



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

**REPORT ON APPLICATION FOR ADMINISTRATIVE REVIEW IN RESPECT TO THE
PROCUREMENT FOR PRINTING AND SUPPLY OF BALLOT PAPERS FOR THE 2021
FOR PRESIDENTIAL, PARLIAMENTARY AND LOCAL COUNCIL ELECTIONS
(REF/SUPLS/2020-21/00864/1/2/3/4/5/6/7/8/9)**

ENTITY: ELECTORAL COMMISSION

APPLICANT: NEW VISION - HITECH GRAPHICS LIMITED

NOVEMBER 2020

1.0 BACKGROUND

1. On 19th March 2020, the Electoral Commission (hereinafter referred to as the entity) initiated the procurement for printing and supply of ballot papers and Declaration of Results Forms (DRF) for the general elections for 2021 (Presidential, Parliamentary and Local Council elections) at an estimated cost of UGX 77,611,089,200 divided into the following nine lots:

Table 1: Lots for the Ballot Papers

Lot No.	Description of Lot
1.	Presidential and Directly Elected Members of Parliament
2.	District Women Representatives to Parliament and District/City Women Councillors
3.	District/City Chairpersons and District Directly Elected Councillors
4.	Municipality/City Division Chairpersons, Women Councilors Forming One Third of Councils and Directly Elected Councilors
5.	Municipality/City Division Directly Elected Councillors
6.	Ballot Papers for Sub-county/Town/Municipal Division Chairpersons (SCCP)
7.	Ballot Papers for Sub-County/Town/Municipal Division Directly Elected Councillors (SCDEC)
8.	Ballot Papers for Sub-county/Town/Municipal Division Women Councillors (SCWC)
9.	Ballot Papers for Councilors Representing Special Interest Groups (Youth, PWDs, Older Persons and Workers) at Districts/City Local Governments and SIGs (Youth, PWDs and Older Persons) at Municipality/City Divisions and Sub-County/Town/ Municipal Divisions

2. On 28th May 2020, the Contracts Committee approved the bidding document, and the open International bidding procurement method and Evaluation Committee.
3. On 29th May 2020, the Entity advertised the bid notice for printing services for the Ballot Papers and Declaration of Results Forms for the General elections 2021 in the New Vision Newspaper with the deadline for bid submission on 13th July 2020.
4. On 5th June 2020, the Entity held a pre-bid meeting via teleconferencing and issued the minutes to the bidders of 1st July 2020.
5. On 13th July 2020, the Entity received and opened bids from 22 bidders. Out of the 22 bids received, ten were local bidders and twelve were foreign bidders as indicated in Table 2 below:

Table 2: Bids Submitted

No.	Name of Bidder	Number of Lots Bided for	Lot No.s
Local Bidders			
1.	In-line Print Services Ltd	1	4
2.	Multiplex Ltd	2	5, 9
3.	Wave Media Ltd	3	6, 4, 5
4.	Graphic Systems (U) Ltd	3	1, 4, 6
5.	Picfare Industries Ltd	4	3, 6, 7, 8
6.	B.N Enterprises Ltd	2	6, 7
7.	New Vision and Hitech Graphics JV	4	3, 4, 5, 6
8.	Marianum Press Ltd	2	4, 5
9.	In-line Print Services and Hitech General Trading LLC JV	3	3, 7, 8
10.	Media World Productions Ltd and Abulhoul Printing Press Ltd (Joint Venture)	2	5, 9
Foreign Bidders			
11.	Oriental Security Printing Solutions	5	1, 2, 3, 4, 5, 6
12.	United Printing and Publishing	9	1 - 9
13.	Al Ghurair Printing and Publishing L.L.C	9	1 - 9
14.	Sintel Security Print Solutions Ltd	9	1 - 9
15.	Group Joos NV	4	1, 6, 7, 8
16.	Ellams Products Ltd	4	2, 6, 7, 8
17.	Aero Vote Security Printing Ghana Ltd	2	2, 6
18.	Uniprint	9	1 - 9
19.	Tall Security Print Ltd	9	1 - 9
20.	Modern Lithographic (K) Ltd	2	3, 7
21.	Baltijas Banknote SIA	2	4, 5
22.	Adare SEC Ltd	6	4, 5, 6, 7, 8, 9

6. On 11th September 2020, the Contracts Committee approved the revised composition of the Evaluation Committee which is indicated in Table 3.

Table 3: Evaluation Committee

No.	Name	Designation
1.	Mr. Richard Baabo Kamugisha	Head Field Operations
2.	Mr. Charles Lwanga	Senior Election Officer/Statistics
3.	Mr. Charles Mashate	Head Voter Education & Training
4.	Mr. Paul Tamale	Senior Election Officer /Printery
5.	Mr. Robert Borekwa	Head Procurement & Disposal Unit

7. The Evaluation Report dated 17th September 2020, indicated that the following 16 bidders were eliminated at the various stages indicated in Table 4:

Table 4: Reasons for Elimination of Bidders

No.	Name of bidder	Stage and Reasons for Elimination
Preliminary Examination Stage		
1.	Group Joos NV	<ul style="list-style-type: none"> i. The bidder's Certificate of Incorporation or its equivalent was not enclosed. ii. Evidence for fulfillment to pay taxes was not enclosed. iii. No Bid Security was submitted.
2.	Media World Productions Ltd & Abulhoul Printing Press Ltd (Joint Venture)	<ul style="list-style-type: none"> i. The trading license for Abulhoul Printing Press Ltd was not included in the bid. ii. The Certificate of Registration for Abulhoul Printing Press Ltd was not included in the bid. iii. Evidence of fulfillment of obligations to pay taxes by Abulhoul Printing Press Ltd was not included in the bid iv. The Power of Attorney submitted was given to a company/firm and not to individuals.
3.	B.N. Enterprises Ltd	The Bid Submission Sheet was not included in the bid
4.	In-line Print Services & Hi-tech General Trading LLC	No certified Joint Venture agreement was enclosed in the bid.
5.	Marianum Press Ltd	Invalid Bid Security. Bidder enclosed a commitment letter from SWICO as a bid security.
Administrative Compliance		
6.	Oriental Security Printing Solutions	Evidence of successful completion of three contracts of similar nature and complexity not enclosed in the bid.
7.	Modern Lithographic (K) Ltd	Evidence of successful completion of three contracts of similar nature and complexity not enclosed in the bid.
8.	Baltjas Banknote	Evidence of successful completion of three contracts of similar nature and complexity not enclosed in the bid.
9.	Multiplex Ltd	Evidence of successful completion of three contracts of similar nature and complexity not enclosed in the bid.

No.	Name of bidder	Stage and Reasons for Elimination
10.	Wave Media Ltd	Evidence of successful completion of three contracts of similar nature and complexity not enclosed in the bid t.
11.	In-line Print Services Ltd	Evidence of successful completion of three contracts of similar nature and complexity not enclosed in the bid
12.	Graphic Systems (U) Ltd	Evidence of successful completion of three contracts of similar nature and complexity not enclosed in the bid.
13.	Picfare Industries Ltd	Evidence of successful completion of three contracts of similar nature and complexity not enclosed in the bid.
Detailed Commercial Evaluation		
14.	Ellams Products Ltd	Prices in the Price Schedule quoted in US Dollars contrary to the Entity's requirement in ITB 15 (b) of the solicitation document which required that for suppliers originating outside of Uganda, the currency of the bid shall be Uganda Shillings.
15.	New Vision - Hitech Graphics Limited JV	The bidder did not state the delivery schedule in the bid.
Detailed Technical Evaluation		
16.	Sintel Security Print Solutions Ltd	The Bidder did not indicate compliance to the technical specification in the Solicitation Document.

8. The Evaluation Committee ranked bidders at financial comparison on the basis of the average total price for the four options of ballot paper sizes for the respective lots.
9. The bidding document provided that each bidder could only be awarded a maximum of two lots. The Evaluation Committee used decision tress¹ to determine the combination of bids for all lots with the total lowest cost to the Entity as indicated in Table 5 below:

Table 5: Combinations for Lots Used in Determination of the Award

¹ A decision support tool that uses a **tree**-like model of **decisions** and their possible consequences, including chance event outcomes, resource costs

Lot No.	COMBINATION 1		COMBINATION 2	
	Bidder	Evaluated Price (UGX) DDP	Bidder	Evaluated Price (UGX) DDP
1.	United Printing and Publishing	13,325,149,008.00	Al Ghurair Printing and Publishing L.L.C	11,577,312,000.00
2.	Al Ghurair Printing and Publishing L.L.C	12,793,824,000.00	Al Ghurair Printing and Publishing L.L.C	12,793,824,000.00
3.	Uniprint	15,893,829,085.68	Uniprint	15,893,829,085.68
4.	Uniprint	4,030,024,808.88	Uniprint	4,030,024,808.88
5.	Tall Security Print Ltd.	2,282,305,680.00	Adare Sec	5,522,457,600.00
6.	Adare Sec	5,522,457,600.00	Adare Sec	8,053,257,600.00
7.	Adare Sec	8,053,257,600.00	Tall Security Print Ltd	2,282,305,680.00
8.	Al Ghurair Printing and Publishing L.L.C	10,963,584,000.00	Tall Security Print Ltd	13,419,153,072.00
9.	Tall Security Print Ltd.	1,930,713,788.88	United Printing and Publishing	11,578,110,621.48
TOTAL		74,795,145,571.44		85,150,274,468.04
COMBINATION 3			COMBINATION 4	
1.	United Printing and Publishing	13,325,149,008	Al Ghurair Printing and Publishing L.L.C	11,577,312,000
2.	Al Ghurair Printing and Publishing L.L.C	12,793,824,000	United Printing and Publishing	15,065,450,208
3.	Al Ghurair Printing and Publishing L.L.C	13,532,544,000	Al Ghurair Printing and Publishing L.L.C	13,532,544,000
4.	Uniprint	4,030,024,809	Adare Sec	2,832,814,080
5.	Adare Sec	5,522,457,600	Adare Sec	1,449,835,200
6.	Adare Sec	8,053,257,600	Uniprint	7,865,850,334
7.	Tall Security Print Ltd.	2,282,305,680	Uniprint	13,473,512,590
8.	Tall Security Print Ltd.	13,419,153,072.00	Tall Security Print Ltd.	13,419,153,072

Lot No.	COMBINATION 1		COMBINATION 2	
	Bidder	Evaluated Price (UGX) DDP	Bidder	Evaluated Price (UGX) DDP
9.	United Printing and Publishing	11,578,110,621.48	Tall Security Print Ltd.	1,931,073,789
TOTAL		84,536,826,390		81,147,545,273

10. On 23rd September 2020, the Contracts Committee approved the evaluation report and awarded the contracts for the nine lots to the following providers indicated in Table 6:

Table 6: Best Evaluated Bidders

Lot No.	Best Evaluated Bidder	Option Dimensions	Award Price (UGX) CIF Entebbe
1	United Printing and Publishing	135 x 135mm	6,018,257,600
		347 x 135mm	8,173,716,400
		496 x 135mm	10,474,008,400
		580 x 135mm	12,348,320,400
2	Al Ghurair Printing and Publishing L.L.C	135 x 135mm	7,953,600,000
		347 x 135mm	8,713,600,000
		496 x 135mm	9,169,600,000
		580 x 135mm	9,701,600,000
3	Uniprint	135 x 135mm	7,533,326,797
		347 x 135mm	10,282,376,097
		496 x 135mm	2,376,574,847
		580 x 135mm	3,957,244,497
4	Uniprint	135 x 135mm	1,892,215,577
		347 x 135mm	2,592,585,877
		496 x 135mm	3,150,277,627
		580 x 135mm	3,559,434,277
5	Tall Security Print Ltd	135 x 135mm	1,218,252,000
		347 x 135mm	1,436,817,000
		496 x 135mm	1,739,892,000
		580 x 135mm	1,944,777,000
6	Adare Sec Ltd	135 x 135mm	2,600,040,000
		347 x 135mm	3,892,040,000
		496 x 135mm	4,405,040,000
		580 x 135mm	4,443,040,000
7	Adare Sec Ltd	135 x 135mm	4,899,040,000
		347 x 135mm	5,298,040,000
		496 x 135mm	5,982,040,000
		580 x 135mm	6,191,040,000
8	Al Ghurair Printing and Publishing L.L.C	135 x 135mm	7,157,600,000
		347 x 135mm	7,537,600,000
		496 x 135mm	7,765,600,000
		580 x 135mm	7,993,600,000

Lot No.	Best Evaluated Bidder	Option Dimensions	Award Price (UGX) CIF Entebbe
9	Tall Security Print Ltd	135 x 135mm	1,022,677,522
		347 x 135mm	1,274,151,442
		496 x 135mm	1,505,972,768
		580 x 135mm	1,561,292,126

11. On 25th September 2020, the Entity displayed the best evaluated bidder Notice with the removal date of 8th October 2020.

2.0 THE ADMINISTRATIVE REVIEW PROCESS

2.1 APPLICATION TO THE ACCOUNTING OFFICER

1. On 5th October 2020, New Vision and Hitech Graphics JV applied for Administrative Review before the Accounting Officer on the ground below:

The bidder was not properly evaluated on the requirement of a delivery schedule yet the Bid Submission Sheet clearly indicated that “*we offer to supply in conformity with the bidding document and in accordance with the delivery schedule specified in the statement of requirements*”. The Evaluation Committee should have sought clarification from the bidder to save the Commission spending extra billions and in support of the Government Policy of Buy Uganda Build Uganda to support the local industry.

2. On 7th October 2020, the Accounting Officer rejected the application.

2.2 APPLICATION TO THE AUTHORITY

1. On 23rd October 2020, New Vision and Hitech Graphics Limited JV applied for an Administrative Review before the Authority on the ground that:

The bidder was not properly evaluated on the requirement of stating the delivery schedule yet the Bid Submission Sheet clearly indicated that “*we offer to supply in conformity with the bidding document and in accordance with the delivery schedule specified in the statement of requirements*”, to each lot volume within the timelines stipulated by the Electoral Commission i.e. “six weeks upon signing of the contract”. In addition the bidders bided for four Lots and delivery period depends on the lot(s) awarded and the timelines stipulated by the Entity. The Evaluation Committee should have used its discretion to contact bidders for clarification to save the Commission spending extra Two Billion shillings and in support of the Government Policy of Buy Uganda Build Uganda to support the local industry.

2. On 23rd October 2020, the Authority wrote to the applicant and Electoral Commission instituting an Administrative Review and requesting submission of process documents.

3.0 DISPOSAL OF APPLICATION

1. In investigating the application for Administrative Review, the Authority analysed the following documents:
 - i. Procurement requisition;
 - ii. Bid notice;
 - iii. Bidding document issued;
 - iv. Records of bid receipt and opening;
 - v. Bids submitted;
 - vi. Minutes of the pre-bid meeting;
 - vii. Evaluation report;
 - viii. Minutes of Contracts Committee;
 - ix. Best evaluated bidder notice; and
 - x. Application for administrative reviews before the Accounting Officer and the Authority by New Vision and Hitech Graphics Limited JV; and
 - xi. Submissions by the parties.

2. On 28th October 2020, the Authority held a hearing which was attended by persons indicated in Table 7 below:

Table 7: Members present at Administrative Review Hearing

S/No	Name	Title / Role
Officials from the Electoral Commission		
1.	Mr. Richard Kamugisha	Ag. Director Operations representing Accounting Officer
2.	Mr. Robert Borekwa	Principal Election Officer, Procurement
Representatives of New Vision and Hitech Graphics Limited JV		
1.	Mr. Denis Semukasa	Printing Manager
2.	Mr. Paramuh Nallavok	Project Manager
3.	Mr. P. Srinirai Reddy	Director

4.0 SUBMISSIONS BY THE PARTIES

4.1 SUBMISSIONS BY THE APPLICANT

The Applicant made the following submissions:

1. That its bid was not properly evaluated on the requirement of stating the delivery schedule yet its Bid Submission Sheet clearly indicated that “*we offer to supply in conformity with the bidding document and in accordance with the delivery schedule specified in the statement of requirements*”, to each lot volume within the timelines stipulated by the Electoral Commission which was stating six weeks upon signing of the contract. In addition the bidder bided for four lots and delivery period depends on the lot(s) awarded and the timelines stipulated by the Entity. Further the delivery schedule was not a requirement in the bidding document.

2. The Evaluation Committee should have used its discretion to contact bidders for clarification to save the Commission spending extra Two Billion shillings and in support of the Government

Policy of Buy Uganda Build Uganda to support the local industry. Further, in the Zoom pre-bid meeting, Electoral Commission Officials promised to contact the bidders in case of any clarification and prudence would demand that clarification be sought in respect to the specific timelines if not clearly stated in the bid and hence the Evaluation Committee did not fairly evaluate its bid.

3. Further the Entity officials inspected the bidder's facilities and found them ready to carry out the job and consequently added extra capacity in preparation for the supply of ballot papers.
4. The Applicant prayed that the application be upheld and that the Entity re-evaluates its bid and considers it compliant to requirement of an acceptable delivery schedule.

4.2 SUBMISSIONS BY THE ENTITY

The Electoral Commission made the following submissions:

1. The bidding document on page 125 under the Special Conditions of Contract GCC 12 stated that *"the delivery shall be within six weeks upon signing of contract"* and the bidders was *expected to state in its bid explicitly the delivery schedule of six weeks* hence there was no commitment as to the delivery of the ballot papers yet they have a time constraint. In addition, Section 3:Evaluation Methodology and Criteria, Commercial criterial part C, evaluation criteria of acceptable delivery schedule is clearly stated and is a requirement.
2. Since the bidder did not state the delivery schedule or period, the Evaluation Committee had no basis to determine whether it had an acceptable delivery schedule so as to meet the criteria and hence found the bid non-responsive to the requirement.
3. That the application be set aside and the procurement allowed to proceed to its conclusion as the general election is time bound.

5.0 RESOLUTION OF THE GROUND BY THE AUTHORITY

The applicant alleged that New Vision - Hitech Graphics Limited JV was unfairly eliminated for failure to state a delivery schedule yet the Entity could have sought clarification on the schedule.

Issue extracted by the Authority

Whether the Entity properly evaluated New Vision - Hitech Graphics Limited JV's bid in respect to the requirement of a delivery schedule

Findings:

1. The Applicant submitted that its bid was not properly evaluated on the requirement of a delivery schedule yet the Bid Submission Sheet clearly indicated that *"we offer to supply in conformity with the bidding document and in accordance with the delivery schedule specified in the statement of requirements"* and hence met the requirement.

2. The evaluation report and the notice of best evaluated bidder indicated that the bid by New Vision - Hitech Graphics Limited JV was eliminated at detailed commercial stage for not stating the delivery schedule in the bid.
3. The commercial criteria in the bidding document under Section 3: Evaluation Methodology and criteria on page 34 under paragraph (5) (c) indicated that:
*“The commercial responsiveness of bids shall be evaluated in accordance with ITB 33. The criteria shall be:
(c) acceptable delivery schedule”*
4. The Special Conditions of Contract (SCC) provided that *“Date of delivery shall be: Within six weeks upon signing of the contract”*.
5. The Authority reviewed the bid by New Vision - Hitech Graphics Limited JV and established that there was no delivery schedule enclosed therein. Paragraph (b) of the Bid Submission Sheet in the bid of New Vision - Hitech Graphics Limited JV indicated that *“We offer to supply in conformity with the Bidding Document and in accordance with the delivery schedule specified in the Statement of Requirements the following Supplies and Related Services [insert a brief description of the Supplies and Related Services. Amend wording and attach relevant details if an alternative delivery schedule is proposed]”*.
6. The applicant submitted that the Electoral Commission should have sought a clarification from New Vision- Hitech Graphics Limited JV on submission of the delivery schedule.
7. With respect to whether the omission could be clarified, the PPDA (Evaluation) Regulations, 2014 provide that:
*“9(2) An evaluation committee shall only make a request for clarification of information or submission of documentation under sub regulation (1) where—
(a) there is a nonconformity or an omission in the bid, which is **not a material deviation** as specified in regulation 11 (4); or
(b) there is an arithmetic error which has to be corrected.

(3) A request for clarification or submission shall not be made with the intention of—
(a) altering or amending the price of the bid except to correct errors in accordance with regulation 14;
(b) changing the substance of the terms and conditions of the bid; or
(c) substantially altering anything which forms a crucial or deciding factor in the evaluation*
8. During the hearing, the Entity submitted that since the bidder did not explicitly state the delivery schedule, the Evaluation Committee had no basis to determine whether the bidder met the requirement of an acceptable delivery schedule and hence found non-responsive.
9. The Authority found that there was no omission in the bid by New Vision- Hitech Graphics Limited JV to which a clarification would be sought. The evaluation criteria or statement of requirements did not require submission of a delivery schedule. The Entity indicated its

delivery period as six weeks from signature of the contract and the provider undertook to deliver within the period.

10. The Bid Submission Sheet provided guidance under paragraph (b) i.e. “Amend *wording and attach relevant details if an alternative delivery schedule is proposed*” which implied that only a bidder with an alternative delivery schedule would be required to submit the relevant details of the schedule.
11. The Authority found that New Vision- Hitech Graphics Limited JV met the requirement of the required delivery schedule since it offered to supply the requirements in accordance with the delivery schedule stated statement of requirements in the bidding document.
12. The Authority found that the bid by New Vision- Hitech Graphics Limited JV was not properly evaluated on the requirement of a delivery schedule since it stated under paragraph (b) in the Bid Submission Sheet that it offered to supply the requirements in accordance with the delivery schedule stated statement of requirements in the bidding document.

Decision of the Authority on the Ground

The Authority found **merit** in the ground since the Evaluation Committee did not properly evaluate New Vision- Hitech Graphics Limited JV’s bid with respect to the requirement of a delivery schedule.

DECISION OF THE AUTHORITY

In accordance with Section 91 (4) of the PPDA Act, 2003 and in light of the findings in ground one, the application for Administrative Review by New Vision- Hitech Graphics Limited JV is **upheld**. The Entity is directed:

1. To re-evaluate the bids in accordance with the criteria stated in the bidding document.
2. To refund the Administrative Review fees by New Vision- Hitech Graphics Limited JV since merit was found in the application.