audit report of the same to the Parliament within nine months of the end of the audit.⁷¹ However, the PPP Act recognizes that audits must be carried out in accordance with the provisions of the National Audit Act and could therefore be seen as a subordinate legislation in this context. In effect, this implies that although the Audit Act gives the Office of the Auditor General discretion with respect to auditing the use of public monies in private organizations, the PPP Act provides clear directions as to how this discretion needs to be applied in the context of PPPs. In addition, the Auditor General can also perform special audits on the written request of the Minister of Finance or Parliament. The Press and Journalist Act Cap 105 is another relevant legislation that facilitates transparency. The Act promotes circulation of information to the public through media publications. Section 4 of the Act also grants access to official information for publication purposes, which, by extension, allows access to PPP project information for purposes of dissemination to the public.

Table 6 provides a summary of the laws of Uganda that have an impact on PPP disclosure.

⁶⁶ Section 8, IGG Act 2002.

⁶⁷ Section 9, IGG Act 2002.

⁶⁸ Section 24, IGG Act 2002.

⁶⁹ Section 18, National Audit Act 2008.

⁷⁰ Section 30 (1), PPP Act 2015.

⁷¹ Section 30 (3), PPP Act 2015.

TABLE 6: LEGAL FRAMEWORK FOR DISCLOSURE AND IMPLICATIONS FOR PPP DISCLOSURE

SECTION	TEXT	IMPLICATION
CONSTITUTION OF UGANDA		
Article 41 (1) and (2)	Citizens have a right to access information in the hands of a public body. Exceptions are where disclosure is likely to endanger the security or sovereignty of the state or interfere with the privacy of any person.	PPP records and information can be accessed by citizens.
ACCESS TO INFORMATION ACT 2005		
Section 2 (1)	The Act applies to all information and records of public bodies.	This definition can be extended to include all PPP project documentation.
Section 4	Public body includes government, ministry, department, statutory corporation, authority, or commission.	All contracting authorities have proactive and on-demand disclosure obligations. Private parties are excluded from disclosure obligations.
Section 7 (1) Section 8	Publication of a manual on functions of the public body and categories of records held by the public body. Publication of description of categories of information automatically available.	Imposes proactive disclosure obligations on contracting authorities.
Sections 23 to 33	Exemptions to disclosure.	Could limit PPP disclosure, especially with respect to clauses related to deliberations of public authorities.
Section 34	Mandatory disclosure.	PPP documents may be disclosed where i) the disclosure of the record would reveal a substantial contravention of the law or an imminent / serious public safety, public health or environmental risk; and ii) the public interest in disclosure is greater than the harm contemplated.
Section 16 (2) (c), Section 37, and Section 38	Appeal mechanisms.	Provides avenues for redress in instances of nondisclosure.
Section 43	Submission of annual report to the Parliament.	Contracting authorities have an obligation to disclose to Parliament the number of information requests they have obtained and what action was taken on the requests.
PPP ACT 2015		
Section 3	PPPs must be governed by the principles of transparency and accountability.	All bid notices must be made public in a fair, transparent, and timely manner.
Section 11	The PPP Unit is to collect and disseminate PPP-related information and conduct civic education on PPPs.	Imposes proactive disclosure obligations on the PPP Unit.

Section 30	The Office of the Auditor General is to conduct annual audits of PPPs and table reports to the Parliament.	Audit reports tabled in the Parliament are ordinarily considered to be public documents.
Section 47 (1)	Any person can access PPP-related information upon written request to the contracting authority. Private parties are excluded from disclosure obligations.	The contracting authority has an on-demand disclosure obligation.
Section 47 (2)	Exemptions to disclosure—where disclosure is likely to prejudice the security or sovereignty of the state; disclosure interferes with the right of privacy of any person; disclosure will amount to breach of law; the information contains proprietary, scientific, technical, or confidential information.	Exceptions may be used to restrict PPP disclosure.
Section 47 (3)	PPP agreements are to be published on the MoFPED website.	Imposes proactive disclosure obligations on MoFPED.
IGG ACT 2002		
Section 8	Functions of the IGG: promote fair, efficient, and good governance in public offices; investigate the conduct of any public officer related to abuse of authority or economic malpractice.	IGG can investigate instances of abuse of authority or economic malpractice in PPP projects.
Section 9	IGG has jurisdiction over government bodies or departments, statutory corporations, and anybody who administers public funds on behalf of the public.	IGG has jurisdiction over contracting authorities, private parties, as well as SPCs.
Section 14	IGG has powers to investigate, arrest, and prosecute cases involving corruption, abuse of authority, or abuse of public office.	IGG can investigate and prosecute matters of corruption and abuse of office in PPP projects.
Section 24	Any person can make a complaint to IGG.	The public can use IGG's office as an avenue to hold stakeholders in PPP projects accountable.
PUBLIC FINANCE MANAGEMENT ACT 2015		
Section 16	Accounting officers are required to submit quarterly reports to the Secretary to the Treasury on expenditure commitments of the public body.	Accounting officers of contracting authorities have an obligation to disclose public expenditures in PPP projects.
Section 45	Accounting officers are personally accountable to the Parliament.	Accounting officers have an obligation to give the Parliament an account of all the expenditures and activities undertaken in a PPP project.
PRESS AND JOURNALISTS ACT CAP 105		
Sections 2 and 3	Provides the right to publish and print newspapers, which cannot be derogated except in accordance with the Act.	The public can access information about PPP projects through publications in the media.

Section 4	Grants all persons access to public information subject to any law in force relating to national security, secrecy, or confidentiality of information.	Information relating to PPP projects can be accessed for media publications.
NATIONAL AUDIT ACT 2008		
Sections 18 and 22	The Auditor General may examine, investigate, and report on the expenditure of public monies disbursed to a private organization or body in which the government has no controlling interest. He/she may also carry out special audits when required.	The Auditor General has the power to examine and investigate the expenditures relating to an SPC.
OFFICIAL SECRETS ACT CAP 302		
Section 4	Public officers are precluded from disclosing information related to national security in their possession by virtue of their office.	Information generated by the state security apparatus related to PPPs may be withheld from the public based on this section.
EVIDENCE ACT CAP 6		
Section 122	Use of unpublished official records in court is prohibited except with permission of the head of the department. The head of the department is under liberty to give permission or deny it as he/she sees fit.	Use of unpublished PPP project records in PPP-related suits may be denied. May act as an incentive for contracting authorities not to publish PPP-related information.
Section 123	A public officer cannot be compelled to reveal information received in the course of his or her duty.	Public officers cannot be compelled to give evidence relating to information in their possession in PPP-related suits.
PARLIAMENT (POWERS AND PRIVILEGES) ACT CAP 258		
Section 14	Prohibits disclosure of any contents of information laid before the Parliament or any of its committees without the leave of the Parliament.	Hinders access to the Parliament's discussions on PPP projects.
OATHS ACT CAP 19		
Section 2, 1st and 2nd Schedules	Public officers are required to take an oath of secrecy.	Officers of contracting authorities are bound by the oath, which promotes a culture of secrecy and may deter the dissemination of PPP-related information.
TRADE SECRETS PROTECTION ACT 2009		
Section 2	A trade secret is defined as information including but not limited to a formula, pattern, compilation, program, method, technique, process, or information contained or embodied in a product, device, or mechanism.	Trade secrets include designs and innovations of a private party and could be applied to PPPs, particularly in the context of defining confidential information.
Section 11	A government department that receives trade secrets is mandated to protect such trade secrets.	The contracting authority is obliged to protect the trade secrets of a private party in its possession.

Note: IGG = Inspectorate General of Government; MoFPED = Ministry of Finance, Planning and Economic Development; PPP = Public-Private Partnership; SPC = special purpose company.

Emerging Jurisprudence

As PPPs are relatively new in Uganda, there is currently no jurisprudence on PPPs with respect to transparency and disclosure. However, there are other cases that relate to transparency and access to information that are likely to have an impact on PPP disclosure.

In the case of *Tinyefuza versus the Attorney General*,⁷² the Constitutional Court upheld the superiority of the constitutional right of access to information over secrecy laws. The case related to the admissibility of radio messages as evidence. The respondent argued that pursuant to Section 122 of the Evidence Act, the permission of the head of the department was required before the messages could be presented as evidence. The court held that Article 41 of the Constitution, which gives every citizen a right of access to information, supersedes Section 122 of the Evidence Act, and that in instances where the state objects to the release or use of information, it must provide evidence that the information is likely to prejudice the security or sovereignty of the state. Despite this ruling, public officials have continued to deny information requests on the basis of secrecy laws. However, the courts have relied on the ruling to protect the right to information as was the case in *Zachary Olum & Paul K. Ssemogerere versus the Attorney General*,⁷³ where the Supreme Court held that Article 41 of the Constitution was superior to the Parliamentary (Powers and Privileges) Act, and the case of *Spear Motors Ltd versus the Attorney General*,⁷⁴ where the High Court held that a parliamentary report (including all its annexures) was a public document and could be accessed by a citizen.

In the context of an application for disclosure of a power purchase agreement between AES Nile Power Ltd. and Uganda Electricity Board,⁷⁵ the High Court held that a power purchase agreement to which the government was a signatory was a public document. It was also held that in determining whether a citizen should be granted access to requested information, an important consideration was whether the information was in the possession of a public body. It held that it was not necessary for the public body to be a party to the agreement or record requested for. This ruling is fundamental, as it enables citizens to access records of private companies if they are in the possession of a contracting authority. However, the court held that access to information can only be granted to citizens who may also be corporate citizens. In this case, the applicant was denied access to the power purchase agreement, as it failed to prove that it was a corporate citizen.

In another case, *Charles Mwanguhya Mpagi & Angello Inzama versus the Attorney General*,⁷⁶ concerning the disclosure of oil production-sharing agreements, the respondent relied on a confidentiality clause in the agreement to deny the applicant access to the agreements. The Chief Magistrate held that a court order for disclosure supersedes any contractual obligation of confidentiality. At the same time, the court also held that the burden to prove that public interest would be served by disclosure lay on the applicant. Further, it was held that although the government held natural resources in trust for the people, it was

⁷² Constitutional Petition No. 1 of 1997.

⁷³ Constitutional Appeal No.1 of 2000.

⁷⁴ HCT-00-CC-CS-0692-2007) [2012].

⁷⁵ *Greenwatch versus the Attorney General and Uganda Electricity Transmission Company Limited* HCT-00-CV-MC-0139 of 2001.

⁷⁶ Miscellaneous Cause No. 751 of 2009.

under no obligation to disclose every detail of what it held in trust, as government business cannot be in the public domain in its entirety. The case is currently on appeal.

In the case of *Editor in Chief Etop Radio & 2 Others versus Opi*,⁷⁷ the High Court emphasized that although access to information was a constitutional right afforded to every citizen, the procedural requirements under the ATIA must be complied with before a document can be obtained from a public authority. In another case, *Edward Ronald Sekyewa versus National Forest Authority*,⁷⁸ the Chief Magistrate held that the reasons behind an information request were irrelevant and such reasons cannot be relied on to deny information requests.

⁷⁷ Miscellaneous Appeal No. 10 Of 2014 [2014] UGHCCD 147.

⁷⁸ Edward Ronald Sekyewa v. National Forest Authority; Misc. Cause No. 73 Of 2014.

6. Disclosure in Practice and Key Challenges

Overview

Mandated as the main resource center for PPPs in Uganda, the PPP Unit is required to collate and disseminate PPP-related information. The PPP Unit is currently in the process of developing its website, which will become a key resource for publishing and disseminating PPP-related information. In the interim, some PPP-related information can be found on the Privatisation Unit (MoFPED) website.⁷⁹ This includes two documents directly related to PPP disclosure:

- i. Public-Private Partnership Framework Policy
- ii. A Pipeline of Public-Private Partnership Projects in Uganda.

Section 8.2 of the Framework Policy document specifically speaks of the importance of “transparency in the use of PPP, with a clear framework adopted, including opportunities for public scrutiny.” The latter document provides basic information on ongoing PPP projects in Uganda, including the project title and its status (whether it is still operational or has been concluded or cancelled). It also provides an overview of future projects that the government has earmarked for implementation as PPPs. This includes a description of the project, the type of PPP proposed, the project cost, the sponsoring agency, the implementation schedule, and the project status. However, there are no updates on the status of proposed projects, as neither the document nor the website has been updated recently. The website does not provide any information on the ongoing activities of the PPP Unit in its effort to sensitize stakeholders on PPPs.

In the context of existing PPP projects, particularly in the energy sector, Umeme has made efforts to comply with the Capital Markets Act Cap 84, which, among others, requires compliance with the Uganda Securities Exchange listing rules. Under these rules, all listed entities are obliged to disclose to the general public any information that is likely to have a material effect on the financial results, financial position, or cash flow, to enable holders of its listed securities and the public to avoid the creation of a false market in its listed securities. Consequently, Umeme regularly publishes various information on its website, including annual reports and audited financial statements, updates on litigation, changes in board membership, and information on tenders.

Apart from Umeme, a few other IPPs also provide limited information on their respective websites. The Bujagali Hydropower project is a 250-megawatt power-generating facility on the Victoria Nile River near the town of Jinja. The project website provides a project overview, the economic and social benefits of the project, environmental responsibility, and basic information on public consultations that the project team has had with the different stakeholders.⁸⁰ However, details of these public consultations are not provided. The website also provides the Social and Environmental Assessment Report and Panel of Experts Report.

Kalangala Infrastructure Services Limited is licensed to generate, transmit, and supply electricity, as well as offer ferry services and distribute clean water on Bugaga Island. The company provides basic

⁷⁹ <http://www.perds.go.ug/ppp/>.

⁸⁰ http://www.bujagali-energy.com/bujagali_projectOverview1.htm.

information about the services it provides on its website, along with a complaint-handling procedure and its strategic plan. It also has a news section, which is updated regularly.⁸¹ Eskom Uganda Ltd. is another IPP that provides some information on its website. It was awarded a concession to operate and maintain Nalubaale and Kiira Hydro Power Stations in Jinja for 20 years. The company maintains a website where it provides basic information about the project, a description of the agreements that govern the project, and newsletters about project activities. However, the last newsletter available on its website was published in 2015. The website is also used to advertise calls for tenders.

The Electricity Regulatory Authority (ERA) has identified transparency and accountability as its core values and taken steps to implement them proactively in its activities. For example, it seeks input from the public on applications for licenses (including for electricity generation, transmission, and distribution) by proactively providing information such as the financial and legal status of the applicant; technical and industrial competence and experience of the applicant; description of the project and the time plan for its execution; a review of the use of land for the project and the relation of the project to local authorities; a review of the public and private measures necessary to carry out the project; information relating to permissions required from public authorities; and a description of the impact of the project on electricity supply, socioeconomics, cultural heritage, the environment, natural resources, and wildlife.⁸² Feedback received from the public is incorporated in the approval process for all licenses, and all decisions related to the issuance of licenses are published on the website. Any changes in licensing terms or tariffs are also published proactively. ERA conducts public hearings at the time of the granting of licenses and renewals of the same. Information related to tariffs (including the methodology used to calculate the same) and statistics related to electricity generation, transmission, and distribution are also published on the website.⁸³ This includes information and statistics related to IPPs operating in the country. However, full concession agreements or licenses are not published.

As the regulator, ERA presumes all information submitted to it by licensees (including IPPs) is public information unless specifically mentioned as confidential by the licensee. In cases where such information may be requested by the public, ERA makes an assessment on disclosure on a case-by-case basis, while maintaining the confidentiality of proprietary, trade secrets–related, and financial information submitted by the licensee, as defined in the Electricity Act 1999. To ensure that all licensees provide complete information, ERA deducts any unreported costs from the tariffs levied.

ERA has received several requests for information under the ATIA and, in response, ERA typically notifies the relevant entities to enquire whether any part of the information requested is confidential, following which it provides the relevant information only to the requestor. Given the increasing frequency of information requests, ERA is currently in the process of developing guidelines and policies to respond to the same.

The KJE is expected to be the first project that will be implemented under the PPP Act 2015. The Feasibility Study Report for the project was approved by the PPP Committee, and UNRA has proceeded to the procurement stage. Information on the progress of these activities can be obtained only through press releases and through the UNRA website.⁸⁴

⁸¹ <http://www.kis.co.ug>.

⁸² <https://www.era.or.ug/index.php/licensing/licensing/licensing-procedure>.

⁸³ See <http://www.era.or.ug/>.

⁸⁴ <https://www.unra.go.ug>.

Challenges

Limitations of the ATIA

The ATIA, which was enacted to promote transparency and accountability in government, has several limitations. The Act contains a relatively broad range of exempted information and accords the right to information only to citizens, with only public bodies falling within its ambit. Further, the lack of effective and independent enforcement and appellate mechanisms, including the absence of sanctions for nondisclosure, has led public institutions to be lax in complying with the law. For example, although the ATIA requires public bodies to publish proactively an index of records that they hold, this requirement remains largely unimplemented to date.⁸⁵ With regard to PPPs, private parties are crucial players, as they are the implementers of PPP projects. The lack of disclosure obligations makes it difficult for citizens to hold them directly accountable, especially with respect to performance.

Limited Scope of Proactive Disclosure in the PPP Act

The information that must be proactively published under the PPP Act is limited to the project agreement, which is also subject to exemption clauses. The lack of an explicit mandate to disclose specific pieces of information, such as feasibility studies and performance reports, in the Act may lead to lower levels of transparency.

Absence of Regulations/Guidelines

Currently, there are no detailed regulations or guidelines on PPP disclosure that would provide guidance on the information that should be disclosed at each stage of the PPP process and the procedure for such disclosure. Contracting authorities are therefore at liberty to decide what information should be disclosed, or not, and at which point in the process. The absence of such guidance makes systematic disclosure of information for PPP projects difficult.

Institutional Challenges

Dissemination of information by contracting authorities is constrained by the lack of capacity of information officers who are not sufficiently empowered to access and disseminate information.⁸⁶ In addition, poor record management and lack of resources dedicated to disclosure limit the ability of contracting authorities to carry out disclosure effectively. Although almost all contracting authorities have websites, most of them lack the technical and human infrastructure to deliver quality e-government services.

⁸⁵ Policy Centre for Eastern and Southern Africa, *The State of Access to Information in Uganda*, April 2017.

⁸⁶ *Implementing Right to Information: A Case Study of Uganda*, 2012.

Lack of Awareness about PPPs

Most Ugandans are ill-informed about PPPs and are therefore not fully aware of their rights with respect to PPPs. Although Uganda has a vibrant media and committed civil society organizations, which could help mitigate this limitation, even their understanding of the PPP process remains limited, and this could be a challenge to how they can help drive the process of disclosure. It is imperative that the government educates the public and civil society organizations about the PPP process.

7. Gap Assessment

TABLE 7: GAP ASSESSMENT

COMPONENT	RAPID REVIEW	Y/N	GAP ASSESSMENT
POLITICAL ECONOMY	<p>Clear support from the highest levels of government (national and subnational) for disclosure in general</p> <p>Agreement on PPP disclosure among internal stakeholders (ministries, agencies, and subnational governments)</p> <p>Sufficient agreement on the need to disclose and pressure to disclose among important external stakeholders (political parties, unions, private sector, users, media, political commentators, think tanks, civil society organizations, and others)</p>	<p>Y</p> <p>Y</p> <p>Y</p>	<p>There is support for disclosure at the national level. The government has policies on transparency and disclosure and is continuing with its efforts to improve disclosure.</p> <p>At the MDA and subnational level, there is support for disclosure.</p> <p>External stakeholders, for example civil society organizations and the media, are strong advocates of disclosure and are making several efforts to disclose information on ongoing projects in the country.</p> <p>The gap is low.</p>
LAW	<p>Are there laws, policies and procedures in place that include the following:</p> <p>Proactive disclosure by governments or agencies</p> <p>Coverage of proactive disclosure relating to contracts or PPPs</p> <p>High-level definition of confidential information, protection of sensitive contract information</p> <p>Timelines for disclosure</p> <p>Are there any significant legislative or policy impediments or constraints to PPP disclosure?</p>	<p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p> <p>Y</p>	<p>The ATIA and the PPP Act provide for proactive disclosure.</p> <p>The ATIA requires public entities to publish a manual on categories of all information that is held by the institution and the categories of information that is automatically available. This may include PPP-related information.</p> <p>The PPP Act requires publication of all PPP agreements on the MoFPED website and invitations for Expression of Interest to be published in more than one newspaper of wide circulation. The scope of information required to be disclosed is limited.</p> <p>A high-level definition of confidential information is contained in the ATIA.</p> <p>Private parties are excluded from direct public disclosure obligations in the ATIA and the PPP Act.</p> <p>The gap is moderate.</p>

GUIDANCE	<p>Clearly established roles and responsibilities on PPP disclosure</p> <p>Processes and actions clearly established in guidance or internal orders</p> <p>Timelines for disclosure clearly established</p> <p>Clear guidance available for officials on the identification and treatment of confidential information, including the timeframe associated with confidentiality, and factors to be considered as a test of commercial sensitivity or public interest</p> <p>There are penalties associated with failure to disclose</p> <p>Mechanisms that monitor implementation of disclosure policies, internal and external</p> <p>Processes for checking the accuracy of information and validation, internal and external</p>	<p>N</p> <p>N</p> <p>N</p> <p>Y</p> <p>N</p> <p>N</p> <p>N</p>	<p>Only the PPP Unit is charged with the duty to collate and disseminate information under the PPP Act.</p> <p>Timelines for very limited disclosure are stipulated in the ATIA.</p> <p>The gap is high.</p>
TEMPLATE & STANDARD CONTRACT PROVISIONS	<p>Comprehensive and clear template for disclosure that covers key pieces of pre- and post-procurement information, including financial and performance information</p> <p>The template is flexible enough to cater to different kinds of PPPs and PPPs in different sectors</p> <p>The template is dynamic, that is, suited to ongoing financial and performance disclosure</p> <p>Instructions for filling the template are included as required</p> <p>There are standard contract provisions that provide the following:</p> <p>Specific language for confidential information</p> <p>Period for which the information will be confidential</p> <p>Format for listing the specific confidentiality clauses of each contract</p> <p>Clearly stated information that the private provider is expected to maintain along with timelines for submission</p> <p>Audit mandate with the extent of disclosure to audit</p>	<p>N</p> <p>N</p> <p>N</p> <p>N</p> <p>N</p>	<p>As none of these elements is in place, the gap is high.</p>

RESOURCES	Budget is available	N	As none of these elements is in place, the gap is high.
	Skilled, trained labor is available	N	
	Technology and web platform/s compatible with easy upload and download of information	N	
	Security systems to prevent data and information tampering	N	

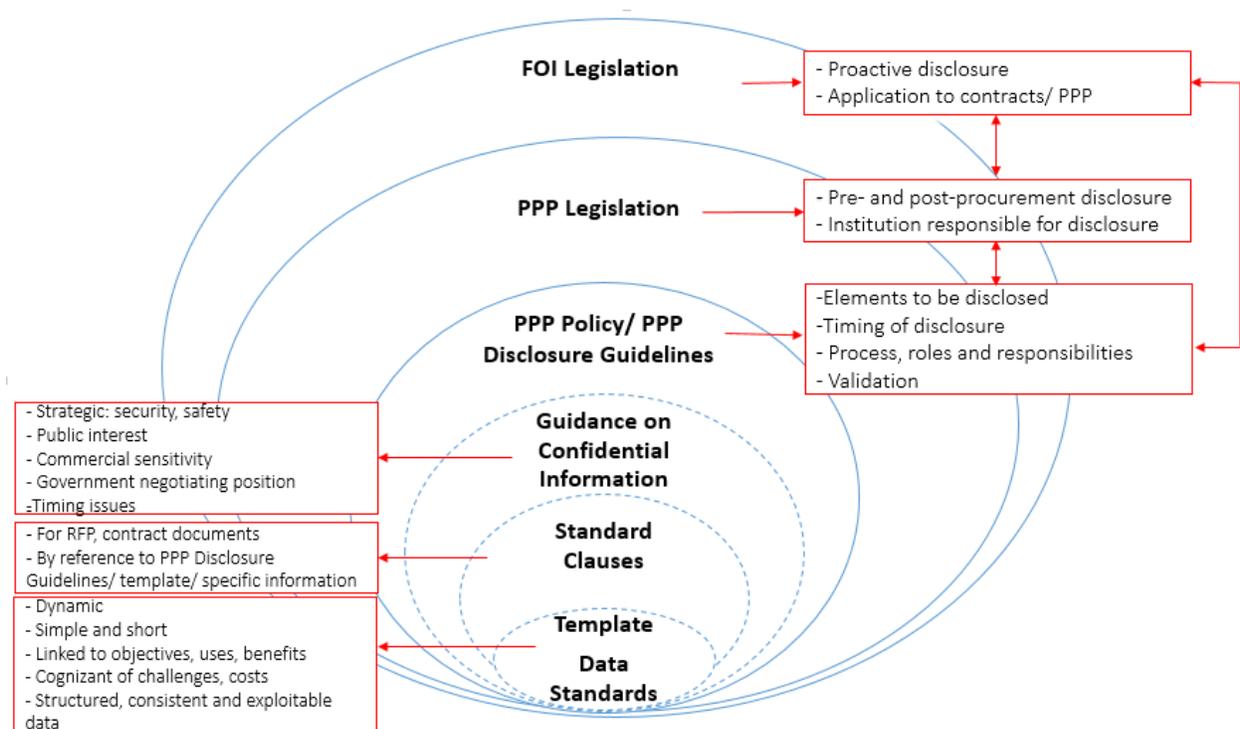
Note: ATIA = Access to Information Act; MDA = ministry, department, or agency; MoFPED = Ministry of Finance, Planning and Economic Development; PPP = Public-Private Partnership.

8. Recommendations

Uganda’s legal environment generally supports disclosure. At the central level, there are policies that require public bodies and institutions to conduct themselves in a transparent manner and be accountable to citizens. Laws have also been enacted that oblige public bodies to disseminate information to citizens. In practice, however, there is limited implementation of this legal mandate. A culture of secrecy is heavily entrenched in public bodies, and secrecy laws are often applied to deny information requests. Further, public bodies have institutional challenges that hinder their ability to disclose information, such as poor record management, and a lack of capacity, resources, and infrastructure to facilitate disclosure. The findings of the Diagnostic suggest that strengthening the disclosure clauses of the PPP Act, creating an institutional framework for disclosure in the form of Guidelines, and embedding this in practice through standard contractual clauses and a dedicated web portal could facilitate improved disclosure in practice.

The World Bank’s Framework for Disclosure in PPPs recommends a six-layer design (figure 5).

FIGURE 5: ELEMENTS OF THE WORLD BANK RECOMMENDED DISCLOSURE FRAMEWORK FOR PPPS



Note: FOI = Freedom of Information; PPP = Public-Private Partnership; RFP = Request for Proposals.

The framework design is based on the key drivers of disclosure, major factors influencing the drivers, challenges and benefits associated with disclosure, and uses and various categories of users of information once it is disclosed. Linked directly to these aspects is the issue of customizing disclosure based on specific PPP contract clauses, levels of government support, and risk-sharing mechanisms within contracts. The Framework recommends the incorporation of the following key items in a country's disclosure framework:

- Mandate to disclose, through the ATIA, PPP Act, or other legislation or policy
- More detailed guidance on what, when, and how to disclose
- Elements of disclosure in different phases, with a simple template
- Timelines for disclosure
- Guidance on confidential information
- Standard contractual clauses.

Based on the findings of the Diagnostic and a gap assessment exercise benchmarked against the World Bank Framework, as detailed in earlier sections, this section makes a few focused recommendations on improving PPP disclosure in Uganda.

Strengthening the Existing Legal Framework for Disclosure

The findings of the Diagnostic suggest that there is a sound legal basis for pursuing structured disclosure in Uganda. However, the Government of Uganda can consider making relevant amendments to the PPP Act along with incorporating disclosure in the PPP Regulations (currently being drafted) to improve clarity and institutionalize disclosure in practice. In countries or provinces with strong institutional practices, such as the United Kingdom, Australia, British Columbia, Chile, and others, legislation includes in the following: (a) proactive disclosure; (b) specific coverage, preferably by direct mention of PPPs, or contracts and contract information, as well as performance and procurement information as part of the definition of information; (c) disclosure mechanisms, that is, how the information will be disclosed; and (d) redactions, that is, what information will not be disclosed. The degree of detail to be included in the legislation depends on each country's surrounding integrity risk environment, but good practice suggests it should provide enough detail to ensure sufficient accountability of the public and private actors involved in a project.

The ATIA should provide for specific reference to disclosure of PPP project information. Further, strong enforcement mechanisms should be established to ensure compliance with the disclosure mandate. An effective alternative would be to create an independent appellate institution with the mandate to adjudicate on denial of information.

Currently, the PPP Act provides for basic proactive disclosure of information. Based on the findings of the Diagnostic, the nascent but improving investor confidence in projects, given the results of the market sounding of the Kampala-Jinja Expressway Project and other projects in the pipeline, and the need for institutionalizing the practice of disclosure, it is recommended that the Government of Uganda should

consider incorporating disclosure in the PPP Regulations currently being drafted and strengthen the disclosure clauses of the PPP Act 2015. The specific advantage of more detailed coverage of disclosure in the PPP Regulations and Act is that there will be a stronger mandate for disclosure. Disclosure requirements in the PPP Act (and implementing policy documents such as Regulations and Guidelines) should be extended to apply to Feasibility Studies, evaluation criteria, and key performance indicators, among others. The Act should also stipulate the means through which this disclosure will take place. Suggested amendments to the PPP Act in line with this recommendation are listed in annex A.

Detailed Guidelines

PPP Guidelines are currently being developed. It is recommended that the guidelines should incorporate detailed provisions for PPP disclosure, including elements of information to be disclosed, timelines, responsibilities for disclosure, form of disclosure, and well-defined confidentiality provisions (table 8). Draft disclosure guidelines are provided in annex B.

TABLE 8: SUGGESTED CONTENT FOR PPP DISCLOSURE

CONTENT	DESCRIPTION
Elements to be disclosed	Specifics of disclosure at each stage of the PPP process, preferably an exhaustive list of items.
Place of disclosure	PPP Unit website. Responsibilities for populating the platform shared between the PPP Unit, contracting authorities, and private parties/special purpose company.
Timelines	Specifics of timelines for each element. Flexible timelines that consider the internal processes involved. Contract documents and performance information with reasonable lag times for internal processes, such as removal of confidential information and validation of information.
Treatment of commercial, in confidence, and other confidentiality provisions	Confidential information will be identified on a case-by-case basis and be broadly based on the provisions of the Access to Information Act and PPP Act.
Validation prior to disclosure	Given that there could be high costs to external validation, it is suggested that the PPP Unit takes the responsibility for validation of disclosed information.
Template and data standards	A format for ensuring ease and uniformity in disclosure. Uniformity can help in data aggregation by sector, risk profile, value, type, and so forth. A template is suggested as part of the Draft Framework. Disclosure must be compliant with the Open Contracting Data Standard.

Development of Standard Contract Clauses

Clauses on information disclosure used in PPP contracts so far are limited to reinforcing the confidentiality of information. It is recommended that the Government of Uganda creates standard clauses on disclosure to provide specific language that should be included in PPP contracts by public authorities. These clauses would help government teams in appropriately negotiating provisions related to the responsibility of private providers to provide information to the public authority, the rights and responsibilities of the public authority to disclose information, direct disclosure obligations on the SPC, and confidentiality provisions. These would also enable the government entity and the private party to understand their respective roles in disclosure prior to contract signing. Inclusion of clear disclosure provisions in the standard contract is also a good way to disseminate information and educate investors and potential bidders about the government's approach to information disclosure. Standard clauses would also help greatly in institutionalizing disclosure. Annex D suggests text for standard contractual provisions.

Templates and Data Standards

Supply-side issues are a key impediment to timely and high-quality disclosure. This impediment could be mitigated by applying procurement strategies that provide bidders with incentives to compete on mechanisms to disclose information without unreasonably increasing internal costs. For example, the e-procurement system currently under development could also be extended to PPPs. The PPP Unit and contracting authorities would need to work on systems for collection and aggregation of information. It is recommended that, to the extent possible, reports should be machine readable or provided as inputs into a shared information system and able to be turned into structured data that can be selectively converted into open data as required. Information disclosure should be compliant with OCDS.⁸⁷

In addition, systems need to be built into the design of the disclosure guidelines that will enable continuous publishing of procurement as well as performance information and data as and when key changes happen. Linking and cross-referencing with other existing similar information sets or databases could be useful. Defining or using harmonized information standards could not only reduce human and financial resource challenges, but also allow for comparative analysis of infrastructure projects. A template for disclosure is provided in the suggested text for the guidelines in annex C.

Screenshots of recently implemented PPP disclosure portals that follow these recommendations are provided in figures 6 to 9.

⁸⁷ See <http://standard.open-contracting.org/profiles/ppp/latest/en/>. A PPP disclosure framework that complies with the OCDS PPP Extension was recently implemented in Honduras with the support of the World Bank. See <http://app.sisocs.org/index.php?r=Ciudadano/index>.

FIGURE 6: PPP DISCLOSURE WEB PORTAL: NIGERIA

PPP DISCLOSURE FRAMEWORK

A World Bank Public-Private Partnership (PPP) team conducted a study in Nigeria between September 2016 and April 2017, using the PPP Disclosure Diagnostic tool recommended by the World Bank's framework for disclosure of information in PPPs. The study has been disseminated in the form of a PPP Disclosure Diagnostic report for Nigeria. The Diagnostic Report is available here.

PROJECTS

66 Projects

Find a project by name

Map

NAME	SECTOR	STATE	STAGE	SPONSORING AGENCY	VALUE (BILLION)
WAREHOUSE IN A BOX PROJECT	Social & Health	Lagos, Federal Capital Territory	Procurement	Federal Ministry of Health	590 US\$
CONCESSION OF GRAIN STORAGE FACILITIES (SOLAR)	Industrial	Edo, Akwa Ibom, Bauchi, Gombe, Kaduna, Niger, Oyo, Plateau, Sokoto, Federal Capital Territory, Anambra, Ebonyi, Kano, Ogun, Zamfara, Cross River, Kwara, Benue, Edo, Imo, Jigawa, Kebbi, Taraba	Procurement	Federal Ministry of Agriculture and Rural Development	18412.66 NGN / 51.66 US\$
RADAGBY DEEP WATER PORT	Transport	Lagos	Development	Nigerian Ports Authority	52083.42 NGN / 263.1 US\$

Source: <http://ppp.icrc.gov.ng/>.

FIGURE 7: PPP DISCLOSURE WEB PORTAL: GHANA

PIPELINE PROJECTS

Identifying and curating a list of selected priority PPP projects being prepared by the Ghana Public-Private Partnership (PPP) Programme under the Public Investment Division of the Ministry of Finance.

PROJECTS

32 Projects

Find a project by name

Map

NAME	SECTOR	REGION	STAGE	CONTRACTING AUTHORITY	VALUE (BILLION)
Mallam Atta Market Project	Social & Health	Greater Accra	Pre-procurement	Accra Metropolitan Assembly	133.144 US\$
Accra City Corridor Project	Social & Health	Greater Accra	Pre-procurement	Accra Metropolitan Assembly	307.4 US\$
Development of Makola Annex 2 & Kwadwoaso Market	Social & Health	Greater Accra	Pre-procurement	Accra Metropolitan Assembly	50.7 US\$
NATURAL RESOURCES ENCLAVE ROAD PROJECT	Transport	Western	Pre-procurement	Ministry of Roads and Highway	105 US\$
POPULATION IDENTIFICATION MANAGEMENT SYSTEM	Social & Health	Greater Accra	Pre-procurement	new project	Not available
ASUTSUARE BULK WATER	Water & Sewerage	Greater Accra	Pre-procurement	Ghana Water Company	...

Source: <http://ppp.mofep.gov.gh/>.

FIGURE 8: PPP DISCLOSURE WEB PORTAL: HONDURAS

The screenshot shows the SISOCs web portal for Honduras. At the top, there is a navigation bar with the SISOCs logo and links for 'HOME', 'MÓDULO CIUDADANO', 'MAPAS DE PROYECTOS', and 'REPORTES'. Below this is a large banner image of the 'Aeropuerto Internacional de Palmerola' with several aircraft. Underneath the banner, there are two main sections: 'Mapa' on the left, which shows a map of Honduras, and 'Lista de Proyectos' on the right. The 'Lista de Proyectos' section includes a summary of 21 projects worth LPS 31,247.13 M (USD 1,469.97 M). There is a search bar and various filters for the project list, including 'Nombre', 'Sector', 'Presupuesto', 'Entidad', 'Etapas', 'Departamentos', 'Municipios', and 'Fecha'.

Source: <http://app.sisocs.org/index.php?r=Ciudadano/index>.

FIGURE 9: PPP DISCLOSURE WEB PORTAL: KENYA

The screenshot shows the PPP Disclosure Web Portal for Kenya. At the top, there is a navigation bar with the logo of the Public Private Partnerships Unit and links for 'HOME', 'PROJECTS', 'ANNOUNCEMENTS', 'CONTACT', and 'PPP DISCLOSURE FRAMEWORK'. Below this is a large banner image with the text 'NAIROBI – NAKURU – MAU SUMMIT HIGHWAY' and a description of the project. Underneath the banner, there is a 'PROJECTS' section. This section includes a 'Filter by Sector' dropdown menu, a search bar, and a table listing projects. The table has columns for 'NAME', 'SECTOR', 'COUNTY', 'STAGE', 'CONTRACTING AUTHORITY', and 'VALUE (MILLION USD)'. The projects listed are: KCB Uthmanya Housing Program (KURP), Development of an Export Quarantine Station and Livestock Export Zone, University Of Embu PPP Health Project, and Moi University PPP Health Project.

NAME	SECTOR	COUNTY	STAGE	CONTRACTING AUTHORITY	VALUE (MILLION USD)
KCB Uthmanya Housing Program (KURP)	Primarily Initiated Investment Proposals (PIIPs)	Nairobi	Pre-procurement	KCB Bank	190.2 KES
Development of an Export Quarantine Station and Livestock Export Zone	Agriculture, Livestock & Fisheries	Morogoro, Tanga, Tabora, Zanzibar	Pre-procurement	Ministry of Agriculture, Livestock and Fisheries	1890 KES (2.1 US\$)
University Of Embu PPP Health Project	Education	Embu	Procurement	The University of Embu (UoEmbu)	1020 KES (1.1 US\$)
Moi University PPP Health Project	Education	Uasin Gishu	Procurement	Moi University	2130 KES (2.1 US\$)

Source: <http://5.196.68.29/>.

Addressing the Challenges of Contracting Authorities

The Diagnostic indicates that contracting authorities face several challenges that inhibit their ability to disseminate information, including poor record management, lack of capacity and resources, and lack of guidelines for improving disclosure. It is recommended that practical solutions to address these challenges should be developed.

Strategic Communication

Disclosure of information appears to be influenced by a host of challenges and benefits. The key challenges appear to be the reluctance of public bodies to share information in the absence of a clear mandate, a dearth of practical internal guidance, non-availability/inaccuracy of data, time and cost of disclosure, and lack of oversight mechanisms. Sometimes disclosed information becomes inaccessible, especially when it consists of full contract documents in the public domain. In this context, it may be necessary to explore ways of communicating in forms and languages that would make disclosed information useful to ordinary people, especially those directly impacted by infrastructure projects. Challenges such as increased litigation and consequent delays during or after procurement may also arise for governments that disclose documents, feeding back into the general reluctance to share information.

Given the longer-term and distinct benefits of disclosing—such as greater accountability in expenditure, higher level of confidence in the fairness of the process, and better quality of bids, along with the potential for formulation of improved long-term PPP policies and practice—it is essential to overcome the challenges. This can be done by building the right guidelines for disclosure, as suggested above, as well as by framing the discussion strategically, through well-planned communication with stakeholders.

Since the framework recommends disclosure beginning with the entry of a project into the approved preliminary pipeline, it is important that strategic communication around projects and programs is formulated at an early stage. This requires making disclosure not a one-way process but a two-way interactive process to ensure that the feedback loops are completed and the disclosed information is understood, absorbed, and used optimally by all stakeholders. Strategic communication also entails placing the project in the right context; benchmarking it in terms of tariff (and cost) and services using available regional, national, and local benchmarks of existing projects; and discussing the pros and cons of different alternatives for providing services, highlighting the relative advantages of the selected alternative. It is also important to frame the discussion around other key issues, such as competition and confidentiality, which may be of concern to the private sector.

9. Key Materials Reviewed

Laws, Regulations, and Policy Documents of the Government of Uganda

Access to Information Act 2005

Access to Information Regulations 2012

Anti-Corruption Act 2009

Anti-Money Laundering Act 2013

Constitution of Uganda 1995

Electronic Transactions Act 2011

Evidence Act Cap 6

Industrial Property Act 2014

Inspectorate of Government Act 2002

Leadership Code Act 2002

National Audit Act 2008

National Information Technology Authority, Uganda Act 2009

National e-Government Policy Framework, June 2011

Oaths Act Cap 19

Official Secrets Act Cap 302

Parliament (Powers and Privileges) Act Cap 258

Press and Journalists Act Cap 105

Promoting Access to Information in Uganda User Guide, 2014

Public Finance Management Act 2015

Public-Private Partnerships Act 2015

Public-Private Partnerships National Policy Framework 2010

Public Procurement and Disposal of Public Assets Act 2003

Public Service Commission Act 2008

Trade Secrets Protection Act 2009

Uganda Communications Act 2013

Whistle Blowers Act 2010

Other Sources

Framework for Disclosure in Public-Private Partnership Projects, World Bank, 2015

Access to Information in Africa Project: The Case of Uganda, Green Watch, 2012

Policy Centre for Eastern and Southern Africa Position Paper, The State of Access to Information in Uganda, 2017

Implementing Right to Information: A Case Study of Uganda, World Bank, 2012

Annex A: Draft Amendments to PPP Act 2015

Proactive Publication of Certain Project Documents and Information

Revised Section 47:

1. A contracting authority shall, upon written request by any person, disclose information regarding a public-private partnership.
2. The contracting authority shall ensure the publication of the following information regarding public-private partnerships on a web-based platform [owned and administered by the Unit and any other media platforms] as specified in the guidelines issued under Subsection (5):
 - a. basic project information;
 - b. actual dates of achievement of key project milestones;
 - c. Project Feasibility Study Report;
 - d. procurement information;
 - e. project summary;
 - f. information relating to renegotiation;
 - g. project documents, including the PPP agreement and the value-for-money report;
 - h. information relating to the financial structure of the project;
 - i. performance information;
 - j. summary information on projects that do not reach financial close.
3. Notwithstanding Subsections (1) and (2), information shall not be disclosed where
 - a. the disclosure is likely to prejudice the security or sovereignty of the state;
 - b. the disclosure interferes with the right to privacy of any person;
 - c. the disclosure would amount to a breach of the law, impede law enforcement, or would not be in public interest;
 - d. the information contains
 - i. proprietary information, including information relating to any manufacturing prices, trade secret, trademark, copyright, patent, or formula protected by law or by international treaty to which Uganda is a party;

- ii. scientific or technical information, the disclosure of which is likely to cause harm to the interests of the proper functioning of the contracting authority;
 - iii. information supplied in confidence by a bidder, the disclosure of which would reasonably be expected to put that bidder at a disadvantage in contractual commercial negotiations or prejudice the bidder in commercial competition; or
 - e. the information would be exempted from access under Part III of the Access to Information Act 2005.
4. An official of a contracting authority or of the Unit or a member of the project team or the evaluation committee who contravenes the provisions of Subsections (2) and / or (3), as applicable, commits an offense and is liable on conviction, to a fine not exceeding 200 currency points or imprisonment not exceeding two years or both.
 5. The Committee shall formulate guidelines regarding in particular the proactive disclosure of information related to public-private partnerships, including to the elements of information to be disclosed, timelines, confidential information, forms and responsibilities for disclosure, validation of information to be published, as well as sample contract clauses. These guidelines will be reviewed and amended from time to time.

Annex B: Suggested Text for Disclosure within the PPP Guidelines

1. Introduction

The Government of Uganda seeks to provide accurate and timely information on its activities to the public and other interested parties. This policy reflects the government's initiative to promote an efficient, effective, transparent, and accountable government, and to empower its citizens to scrutinize effectively and participate in government decisions that affect them. This annex sets out guidelines for the disclosure of information in public-private partnerships (PPPs).

These guidelines are in line with the government's commitment to achieve the Sustainable Development Goals (SDGs) by 2030. Goal 16 of the SDGs explicitly aims to "build effective, accountable and inclusive institutions at all levels." In addition, transparency and accountability remain key principles in achieving the targets related to income, poverty, water, education, energy, and cities, all of which are directly related to the provision of public services that can be accessed universally. The role of PPPs in the provision of these services will be critical and is acknowledged in Goal 17 of the SDGs, which seeks to "encourage and promote effective public, public-private and civil society partnerships, building on the experience and resourcing strategies of partnerships."

Article 41 (1) of the Constitution of Uganda (1995) establishes the right of access to information for citizens of Uganda. By extension, Article 41 (2) mandates the Parliament to make laws prescribing the classes of information to be disclosed and the procedure for obtaining access to information. The Access to Information Act 2005 (ATIA) was enacted pursuant to these provisions of the Constitution. Section 5(1) of the ATIA states that every citizen of Uganda has a right to access information in the possession of the state or any organ or agency of the state other than exempt records and information. Section 5 (2) of the ATIA makes it obligatory for the information and records in the possession of the state to be accurate and up to date so far as is practicable.

The legal framework for PPPs in Uganda is anchored primarily in the Public-Private Partnership Act (2015). Section (3) of the PPP Act states that PPPs shall be governed by principles of transparency, equal access to information, and a level playing field for all bidders. It further states that the contracting authority shall be accountable to the users of the infrastructure or service to be provided under a project. The PPP Act mandates the PPP Unit to develop open, transparent, efficient, and equitable processes for managing the identification, development, procurement, and implementation of PPPs. Specifically, the PPP Act requires that all PPP agreements shall be published and made accessible on the Government of Uganda website.

The PPP Unit is confident that transparency and accountability are fundamental to fulfilling its PPP development mandate. It also believes that transparency is essential for increasing public awareness about PPPs, and increasing the public dialogue on PPPs, and is critical for enhancing good governance, accountability, and promoting engagement with stakeholders. This will in turn enable interested members

of the public to understand better and engage in informed discussions about PPPs and overall strengthen development outcomes.

Therefore, the PPP Unit desires to enhance its PPP frameworks through building systems of transparency and accountability, including processes conducive to disclosure, and embedding disclosure in routine PPP practice.

Since PPP disclosure is an evolving area in Uganda, these Guidelines will be revisited and revised every two to three years, if and as required.

2. Application

These Guidelines will apply to all PPP projects initiated under the PPP Act 2015 and any privately initiated PPP projects.

3. Specific Disclosures

- a. Specific disclosures will consist of the elements included in Subsections b to i below and will follow table B.1 and the template provided in annex C. Confidential information as provided under Section 4 will be redacted before publication.
- b. *Basic project information.* Basic project information along with estimated dates for key milestones will be provided within 21 days following the PPP Unit's registration of the project. Basic project information will include the project name, location, sector, name of sponsoring agency, estimated project value (with breakdown of costs), project need, technical description of assets and services to be provided, estimated demand to be served annually, rationale for selecting the project for development as a PPP (including cost-benefit analysis), projected policy outcomes of the project (including links to the preliminary economic cost-benefit analysis report), and name and contact information of the project officer in charge of the project.
- c. *Project progress tracking.* Actual dates of achievement of key milestones will be provided within 21 days of project registration and within 21 days of each status change.
- d. *Project Feasibility Study Report.* The Feasibility Study (including the Preliminary Environmental and Social Impact Assessment, but with financial models and / or financial information which may have an impact on the ability of the government to negotiate with private parties redacted) will be disclosed before or at the time of publication of the Request for Prequalification (RPQ) documents. The complete Feasibility Study will be disclosed within 21 days of execution of the project agreement (commercial close).
- e. *Procurement information.* Dates and summary procurement information (including the Project Information Memorandum) and key documents will be provided during the procurement process. The RPQ, list of short-listed bidders, and award will be published immediately after approval of the procuring entity. The full Request for Proposals (RFP) and award document will be disclosed publicly as available. Where the contracting authority conducts a competitive dialogue, the contracting authority shall also disclose the reasons for the competitive dialogue.
- f. *Project summary.* Summary information on the PPP contract will be provided within 21 days of execution of the PPP agreement (commercial close). The project summary will include basic

information on the PPP agreement, project scope, project value, parties to the PPP agreement, project risk matrix, amounts and types of government support provided to the project, information on tariffs and pricing, termination clauses, duration of the contract, handback provisions, and key performance indicators with target levels.

- g. *Project documents.* Key project documents (including the redacted PPP agreement) will be disclosed within 21 days of execution of the project agreement (commercial close).
- h. *Financial information.* Information on the financing structure (equity-debt ratio, debt and equity providers, share capital, shareholders, ownership, and so forth) of the project will be provided within 21 days of financial close.
- i. *Renegotiations.* Summary information relating to each renegotiation will be published within 21 days of signature of the renegotiated contract. The redacted renegotiated agreement will also be published.
- j. *Performance information.* Information on the performance of the private party on key performance indicators against agreed target levels will be published within one year of financial close of the project, with annual updates. Performance information will also include, among others, information on construction milestones, key financial information of the project, and details relating to performance failures. Performance information will be updated annually, consistent with the project’s contract management framework. Performance assessments, such as audit reports and/or audited financial statements, extracts from the private party reports (special purpose company self-reporting), and extracts from independent expert reports will be disclosed annually.
- k. *Unsolicited proposals.* Basic information related to unsolicited proposals will be disclosed within 21 days of the contracting authority’s decision on accepting the proposal. Information on the objective of the proposed project, services to be provided, proposed location, estimated capital cost, name of the proponent, details of the public interest test, or other rationale will be provided for the same, as well as the Project Feasibility Study Report, further procurement, and bidding process details and special conditions and advantages provided to the proponent, if any.
- l. *Projects that do not reach financial close.* Where the execution of the project agreement is reached (commercial close) but the project eventually does not reach financial close, a summary explanation of the reasons thereof will be provided.

TABLE B.1: SUMMARY OF SPECIFIC DISCLOSURES

NO.	DOCUMENT	CONTENTS	CREATOR	APPROVER	TIME
<i>Disclosure of information at project initiation, updated thereafter</i>					
1.	Basic project information	Project name Location Sector Sponsoring agency/department Estimated value (with breakdown of costs) Project need Projected policy outcomes of the project	Contracting authority	PPP Unit	Within 21 days following the PPP Unit’s approval of the project For unsolicited projects, upon the contracting authority’s decision to accept the proposal.

		<p>Description of asset and services to be provided</p> <p>Rationale for selecting the project for development as a PPP (including cost-benefit analysis)</p> <p>Estimated demand to be served annually</p> <p>Links to preliminary cost-benefit analysis</p> <p>For unsolicited proposals, the name of proponent, details of the public interest test, or other rationale will be provided for the same, and special conditions and advantages provided to the proponent, if any.</p>			
2.	Project progress tracking	A section on the web-based platform that will reflect actual dates of achievement of key milestones	PPP Unit from registration of PPP project until execution of project agreement (commercial close); contracting authority after commencement of operations until end of contract	PPP Unit/ contracting authority	<p>Within 21 days from project registration; and within 21 days of each status change.</p> <p>For unsolicited projects, upon the contracting authority's decision to accept the proposal.</p>

Disclosure of information during procurement

3.	Feasibility Study Report (partially redacted)	Salient information about the project, including the environmental and social impact assessments; financial models redacted	Contracting authority	PPP Unit	Before or with the publication of the RPQ
4.	RPQ		Contracting authority	PPP Unit	Following approval for publication of the RPQ
5.	List of short-listed bidders		Contracting authority	PPP Unit	As soon as short-listed bidders are notified
6.	Full RFP		Contracting authority	PPP Unit	Following approval for publication of the RFP
7.	Bid award		Contracting authority	PPP Unit	Following approval for publication

Disclosure of information following execution of project agreement (commercial close)

8.	Project summary	Project scope Parties to the PPP agreement Project risk matrix Government support Project value, tariffs, and pricing Termination clauses Handback provisions Key performance indicators with agreed target levels Duration of project Implementation structure (SPC and any subcontractors)	Contracting authority	PPP Unit	Within 21 days of execution of the project agreement (commercial close) This will apply to unsolicited projects as well.
9.	Complete Feasibility Study Report	Salient information about the project	Contracting authority	PPP Unit	Within 21 days of execution of project agreement the (commercial close)
10.	Financial structure of the project	Equity-debt ratio of the project Debt and equity providers Share capital Shareholders with proportion held and voting rights	Contracting authority	PPP Unit	Within 21 days of financial close This will apply to unsolicited projects as well.
11.	Project documents	Including the following: Redacted PPP agreement VfM report for the project	Contracting authority	PPP Unit	Within 21 days of execution of the project agreement (commercial close) This will apply to unsolicited projects as well.
12.	Renegotiations and renegotiated agreements and associated documents	Summary information on each renegotiation Redacted renegotiated clause(s) in the PPP agreement	Contracting authority	PPP Unit	Within 21 days of signature of the renegotiated contract This will apply to unsolicited projects as well.

13.	Where execution of project agreement (commercial close) takes place but the project does not reach financial close	Summary explanation of why financial close did not take place	Contracting authority	PPP Unit	Within 21 days of the decision
<i>Performance disclosure throughout contract period</i>					
14.	Performance information	Performance of the private party on key performance indicators against agreed targets (including information on construction milestones, key financial information, and information on performance failures, if any) Audit reports Audited financial statements Private party reports Extracts from independent expert reports	Contracting authority Audit report provided by the PPP Unit	PPP Unit	Within one year of financial close, updated annually This will apply to unsolicited projects as well.

Note: PPP = Public-Private Partnership; RFP = Request for Proposals; RPQ = Request for Prequalification; SPC = special purpose company; VFM = value for money.

4. Confidential Information

Part III of the ATIA 2005 and Section 47 of the PPP Act 2015 provide for the exemption of confidential information from public disclosure. Section 47 of the PPP Act defines confidential information to include trade secrets and commercial or financial information obtained from a person or business, which is proprietary or privileged, the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, trade secrets, commercially sensitive intellectual property rights, and know-how of either of a third party.

For the purposes of this Framework, the following elements will be considered as confidential. However, these elements will be reviewed and updated every two to three years.

- a. Bids or proposals submitted by bidders
- b. Trade secrets and any other propriety information protected by law
- c. Technology relating to the security of the state.

5. Method of Disclosure

All information and documents will be published on a web-based platform owned and administered by the PPP Unit, and any other media platforms as identified in the PPP Act 2015. To ensure wider public engagement, the PPP Unit will make efforts to disseminate summarized and simplified project information in local languages using offline methods such as posters.

6. Responsibilities for Disclosure

- a. The onus for information collection, generation, and data entry onto the web-based platform will be on the contracting authority and the PPP Unit. The responsibility for approving and publishing information lies with the PPP Unit, in line with table B.1.
- b. The contracting authority will carry out data entry of all information and documents on the web-based platform so as to leave at least seven days within the given timelines for the PPP Unit to validate, approve, and publish the information.

7. Approval of Information for Publication

All information shall be approved by the Director of the PPP Unit or any official designated by him/her for publication.

8. Standard Contractual Provisions

- a. A section/chapter entitled “Transparency and Information Disclosure” will be included in all draft contractual documentation included in the RFP and in all PPP agreements to be signed by the contracting authorities, at the national and county government levels.
- b. The section/chapter mentioned in 8.a. above will contain clauses pertaining to the proactive disclosures to be carried out by the public entity, including disclosure of summary project and contract information, project documents, procurement information including procurement documents, and ongoing performance information disclosure.
- c. The section/chapter mentioned in 8.a. above will also contain the obligation of the private entity to provide documents and information as and when required and in the format required by the public entity as part of its sanctionable service obligations should there be a failure to provide information on the part of the private party.
- d. The section/chapter mentioned in 8.a will include a subsection dealing with confidential information and will list the items of confidential information in a schedule along with the date up to which the information will be considered confidential, where applicable.

- e. The contract will be structured in a way such that confidential information can be easily removed before publication of the project agreement.
- f. Sample disclosure clauses for use in all draft project documentation included in the RFP and in all project agreements are provided in annex D and its schedules.

Annex C: Suggested Template for Disclosure

DISCLOSURE DURING THE PROJECT IDENTIFICATION, DEVELOPMENT, AND PROCUREMENT STAGES

BASIC PROJECT INFORMATION

(disclosed at the project inception phase within 21 days following the PPP Unit's approval of the project)

- Project name
 - Location
 - Sector
 - Sponsoring agency/department
 - Estimated project value (with breakdown of costs)
 - Project need
 - Projected policy outcomes of the project
 - Description of asset and services to be provided
 - Rationale for selection the project for development as a PPP (including cost-benefit analysis)
 - In case of unsolicited projects, the rationale for the same.
-

ACTUAL PROJECT MILESTONES

(within 21 days from project registration; and within 21 days of each status change; and for unsolicited projects, upon the contracting authority's decision to accept the proposal)

- Project proposal registered
- Project proposal screened
- Project proposal approved
- Project Feasibility Study under development
- Project Feasibility Study approved
- Request for Prequalification (RPQ)
- Request for Proposals (RFP)
- Award
- Execution of project agreement (commercial close)
- Financial close
- Commencement of construction or development
- Completion of construction or development
- Commissioning
- Contract expiry.

PROCUREMENT DOCUMENTS

- Feasibility Study Report (*with redacted financial models – before or with the publication of the RPQ; complete – within 21 days of execution of the project agreement (commercial close)*)
- RPQ (*following approval and publication of RPQ*)
- Short-listed bidders (*as soon as short-listed bidders are notified*)
- RFP (*following approval for publication*)
- Award (*following approval for publication*).

DISCLOSURE FOLLOWING SIGNATURE OF CONTRACT

PROJECT SUMMARY

[within 21 days of execution of project agreement (commercial close)]

- Project scope
- Parties to the PPP agreement: name of authority, name of representative, address, telephone, fax, e-mail, private party: name of company or consortium, name of representative, address, telephone, fax, e-mail
- Financial structure (figure showing debt/equity/proportion/providers) (provide link to company registry)
- Links to project documents.

RISKS

RISK	DESCRIPTION	ALLOCATION

GOVERNMENT SUPPORT

Guarantees
Grants
Availability/annuity payment schedule
Land leases, asset transfers
Other support
Revenue share, if any

TARIFFS

Tariffs and pricing

TERMINATION PROVISIONS

PARTY	BRIEF DESCRIPTION OF EVENT OF DEFAULT
Concessionaire	
Authority	
Handback terms and conditions	

RENEGOTIATIONS

RENEGOTIATION 1	RENEGOTIATION 2	RENEGOTIATION 3	RENEGOTIATION 4

PERFORMANCE INFORMATION (within one year of financial close; updated annually)

KEY PERFORMANCE INDICATORS	Year 1		Year n	
	Target	Achievement	Target	Achievement

PERFORMANCE FAILURES	YEAR	
	Category of failure	
	Number of events	
	Penalty or abatement provided in contract	
	Penalty or abatement imposed	
	Penalty paid or abatement effected: Yes/No	

PERFORMANCE ASSESSMENTS	Links to audit reports and / or audited financial statements, extracts of special purpose company reports, extracts of independent expert reports
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Schedule []

Format for submission of summary project information for disclosure

PPP AGREEMENT INFORMATION (submitted within 21 days of execution of the project agreement (commercial close) and updated at financial close and in case of any change)

- Public authority: name of authority, name of representative, address, telephone, fax, e-mail
- Private party: name of company or consortium, name of representative, address, telephone, fax, e-mail
- Financial structure (figure showing debt/equity/proportion/providers) (provide link to company registry) (to be provided within 21 days of financial close)
- Copies of project documents

RISKS

RISK	DESCRIPTION	ALLOCATION

GOVERNMENT SUPPORT

Guarantees
Grants
Availability/annuity payment schedule
Land leases, asset transfers
Other support
Revenue share, if any

TARIFFS

Tariffs and pricing

TERMINATION PROVISIONS

PARTY	BRIEF DESCRIPTION OF EVENT OF DEFAULT
Concessionaire	
Authority	
Handback terms and conditions	

RENEGOTIATIONS

RENEGOTIATION 1	RENEGOTIATION 2	RENEGOTIATION 3	RENEGOTIATION 4

Schedule []

Format for submission of performance information for public disclosure

PERFORMANCE INFORMATION (*key performance indicators and target summary to be submitted within 21 days of financial close and achievement and performance failure information, to be updated annually*)

KEY PERFORMANCE INDICATORS	Year 1		Year n	
	Target	Achievement	Target	Achievement

Performance failures

YEAR	
Category of failure	
Number of events	
Penalty or abatement provided in contract	
Penalty or abatement imposed	
Penalty paid or abatement effected: Yes/No	

Performance assessments Extracts of special purpose company reports

Schedule []

Payment deductions for noncompliance with the obligation to provide information

Period of delay in compliance	Payment deduction

Schedule []

Confidential information

Clauses/schedules	Period for which information will remain confidential

Annex D: Suggested Standard Contractual Clauses

Section [insert number]: DISCLOSURE REQUIREMENTS

Obligations Regarding Specific Disclosures

1. Freedom of Information

- 1.1 The [Private Party] acknowledges that the [Contracting Authority] is subject to the requirements of the Access to Information Act 2005 and the PPP Act 2015 and may be entitled to disclose certain project-specific information without consulting or obtaining the consent of the [Private Party].
- 1.2 The [Private Party] agrees to facilitate the [Contracting Authority's] compliance with its disclosure requirements under the Access to Information Act 2005 and the PPP Act 2015.
- 1.3 Where the [Contracting Authority] receives a request for information under the Access to Information Act 2005 or the PPP Act 2015 in relation to information that the [Private Party] is holding and which the [Contracting Authority] does not hold itself, the [Contracting Authority] shall refer to the [Private Party] such request for information that it receives as soon as practicable and in any event within [five] business days of receiving the request and the [Private Party] shall
 - (a) Provide the [Contracting Authority] with a copy of all such information in the form the [Contracting Authority] requires as soon as practicable and in any event within [ten] business days (or such other period as the [Contracting Authority] acting reasonably may specify) of the [Contracting Authority's] request; and
 - (b) Provide all necessary assistance as reasonably requested by the [Contracting Authority] in connection with any such information to enable the [Contracting Authority] to respond to a request for information within the time for compliance set out in the Access to Information Act 2005.
- 1.4 The [Private Party] shall ensure that all information held on behalf of the [Contracting Authority] is retained during the term of this PPP agreement for at least [] years after the expiry or termination of the PPP agreement and shall permit the [Contracting Authority] to inspect such information as requested from time to time.
- 1.5 Where the [Contracting Authority] receives a request for information under the Access to Information Act 2005 or the PPP Act 2015, the [Contracting Authority] shall be responsible for determining at its absolute discretion whether information is exempt from disclosure under the Access to Information Act 2005 or the PPP Act 2015 and for determining what information will be disclosed.

2. Public Relations and Publicity

- 2.1 The [Private Party] shall not by itself, its employees or agents communicate with representatives of the press, television, radio, or other communications media on any matter concerning this PPP agreement without the prior written approval of the [Contracting Authority].
- 2.2 The [Private Party] shall procure that its subcontractors shall not communicate with representatives of the press, television, radio, or other communications media on any matter concerning this [] Agreement without the prior written approval of the [Contracting Authority].

2.3 The [Private Party] may not represent the views of the [Contracting Authority] on any matter, or use the name of the [Contracting Authority] in any written material provided to third parties, without the prior written consent of the [Contracting Authority].

3. Publication of PPP Project Information

- 3.1 The parties agree that the [Contracting Authority], subject to Section 4 (Confidentiality) below, is entitled to disclose as detailed in Schedule [] the following information:
- (a) Procurement documents and information;
 - (b) All project documents, including this PPP agreement and other associated documents (such as the Value for Money report);
 - (c) Summary project information as set out in Schedule [] of this PPP agreement;
 - (d) Performance information related to this PPP agreement.
- 3.2 The [Private Party] acknowledges that the [Contracting Authority] will publish the information mentioned in Subsection 3.1 above, subject to Section 4 (Confidentiality), on a web-based platform owned and administered by the PPP Unit, and any other media platforms as identified in the PPP Act 2015.

4. Confidentiality

Confidential Information

- 4.1 For the purpose of this PPP agreement, confidential information means,
- (a) The subset of confidential information included in column 1 of Schedule [] of this PPP agreement, in each case for the period specified in column 2 of Schedule [];
 - (b) Any other information (however it is conveyed or on whatever media it is stored) that may fall under the definition of “confidentiality” under the PPP Act 2015, in particular where the information contains proprietary information, scientific or technical information, or information supplied in confidence by a bidder, all as specified in Section 47 (2) (d) PPP Act 2015.
- 4.2 Without prejudice to Section 4.3, the parties shall keep confidential all confidential information received by one party from the other party relating to this PPP agreement and any other project agreements or the PPP project and shall use all reasonable endeavors to prevent their employees and agents from making any disclosure to any person of any such confidential information.

Permitted Disclosure

- 4.3 Confidential information may be disclosed if:
- a. Disclosure of such confidential information is reasonably required by any person engaged in the performance of its obligations under the PPP agreement for the performance of those obligations;
 - b. A party can demonstrate that such confidential information is already, or becomes, generally available in the public domain legitimately otherwise than as a result of a breach of this clause;
 - c. Such disclosure is necessary to enable a determination to be made under clause [insert reference to Dispute Resolution clause] or in connection with a dispute between the [Private Party] and any of its subcontractors;
 - d. Such disclosure is required pursuant to (i) any statutory or legal obligation, (ii) any order of a court of competent jurisdiction, (iii) a parliamentary obligation placed upon the party making

- the disclosure, (iv) the rules of any regulated stock exchange, or (v) any order from a governmental or regulatory authority concerned;
- e. The confidential information is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;
 - f. The confidential information is provided to:
 - (i) Each party's own professional advisers or insurance advisers; and/or
 - (ii) The lenders or the lenders' professional advisers or insurance advisers or, where it is proposed that a person should or may provide funds (whether directly or indirectly and whether by loan, equity participation, or otherwise) to the [Private Party] to enable it to carry out its obligations under the PPP agreement, or may wish to acquire shares in the [Private Party] in accordance with the provisions of this PPP agreement to that person or their respective professional advisers, but only to the extent reasonably necessary to enable a decision to be taken on the proposal; and/or
 - (iii) International or bilateral financial institutions involved in the PPP project as lenders, political risk insurers, or guarantors;
 - g. The disclosure of such confidential information by the [Contracting Authority] relates to the design, construction, operation, and maintenance of the PPP project and any disclosure of other confidential information as may be reasonably required for the purpose of conducting a due diligence exercise, to any proposed new private partner, its advisers, and lenders, should the [Contracting Authority] decide to retender the PPP agreement or undertake any market testing;
 - h. Such disclosure is required for any registration, filing, or recording of the required permits and property registration in connection with the PPP project;
 - i. The disclosure of confidential information by the [Contracting Authority] to any other relevant authority or their respective advisers or to any person engaged in providing services to the [Contracting Authority] is necessary for any purpose related to or ancillary to the PPP agreement;
 - j. Such disclosure is necessary for the purpose of:
 - (iv) The financial audit of the [Contracting Authority's] or the [Private Party's] accounts by statutory bodies such as the Office of the Auditor General;
 - (v) Any examination pursuant to [insert reference to any auditing obligations for public contracts] of the performance audit with which the [Contracting Authority] has used its resources;
 - (vi) Complying with a proper request from either party's insurance adviser or insurer on placing or renewing any insurance policies or in relation to any insurance claim made; or
 - (vii) (Without prejudice to the generality of clause 4.3 (d), compliance with [insert reference to any laws requiring disclosure (for example, environmental laws)]).
- 4.4 When disclosure is permitted under clauses 4.3 (a), (c), (f), (g), and (i) above, the party providing the information shall ensure that the recipient of the information shall be subject to the same obligation of confidentiality as that contained in this PPP agreement. The [Private Party] shall expressly inform any person to whom it discloses any information under this clause of the confidentiality restrictions set out in this clause and shall procure its compliance with the terms of this clause as if it were party to this PPP agreement and the [Private Party] shall be responsible for any breach by any such person of the provisions of this clause.
- 4.5 The provisions of Section 4.3 are not applicable to [insert relevant exceptions for specific project] (for example, information related to defense, security, and international relations as specified in Section 32 of the Access to Information Act 2005).

Confidential Information Related to End Users

- 4.6 Where the [Private Party], in carrying out its obligations under the PPP agreement, is provided with personal information relating to [end users (for example, road users, patients)], the [Private Party] shall not disclose or make use of any such information otherwise than for the purpose for which it was provided, unless the [Private Party] has obtained the prior written consent of that [end user] and has obtained the prior written consent of the [Contracting Authority].
- 4.7 No later than [] days following termination or expiry of this agreement, the [Private Party] shall ensure that all documents and/or computer records in its possession, custody, or control, which contain personal information relating to [end users], including any documents in the possession, custody, or control of a subcontractor, are delivered to the [Contracting Authority].

5. Reporting Obligations, Provision of Information, and Documents

Obligation to Disclose Information, Documents, and Records upon Request

- 5.1 (a) The [Private Party] shall provide to the [Contracting Authority] all information, documents, records, and the like in the possession of, or available to, the [Private Party] as may reasonably be requested by the [Contracting Authority] for the purpose of complying with any of its statutory reporting obligations, including but not limited to its reporting obligations under the Public Finance Management Act 2015, Access to Information Act 2005, Public-Private Partnership Act 2015, and [].
- (b) To this end, the [Private Party] shall ensure that all such information in the possession of any subcontractor or other counterparty to any project agreement shall be available to the [Contracting Authority] and the [Private Party] has included, or shall include, appropriate provisions to this effect in all project agreements.

Project Information

- 5.2 (a) The [Private Party] shall provide to the [Contracting Authority] summary project information as set out in Schedule [] of this PPP agreement within [seven] business days after signature of this PPP agreement and an updated version including information on the financial structure as described in Schedule [] of this PPP agreement within [seven] business days after [insert definition for financial close].
- (b) In the event of any relevant change of the project information described in Subsection (a), the [Private Party] shall provide to the [Contracting Authority] the updated information and copies of the updated documents [] business days after the relevant change has occurred.
- (c) In the event of renegotiation, the [Private Party] shall provide to the [Contracting Authority] information on the renegotiation as well as copies of the renegotiated PPP agreement within [seven] business days after signature of the renegotiated PPP agreement.

Performance Information

- 5.3 The parties agree that the [Private Party] shall provide to the [Contracting Authority] information relating to performance as set out in Schedule [] of this PPP agreement within one year of [insert definition for financial close]. This will include information on the performance of the private party on key performance indicators against agreed target levels, as well as copies of performance assessments (such as audit reports and/or audited financial statements, extracts from the private party reports (special purpose company self-reporting)), and extracts from independent

expert reports). This information will be updated annually each year during the term of this PPP agreement on [].

Calculation of Equity Internal Rate of Return

5.4 The [Private Party] shall provide to the [Contracting Authority] each year during the term of this [Concession Agreement] on [] and on [] a calculation of the actual equity internal rate of return and any other financial information submitted to any other authority including any regulators.

Audited Financial Statements

5.5 The [Private Party] shall provide to the [Contracting Authority] audited financial statements annually and no later than [180] days after the end of the fiscal year of the [Private Party].

Enforcement of Reporting and Information Obligations

5.6 The parties agree that the scope of services under this PPP agreement includes obligations of the [Private Party] to provide information as set out in Section/Subsection [] of this Agreement to the [Contracting Authority] and that any breach of this obligation shall be a failure in performance of the service, triggering deductions in accordance with the payment mechanism as set out in Schedule [] of this PPP agreement.

Schedule []

Format for submission of summary project information for disclosure

PPP AGREEMENT INFORMATION *(submitted within [seven] business days of execution of the project agreement (commercial close) and updated at financial close and in case of any change)*

- Contracting authority: name of authority, name of representative, address, telephone, fax, e-mail
- Private party: name of company or consortium, name of representative, address, telephone, fax, e-mail
- Project value
- Project scope
- Term
- Key performance indicators with agreed target levels
- Financial structure (figure showing debt/equity/proportion/providers) (provide link to company registry) (to be provided within [seven] business days of financial close)
- Copies of project documents (including the PPP agreement and the value for money report)
- Implementation structure (SPC and any subcontractors)

RISKS

RISK	DESCRIPTION	ALLOCATION

GOVERNMENT SUPPORT

Guarantees
Grants
Availability/annuity payment schedule
Land leases, asset transfers
Other support
Revenue share, if any

TARIFFS

Tariffs and pricing

TERMINATION PROVISIONS

PARTY	BRIEF DESCRIPTION OF EVENT OF DEFAULT
Concessionaire	
Authority	
Handback terms and conditions	

RENEGOTIATIONS

RENEGOTIATION 1	RENEGOTIATION 2	RENEGOTIATION 3	RENEGOTIATION 4

Schedule []

Format for submission of performance information for public disclosure

PERFORMANCE INFORMATION (*key performance indicators and target summary to be submitted within one year of financial close and achievement and performance failure information, to be updated annually*)

KEY PERFORMANCE INDICATORS	Year 1		Year n	
	Target	Achievement	Target	Achievement

Performance failures

	YEAR
Category of failure	
Number of events	
Penalty or abatement provided in contract	
Penalty or abatement imposed	
Penalty paid or abatement effected: Yes/No	

Performance assessments Copies of audit reports and/or audited financial statements, extracts from the private party reports (SPC self-reporting, and extracts from independent expert reports)

Schedule []

Payment deductions for noncompliance with the obligation to provide information

Period of delay in compliance	Payment deduction

Schedule []

Confidential information

Clauses/schedules	Period for which information will remain confidential

Annex E: Comparison of the World Bank Framework, Current Disclosure Practice, and the Agreed Framework for Uganda

	WORLD BANK FRAMEWORK	CURRENT DISCLOSURE PRACTICE	AGREED FRAMEWORK
1.	<i>BASIC PROJECT INFORMATION</i>		
1.1.	Name	Y	Y
1.2.	Location	Y	Y
1.3.	Sector	Y	Y
1.4.	Sponsoring agency/department	Y	Y
1.5.	Estimated project value	Y	Y
1.6.	Project need: benefits provided, economic and social (including specific information on the public interest aspect)	Y/N	Y
1.7.	Stakeholder consultations	N	N
1.8.	Reason for selection of PPP mode and type in brief	N	Y
1.9.	Brief description of other modes analyzed and reasons for rejecting these	N	Y
1.10.	Technical description of the physical infrastructure	N	Y
1.11.	Dates of various approvals	Y/N	Y
1.12.	High-level description of the services	Y	Y
1.13.	Estimated demand to be served annually	N	Y
1.14.	Project additionality	N	Y
2.	<i>CONTRACT MILESTONES AND DOCUMENTS</i>		
2.1.	Date of commercial close	N	Y
2.2.	Date of financial close	N	Y
2.3.	Date of commencement of construction or development	N	Y
2.4.	Date of completion of construction or development	N	Y

2.5.	Date of commissioning	N	Y
2.6.	Date of contract expiry	Y	Y
2.7.	All contract documents (with appropriate redactions)	Y	Y
3.	<i>PARTIES TO THE CONTRACT WITH CONTACT DETAILS</i>		
3.1.	Public authority: name of authority, name of representative, address, telephone, fax, e-mail	N	Y
3.2.	Private party: name of company or consortium, name of representative, address, telephone, fax, e-mail	N	Y
3.3.	Financiers: name of lead financial institution, other financial institutions, name of representative of lead financial institution, address, telephone, fax, e-mail	N	Y
4.	<i>PROCUREMENT INFORMATION</i>		
4.1.	Dates and summary details	N	Y
4.2.	Final Feasibility Study (including cost-benefit analysis, if any)	N	Y
4.3.	Land acquisition, rehabilitation, social (including information on human rights impact assessment), and environmental assessment-related information	N	Y
4.4.	Reports of independent procurement auditors and experts (if any)	N	Y
4.5.	<i>Procurement documents</i>		
4.5.1.	Request for Qualification	N	N
4.5.2.	Prequalification or short list	Y/N	N
4.5.3.	Request for Proposals	N	Y
4.5.4.	Evaluation criteria: brief description with weightage	N	Y
4.5.5.	Brief information on constitution of the evaluation committees	N	N
4.5.6.	Negotiation parameters: brief description of the parameters for negotiation with preferred proponent	N	N
4.5.7.	Minutes of pre-bid meetings	N	N
4.5.8.	Selection of preferred bidder	Y	Y
5.	<i>RISK</i>		
5.1.	Pre-construction risk: all risks up to financial close	N	Y
5.2.	Construction/completion	N	Y

5.3.	Cost risk: capital, operating	N	Y
5.4.	Refinancing risk	N	Y
5.5.	Risk related to change in law, taxes, scope, technical standards, regulatory framework	N	Y
5.6.	Exchange rate risk	N	Y
5.7.	Operating risk	N	Y
5.8.	Commercial risk, market risk, demand risk	N	Y
5.9.	Performance risk	N	Y
5.10.	Financial risk	N	Y
5.11.	Force majeure risk	N	Y
5.12.	Environmental risk	N	Y
5.13.	Social risk	N	Y
6.	<i>EVALUATION OF PPP OPTION (VALUE-FOR-MONEY OR OTHER APPROACH USED)</i>	N	Y
6.1.	Evaluation report (value for money or other)	N	Y
6.2.	Rationale for doing the project as a PPP, including any qualitative or quantitative value-for-money, final feasibility studies (including cost-benefit analysis, if any), or other analysis that might have been used, including nonfinancial benefits that have been quantified or considered	N	Y
6.3.	Discount rates used along with the risk premium used, if any, and an explanation for the rate of risk premium used, referring to guidance, if any, available in this regard or describing project-specific circumstances that justify the risk premium rate used	N	Y
6.4.	Risk comparison of other financing mechanisms	N	Y
7.	<i>FINANCIAL INFORMATION</i>	N	Y
7.1.	Equity-debt ratio	N	Y
7.2.	Share capital	N	Y
7.3.	Shareholders with proportion held and voting rights	N	Y
7.4.	Details of any provisions related to contracts providing for caps on equity transfer in different stages of the contract, especially during the construction stage and for a few years	N	Y

	thereafter		
7.5.	Commercial lenders, institutional investors, bilateral or multilateral lenders, public issue of bonds, supplier credit, other	N	Y
7.6.	Categorize senior debt, mezzanine debt, other	N	Y
7.7.	Amount and tenor of each, fixed or floating rate	N	Y
7.8.	Security and step-in arrangements	N	Y
7.9.	Forecast internal rate of return	N	Y
8.	<i>GOVERNMENT SUPPORT</i>	N	Y
8.1.	<i>Guarantees (type and details of the guarantees provided—explicit and contingent guarantees)</i>	Y	Y
8.1.1.	Minimum revenue guarantee	N	Y
8.1.2.	Exchange rate guarantee	N	Y
8.1.3.	Debt repayment guarantee	N	Y
8.1.4.	Other guarantees	N	Y
8.1.5.	Fiscal commitments and contingent liability disclosure reports	N	Y
8.2.	<i>Grants</i>	N	Y
8.2.1.	Subsidy as a proportion of project value	N	Y
8.2.2.	Capital subsidies paid during construction with periodicity or milestones	N	Y
8.2.3.	Operating subsidies and their periodicity or milestones	N	Y
8.3.	<i>Service payments (payments made by the public authority or purchaser to the private provider for infrastructure services (applicable in private finance initiative-type projects))</i>	N	Y
8.3.1.	Total payments and periodicity	N	Y
8.3.2.	Methodology for calculating payments	N	Y
8.3.3.	Indexation used	N	Y
8.4.	<i>Land leases, asset transfers</i>	N	Y
8.4.1.	Property numbers with the quantum of land transferred	N	Y
8.4.2.	Zoning information of land	N	Y
8.4.3.	Conditions of transfer of land	N	Y

8.4.4.	Equipment transfers: details of equipment with conditions of transfer	N	Y
8.4.5.	Human resources/personnel transfers: details and conditions of transfer	N	Y
8.5.	<i>Other support</i>	N	Y
8.5.1.	Noncomplete clauses	N	Y
8.5.2.	Provision for revenue shortfall loan	N	Y
8.6.	<i>Revenue share, if any</i>	N	Y
8.6.1.	Revenue share on base case	N	Y
8.6.2.	Revenue share on upside	N	Y
8.6.3.	Graphs: annual concessionaire payments to government	N	Y
9.	<i>TARIFFS</i>	N	
9.1.	<i>Tariffs and pricing (where the infrastructure is financed partly or fully through the levy of user charges)</i>	Y	Y
9.1.1.	Methodology for tariff setting/pricing	N	Y
9.1.2.	Scope for reviews of tariff, pricing, regulatory mechanisms	N	Y
9.1.3.	Graphs: tariff increases over time, consumer price index movement	N	Y
10.	<i>CONTRACT TERMINATION</i>	N	
10.1.	Concessionaire: events of default, termination payments made, methodology used for total payments	N	Y
10.2.	Authority: events of default, termination payments made, methodology used for total payments	N	Y
11.	<i>RENEGOTIATIONS</i>	N	
11.1.	Nature of variation	N	Y
11.2.	Rationale for variation	N	Y
11.3.	Change in roles and responsibilities of the parties due to the variation, if any	N	Y
11.4.	Change in original risk allocation due to the variation, if any	N	Y
11.5.	Change in original fiscal commitments or contingent liabilities of government due to the variation, if any	N	Y
11.6.	Change in capital or operational costs due to the variation, if any	N	Y
11.7.	Change in tariffs or service levels due to the variation, if any	N	Y

11.8.	Date of variation	N	Y
12.	<i>PERFORMANCE INFORMATION</i>	N	
12.1.	Annual demand levels	N	Y
12.2.	Annual revenues (where revenue share clauses or other related clauses, such as minimum revenue guarantees, are present in the contract)	N	Y
12.3.	Actual internal rate of return (where there is government equity investment or other form of government support that is substantial)	N	Y
12.4.	Performance (actual year-wise performance against 10 to 12 identified key performance indicators)	N	Y
12.5.	<i>Performance failures</i>	N	Y
12.5.1.	Year	N	Y
12.5.2.	Category of failure	N	Y
12.5.3.	Number of events	N	Y
12.5.4.	Penalty or abatement provided in contract	N	Y
12.5.5.	Penalty or abatement imposed	N	Y
12.5.6.	Penalty paid or abatement effected	N	Y
12.6.	<i>Performance assessments</i>	N	Y
12.6.1.	Audit reports and/or audited financial statements	N	Y
12.6.2.	Independent performance assessments of the independent engineer	N	Y
12.6.3.	Any other performance reports available for the project	N	Y

The World Bank Group provides assistance to governments in developing countries to improve access to infrastructure and basic services through public-private partnerships (PPPs). When designed well and implemented in a balanced regulatory environment, PPPs can bring great efficiency and sustainability to the provision of such public services as water, sanitation, energy, transport, telecommunications, healthcare, and education.

The World Bank Group's unique value proposition rests with its capacity to provide support along the entire PPP cycle—upstream policy and regulatory guidance, transaction structuring advice, as well as financing and guarantees to facilitate implementation.



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