



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

APPLICATION NO: 05 OF 2019/2020

**DECISION OF THE AUTHORITY ON THE APPLICATION FOR ADMINISTRATIVE
REVIEW BY ABAITA ABABIRI MARKET VENDORS AND TRADERS CO-
OPERATIVE SOCIETY LIMITED IN RESPECT TO THE TENDER FOR
COLLECTION OF REVENUE FROM ABAITA ABABIRI DAILY MARKET**

APPLICANT: WAKISO DISTRICT LOCAL GOVERNMENT

**ENTITY: ABAITA ABABIRI MARKET VENDORS AND
TRADERS CO-OPERATIVE SOCIETY LIMITED**

JULY 2019

DECISION OF THE AUTHORITY

1.0 BRIEF FACTS

1. On 24th April, 2019, the Entity initiated the procurement for the revenue collection from Abaita Daily market in Katabi Town Council.
2. On 25th April 2019, the Entity published the bid notice in the New Vision Newspaper with a bid submission deadline of 24th May 2019. According to the record of issue of bidding document, the bidding document was issued to two bidders as indicated in Table 1 below:

Table 1: Bidders Issued with the Bidding Document

No.	Name of Bidder
1.	Abaita Ababiri Market Vendors and Traders Co-operative Society Limited
2.	Okwegatta Gemanyi Abaita Ababiri Daily Market Vendors Association

3. On 24th May 2019, two bidders submitted bids which were opened on the same day and prices read out as indicated in Table 2 below:

Table 2: Bid Prices Read Out

No.	Name of Bidder	Price Read Out (UGX)
1.	Abaita Ababiri Market Vendors and Traders Co-operative Society Limited	3,820,000
2.	Okwegatta Gemanyi Abaita Ababiri Daily Market Vendors Association	4,350,000

4. According to the Evaluation Report dated 30th May 2019, both bidders passed the preliminary, detailed technical evaluation and proceeded to the financial evaluation stage. The financial comparison was done as indicated in Table 3 below and the Evaluation Committee recommended award to Okwegatta Gemanyi Abaita Ababiri Daily Market Vendors Association at UGX. 4,350,000.

Table 3: Financial Comparison

No.	Name of Bidder	Price Read Out (UGX) VAT inclusive
1.	Abaita Ababiri Market Vendors and Traders Co-operative Society Limited	3,820,000
2.	Okwegatta Gemanyi Abaita Ababiri Daily Market Vendors Association	4,350,000

5. On 30th May 2019, the Contracts Committee approved the recommendation of the Evaluation Committee to award the contract to Okwegatta Gemanyi Abaita Ababiri Daily Market Vendors Association at UGX. 4,350,000.

6. On 31st May 2019, the notice of best evaluated bidder was displayed with a removal date of 18th June, 2019.
7. On 5th June 2019, the Applicant applied for Administrative Review to the Accounting Officer and on 28th June 2019, Accounting Officer issued his decision rejecting the application for Administrative Review.
8. On 8th July 2019, Applicant applied for Administrative Review to the Authority.

2.0 APPLICATION FOR REVIEW BY THE AUTHORITY

The ground for the Application to the Authority was that the “*Contract Committee erred in awarding the contract to Okwegata Gemanyi Abaita Ababiri Daily Market Vendors Association without the necessary experience since they got registered on 30th September, 2017*”.

3.0 DISPOSAL OF APPLICATION

1. In investigating the application for Administrative Review, the Authority analysed the following documents:
 - i) Bidding document;
 - ii) Record of bid opening;
 - iii) Bids submitted by the bidders;
 - iv) The evaluation report and minutes;
 - v) Minutes of the Contracts Committee;
 - vi) Notice of Best Evaluated Bidder;
 - vii) Application for Administrative Review by Abaita Ababiri Market Vendors and Traders Co-operative Society Limited and
 - viii) Correspondences with respect to the Administrative Review.
2. On 18th July 2019, the Authority convened an Administrative Review hearing which was attended by the following persons indicated in Table 4:

Table 4: Representation at the Administrative Review Hearing

No.	Name	Designation
Wakiso District Local Government		
1.	Ms. Sarah Namuwaya	Senior Procurement Officer
2.	Mr. Henry Lwanyaaga	Procurement Officer
Abaita Ababiri Market Vendors and Traders Co-operative Society Limited		
1.	Mr. Ibrahim Ssegawa	Treasurer
2.	Mr. Julius Kinyera	Counsel
3.	Mr. Said Magezi	Member
4.	Ms. Annet Nanyuwa	Member
5.	Mr. Joseph Ssebuwufu	Member

No.	Name	Designation
6.	Mr. Abubakar Ngobi	Member
7.	Mr. Steven Mugalula	Member
8.	Mr. Fatuma Kabasiita	Member
Okwegatta Gemanyi Abaita Ababiri Daily Market Vendors Association		
1.	Ms. Sarah Nakibuuka	Secretary
2.	Mr. Abdu Semakula	Chairperson
3.	Ms. Agnes Namugaza	Member
4.	Mr. Saake Mukibi	Member
5.	Mr. Robert Ssekamatta	Member
6.	Mr. Wilson Asiimwe	Member

4.0 ISSUE

The Applicant submitted one ground at the hearing from which the Authority raised the following issues:

Whether the Okwegata Gemanyi Abaita Ababiri Daily Market Vendors Association the best evaluated bidder had the necessary experience in similar works completed in the past three years”.

5.0 SUBMISSIONS BY THE APPLICANT

Issue:

Whether the Okwegata Gemanyi Abaita Ababiri Daily Market Vendors Association the best evaluated bidder had the necessary experience in similar works completed in the past three years”.

1. According to the bidding document page 27 of 48, one of the requirements to qualify for the contract was **“experience of company in similar works completed in the past three years”**.
2. The Contracts Committee erred in awarding the contract to Okwegata Gemanyi Abaita Ababiri Daily Market Vendors Association without the necessary experience since it got registered on 30th September 2017.
3. The evidence of experience submitted by Abaita Ababiri Market Vendors and Traders Co-operatives Society Limited was only for two years (FY 2017/18 and 2018/19).

6.0 SUBMISSIONS BY THE ENTITY

Issue 1: *Whether the best evaluated bidder without the necessary experience will effectively manage the revenue collection of the market.*

The Entity in its decision stated that since both bidders lacked the three years' experience as required in the bidding document. The three years' requirement was waived. The Evaluation Committee therefore considered the bidder with the highest bid price.

7.0 RESOLUTION BY THE AUTHORITY

Issue: *Whether the best evaluated bidder had experience in similar works completed in the past three years.*

The Authority studied the submissions of both parties and established that:

1. At page 27 of 48 of the bidding document, bidders were required to submit evidence of ***“experience of the company in similar works completed in the past three years”***. However, the Authority noted that the procurement was for non-consultancy services of revenue collection. The use of the term works in the bidding document was in error.
2. In its bid, the best evaluated bidder, Okwegata Gemanyi Abaita Abaabiri Daily Market Vendors Association submitted the following documents:
 - a) Letter of recommendation from Katabi Town Council dated 20th May 2019 indicating that most of the members in the Association are vendors who operate from Abaita Abaabiri Market by the Town Clerk Katabi Town Council.
 - b) Letter of recommendation from Katabi Town Council dated 21st May 2019 indicating that most of the members in the Association are vendors who operate from Abaita Abaabiri Market by the Chairperson Katabi Town Council.
 - c) Letter of recommendation dated 20th May 2019 from Chairperson of Abaita Abaabiri Daily market Mr. Semakula Ibrahim Ssalongo indicating that Okwegata Gemanyi Abaita Abaabiri Daily Market Vendors Association started operating in the market seven years ago.
 - d) Certificate of Registration dated 30th September 2017 issued by the Directorate of Community Based Service in Wakiso District.
 - e) Licence to operate a business issued on 16th January 2019 by Katabi Town Council to Okwegata Gemanyi Abaita Abaabiri Daily Market Vendors Association. It expires on 31st September 2019.
 - f) Letters of award issued by Wakiso District Local Government to Ms. Agnes Namugera (Stall no. 48), Ms. Rehema Nampiima (Stall No. 47), Ms. Pricillah Apio (Stall No. 47), Mr. Abdu Mukiibi (Stall No. 6) and Ms. Aisha Najjuma (Stall No. 24)
 - g) General Receipt issued by Wakiso District Local Government to Ms. Monica Ssemakula dated 9th September 2011.

- h) General Receipt issued by Wakiso District Local Government to Ms. Monica Ssemakula dated 8th August 2011.
 - i) General Receipt issued by Wakiso District Local Government to Ms. Monica Ssemakula dated 27th June 2011.
 - j) General Receipt issued by Wakiso District Local Government to Ms. Monica Ssemakula dated 2nd June 2011.
 - k) Revenue receipt issued by Wakiso District Local Government to Okwegata Gemanyi Abaita Abaabiri Daily Market Vendors Association dated 9th May 2019.
3. On the other hand, in its bid, the complainant submitted in Form A6 the following information indicated in Table 5 below:

Table 5: Complainant's information on experience in similar works

No.	Description of contracts	Contract price (UGX)	Date of completion
1.	Management of revenue collection from Abaita Ababiri Daily/ Mubuulo market in Katabi Town Council Wakiso District	3,570,000	July 2018 to date
2.	Management of revenue collection from Abaita Ababiri Daily/ Mubuulo market in Katabi Town Council Wakiso District	3,920,000	June 2018
3	Management of revenue collection from Abaita Ababiri Daily/ Mubuulo market in Katabi Town Council Wakiso District	3,540,000	June 2017

4. The above information was accompanied by the following documents:
- a) Letter of award issued by Wakiso District Local Government dated 3rd July 2018 for contract for management of revenue collection from Abaita Ababiri Daily and Mubuulo Market in Katabi Town Council for FY 2018/19 worth UGX 3,570,000;
 - b) Letter of award issued by Wakiso District Local Government dated 1st August 2017 for contract for management of revenue collection from Abaita Ababiri Daily and Mubuulo Market in Katabi Town Council for FY 2017/18 worth UGX 3,920,000;

- c) Letter of recommendation from Katabi Town Council dated 14th May 2019 indicating that the association has been managing revenue collection from Abaita Ababiri Daily Market and Mubuulo market for over 6 years.
 - d) Letter of recommendation from Katabi Town Council dated 21st May 2018 indicating that the association has been managing revenue collection from Abaita Ababiri Daily Market and Mubuulo market for over 6 years.
 - e) Letter of recommendation from the office of the Chairperson Abaita Ababiri Cell-Nkumba Ward dated 14th May 2019 indicating that the association is based in that area.
 - f) Revenue receipt issued by Katabi Town Council to Abaita Ababiri Market Vendors and Traders Co-operative Society dated 28th May 2018.
5. According to the Evaluation Report, both bidders were found non-compliant with respect to the requirement of experience in similar works completed in the past three years. The Evaluation Committee noted that the Applicant submitted experience of only two years and therefore decided to consider the bidder with the highest bid price.
 6. At the hearing before the Authority, the Entity submitted that the Evaluation Committee had waived the requirement on experience since both bidders were non-compliant.
 7. The Authority found from the above information submitted by both bidders that they did not have the experience in similar works completed in the past three years. However, the requirement was waived for both bidders.

Decision of the Authority on the Ground:

The Authority found **no merit** in the ground since both bidders were found to be non-complaint on the requirement for experience in similar works completed in the past three years and the Evaluation Committee waived the requirement for both bidders.

8.0 DECISION OF THE AUTHORITY

In accordance with Section 91 (4) of the PPDA Act, 2003 and in light of the findings during the Administrative Review process, the application for Administrative Review by Abaita Ababiri Market Vendors and Traders Co-operative Society Limited is **rejected** since the Authority found merit in the ground raised.

The above decision of the Authority shall be implemented after 10 working days from the receipt of the decision where no appeal to the PPDA Appeals Tribunal is lodged.