



**PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS AUTHORITY**

**REPORT ON APPLICATION FOR ADMINISTRATIVE REVIEW IN RESPECT TO THE  
SUPPLY OF TWO SALOON VEHICLES PROCUREMENT REFERENCE MAAIF-  
ACDP/SUPLS/17-18/00098-LOT 2**

**ENTITY: MINISTRY OF AGRICULTURE, ANIMAL INDUSTRY & FISHERIES**

**COMPLAINANT: MOTORCARE UGANDA LIMITED**

**AUGUST, 2018**

## 1.0 BACKGROUND

1. On 15<sup>th</sup> December 2017, Ministry of Agriculture, Animal Industry & Fisheries (MAAIF) initiated the procurement for supply of Motor vehicles Lot 1 Double Cabin, Lot 3 Station Wagons, Lot 3 Motorcycles and Lot 4 Saloon Cars (2) under ACDP project under Procurement reference no. MAAIF-ACDP/SUPLS/17-18/00098 at an estimated cost of USD 1,804,778.
2. On 15<sup>th</sup> December 2017, MAAIF published a bid notice in the New Vision Newspaper under the International Competitive Bidding in accordance with the World Bank procurement guidelines.
3. On 15<sup>th</sup> December 2017, the Entity issued the bidding document to the following companies:
  - i. Cooper Motor Cooperation (U) Ltd
  - ii. Simba Automotives (U) Ltd
  - iii. Toyota Uganda Ltd
  - iv. MAC East Africa Ltd
  - v. Motorcare Uganda Ltd
4. On 12<sup>th</sup> January 2018, MAAIF issued an addendum to the bidding document to all bidders.
5. On 17<sup>th</sup> January 2018, two (2) bidders submitted bids in respect to the procurement of two saloon vehicles which were opened and prices read out as indicated in Table 1 below:

**Table 1: Firms that submitted bids for Lot 3**

No	Name	Price as Read out (UGX)
1	Motorcare (U) Limited	171,445,680
2	Toyota (U) Ltd	313,878,184

6. The Evaluation Report dated 13<sup>th</sup> April 2018 indicated that Motorcare Uganda Ltd was eliminated for non compliance with the engine capacity or displacement requirements of /not exceeding 1800cc. The report recommended award to Toyota Uganda Ltd at UGX 313,878,504.
7. On 13<sup>th</sup> April 2018, the Contracts Committee approved the award of the supply of two (2) saloon vehicles under Lot 3 to Toyota Uganda Ltd at a contract price of UGX 313,878,504.
8. The notice of best evaluated bidder was displayed from 13<sup>th</sup> June 2018 to 27<sup>th</sup> June 2018 indicating Toyota Uganda Ltd as the best evaluated bidder at a contract price of UGX 313,878,504.

## **2.0 ADMINISTRATIVE REVIEW PROCESS**

1. On 26<sup>th</sup> June 2018, Motorcare Uganda Limited applied for Administrative Review to the Accounting Officer of MAAIF.
2. On 11<sup>th</sup> July 2018, the Accounting Officer issued his decision rejecting the application for the Administrative Review.
3. On 23<sup>rd</sup> July 2018, Motorcare Uganda Ltd applied to the Authority for Administrative Review.
4. On 30<sup>th</sup> June 2018, the Authority directed MAAIF to suspend the procurement process and instituted an investigation in accordance with Section 91 of the PPDA Act 2003.

## **3.0 LEGAL PROVISIONS APPLICABLE**

- i) The Public Procurement and Disposal of Public Assets Act, 2003.
- ii) The Public Procurement and Disposal of Public Assets Regulations, 2014.
- iii) The PPDA (Administrative Review) Regulations, 2014.
- iv) The PPDA (Contracts) Regulations, 2014

## **4.0 METHODOLOGY**

While investigating the application for Administrative Review, the Authority adopted the following methodology:

4.1 Analysis was made on the following documents:

- a) The invitation for bid;
- b) Bids submitted by the bidders;
- c) Copy of detailed bidding document issued to bidders;
- d) Record of issue and receipt of bids;
- e) All Forms related to this procurement;
- f) The Evaluation Report;
- g) Contracts Committee minutes; and
- h) Correspondences related to this matter.

4.2 On 9<sup>th</sup> August 2018, PPDA convened an Administrative Review hearing which was attended by the parties in Table 2 below:

**Table 2: Parties who attended the Administrative review Hearing**

<b>Officials from Ministry of Agriculture (MAAIF)</b>		
<b>No.</b>	<b>Name</b>	<b>Designation</b>
1.	Mr. Johnson Musinguzi	Head Procurement and Disposal Unit
2.	Mr. Julius Emau	Procurement Specialist
3.	Eng. Boniface Okanya	Project Manager
4.	Mr. Evarist Ahimbisibwe	Senior Assistant Secretary
<b>Officials from Motor Care Uganda Ltd (Complainant)</b>		
<b>No.</b>	<b>Name</b>	<b>Designation</b>
1.	Mr. Mascot Benson	Deputy General Manager
2.	Ms. Jane Esadu	Sales Administrator
<b>Officials from Toyota Uganda Ltd (Best Evaluated Bidder)</b>		
<b>No.</b>	<b>Name</b>	<b>Designation</b>
1.	Mr. Batsoma Awori	National Sales & Marketing Manager
2.	Mr. George Ochulu	Sales Leader

## **5.0 GROUND FOR THE APPLICATION**

The Complainant raised one ground both at the Entity and PPDA level:

1. Non-compliance with the engine capacity or displacement requirement.

### **5.1 ISSUE AGREED UPON BY PARTIES**

*Whether the complainant met the requirement of engine displacement.*

- i. Part 3 item No.5 of the technical specifications in the bidding document under Lot 3 for the two saloon vehicles required for “a water cooled Petrol Engine of engine displacement of/not exceeding 1800 cc”.
- ii. The complainant in its bid offered water cooled petrol engine with displacement capacity of 1600 cc and also attached the brochures.
- iii. The best evaluated bidder notice dated 13<sup>th</sup> June 2018 indicated that Motorcare Uganda Ltd was eliminated for non compliance with the engine capacity or displacement requirement.

- iv. At the hearing, the complainant stated that it offered a water cooled petrol engine with an engine displacement of 1600 cc which was within and not exceeding the 1800cc. The Complainant understood the requirement as supplying a unit of not more than 1800cc. The brochure attached indicated 1600 cc for the water cooled engine displacement and also this in the technical compliance sheet.
- v. The Entity in response stated that it needed a water cooled petrol engine with a displacement of 1800 cc and not below or above. The brochure submitted by the complainant provided less than 1800 cc.
- vi. The Authority found that the bidding document issued set an upper limit for the engine displacement of 1800cc and did not set a lower limit. The complainant's offer for a saloon vehicle of engine displacement of 1600 cc complied with the requirement in the technical specifications and should not have been eliminated.
- vii. The Authority reviewed the bid submitted by Toyota Uganda Ltd the Best Evaluated Bidder and noted that it offered an engine displacement of 1798 cc which did not meet the requirement of 1800 cc as argued by the Entity but was within the limit required by the Entity.
- viii. The Authority found that the bid complied with the requirement on displacement.

#### **Decision of the Authority on the issue.**

The Authority **finds merit** in issue one raised by Motorcare Uganda Limited.

#### **6.0 DECISION OF THE AUTHORITY**

In accordance with Section 91 (4) of the PPDA Act 2003 and in light of the findings of the Authority during the Administrative Review process, the application for the Administrative review by Motor care Uganda Ltd is **upheld**.

The Authority advises the Entity to re-evaluate the bids in accordance with the evaluation criteria in the bidding document. The decision of the Authority should be implemented after 10 working days from receipt of the decision by the complainant if no appeal is filed in the PPDA Appeals Tribunal.

To refund the Administrative Review fees by the complainant in accordance with Regulation 11(2) of the PPDA (Administrative Review) Regulations, 2014