



(UNIVERSITY OF CHOICE)

**MASINDE MULIRO UNIVERSITY OF SCIENCE AND
TECHNOLOGY (MMUST)**

MAIN CAMPUS UNIVERSITY EXAMINATIONS

2021/2022 ACADEMIC YEAR

MAIN EXAMINATIONS

**FOR THE DEGREE OF MASTERS IN BUSINESS
ADMINISTRATION**

COURSE CODE: MBA 894E

COURSE TITLE: PROCUREMENT LAW AND ETHICS

DATE: FRIDAY, 29TH JULY 2022 TIME: 2:00 – 5:00PM

INSTRUCTIONS TO CANDIDATES

**1. ANSWER QUESTION ONE AND ANY OTHER THREE
QUESTIONS**

2. DO NOT WRITE ANYTHING ON THE QUESTION PAPER

TIME: 3 HOURS

MMUST observes ZERO tolerance to examination cheating

This Paper Consists of 2 Printed Pages. Please Turn Over.

QUESTION ONE

a. The ministry of health sent out a request for proposal for construction of two laboratories. The accounting officer appointed his close friends Trevor and Ken and his brother Dan as members of the tender opening committee. Dan was known to be having integrity issues. One the tenders were opened, those that were responsive were selected. Further for evaluation, the accounting officer appointed Duke who also had integrity issues, Mark whose brother had applied for the tender, Stephen who had solicited for funds from prospective suppliers, Timothy who had received gifts from prospective suppliers whom he met regularly while playing golf at Mwango Golf club. During the evaluation the committee selected those who had quoted very high prices and they did not consider quality. Those who were successful had already been predetermined even before the evaluation and the accounting officer also had his person who also won the tender. Immediately after the evaluation the contents of the tender were divulged. Those who won the tender had no prior experience in construction works and some had formed their companies two months prior to winning the tender. Further, the ministry also invited tenders for supply of T-shirts for their '*afya poa ni uhai*' campaign. Koki Ltd the company that won the tender is owned by the daughter of the cabinet secretary for health Miss Kalu and there is strong suspicion that the CS may have influenced the award of the tender. The T-shirts are being supplied at ksh 5000 per t-shirt which is way above the market price.

Required

- i. Identify the procurement issues in the case (4 marks)
 - ii. Discuss actions that should be undertaken in order to combat unethical practices in procuring entities. (10 marks)
- b. Explain five rights available to an aggrieved buyer of goods enshrined in the Sale of Goods Act (5 marks)
- c. A contract without consideration is void. Are there exceptions to this rule? (5 marks)
- d. Identify and explain six factors influencing effective implementation of procurement and disposal rules in public procurement (12 marks)
- e. Explain the following terms with the aid of illustrations;
- i. Force majeure clause (2 marks)
 - ii. Exclusion clause (2 marks)

QUESTION TWO

- a. Appraise FIVE reasons why a procurement consultant may propose the adoption of e procurement (10 marks)
- b. The (PPAD 2015) confers mandate to various institutions and individuals in the public procurement process. Explain the roles of the;
- i. Accounting officer (5 marks)

ii. National Treasury

(5 marks)

QUESTION THREE

a. For every complex and specialized procurement contract, the accounting officer of a procuring entity shall appoint a contract implementation team. Elaborate on the role of the contract implementation team. (10 marks)

b. In relation to Sale of Goods act elaborate on the circumstances under which a seller may give the buyer being the procuring entity a better title than that which the seller has in the goods (10 marks)

QUESTION FOUR

a. Examine the circumstances that may justify termination or cancellation of procurement proceedings before a contract is entered into. (5 marks)

b. Green procurement is the adoption of ecologically responsible practices in business activities used to meet needs for materials, goods, utilities and services. The approach is one component of sustainable procurement. Explain how a procuring entity may incorporate green procurement.

(10 marks)

c. The term consideration is used in the sense of 'quid pro quo' or 'something in return'. Illustrate legal rules governing consideration (5 marks)

QUESTION FIVE

a. The government discourages the use of single sourcing policy in public procurement for various reasons including. Discuss the benefits of using open tender method. (12 marks)

b. Highlight the circumstances when request for quotation may be used and describe the procedure (8 marks)

