



**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: PICFARE INDUSTRIES LIMITED

OCTOBER 2020

DECISION BY THE AUTHORITY

1.0 BRIEF FACTS

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.	Graphics 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 High-tech Graphic 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 2.

Table 2: 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

No.	Name	Designation
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 3:

Table 3: 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.

No.	Name of bidder	Stage and Reasons for Elimination
9.	Multiplex Ltd	Evidence of successful completion of three contracts of similar nature and complexity not enclosed in the bid.
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.	Graphics 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 - Hightech Graphics	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:

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

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

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

Lot No.	Best Evaluated Bidder	Option Dimensions	Award Price (UGX) CIF Entebbe
		580 x 135mm	7,993,600,000
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, Picfare Industries Ltd applied for Administrative Review before the Accounting Officer on the following grounds:

- i. The bidder was not properly evaluated on the requirement of successful completion of three contracts of similar nature and complexity whereas in fact Picfare Industries Ltd enclosed five contracts of security printing instead of the three that the Entity desired to have; and
- ii. The requirement of 15 Million ballot paper printing (similar nature and complexity) experience had been removed from the bidding document in an email dated 7th July 2020 from the Head PDU, Mr. Godfrey Wanyoto to all bidders to the detriment of Picfare who honestly relied on the said representation by an officer duly authorized to represent the Entity in this particular respect. That the email indicated that evaluation was to be conducted based on the following:
 - a. Experience in similar assignments of security printing.
 - b. Capacity in form of machinery and print finish.
 - c. Availability of relevant technology to handle security printing.
 - d. Due diligence to verify the above information.

2. On 7th October 2020, the Accounting Officer issued a decision to the complainant rejecting the application.

2.2 APPLICATION TO THE AUTHORITY

1. On 12th October 2020, Picfare Industries Ltd applied for an Administrative Review before the Authority on the following grounds:

- i. The Entity erred in fact when it concluded that evidence of successful completion of three contracts of similar nature and complexity had not been included in bidders bid whereas in fact Picfare Industries Ltd enclosed five contracts of security printing instead of the three that the Entity desired to have;
 - ii. The Entity disregarded its own confirmation that the threshold of 15 million ballot paper printing (similar nature and complexity) experience had been expunged from the bidding document in line with the email dated 7th July 2020 from the Head Procurement and Disposal Unit, Mr. Godfrey Wanyoto to all bidders yet Picfare honestly relied on the said representation by an Officer duly authorized to represent the Entity in this particular respect. That the email indicated that evaluation was to be conducted based on the following:
 - a. Experience in similar assignments of security printing
 - b. Capacity in form of machinery and print finish.
 - c. Availability of relevant technology to handle security printing.
 - d. Due diligence to verify the above information.
2. On 12th May 2020, the Authority wrote to the complainant 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 Picfare Industries Ltd; and
 - xi. Submissions by the parties.
2. On 20th 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

S/No	Name	Title / Role
		Officer
2.	Mr. Eric Sabiti	Senior Election Officer, Legal
3.	Mr. Paul Tamale	Senior Election Officer, Printery
4.	Mr. Robert Borekwa	Principal Election Officer, Procurement
5.	Mr. Charles Lwanga	Acting Principal Election Officer, Elections Management
Representatives of Picfare Industries Ltd		
1.	Mr. Dhiren Dave	Head of Sales
2.	Mr. Richard Mubiru	Director Corporate Affairs

4.0 SUBMISSIONS BY THE PARTIES

4.1 SUBMISSIONS BY THE APPLICANT

The Applicant made the following submissions:

1. The Entity erred in fact when it concluded that evidence of successful completion of three contracts of similar nature and complexity had not been included in bidder's bid yet Picfare Industries Ltd enclosed five contracts of security printing instead of the three required.
2. The bidder demonstrated in its bid that it had the required experience and machinery to successfully carry out the assignment of ballot paper printing. In addition, Picfare had three such contracts earlier awarded by the Entity which were duly performed and the satisfactory past performance / printing of ballot papers was acknowledged by the Entity.
3. The requirement having printed 15 Million ballot papers printing (similar nature and complexity) experience had been expunged from the bidding document following the email from one Mr. Godfrey Wanyoto dated 7th July 2020 to all bidders to the detriment of Picfare who honestly relied on it. The email indicated that evaluation was to be conducted based on the following:
 - a. Experience in similar assignments of security printing.
 - b. Capacity in form of machinery and print finish.
 - c. Availability of relevant technology to handle security printing.
 - d. Due diligence to verify the above information.
4. The Applicant prayed that the application be upheld and that the Entity re-evaluates its bid and considers it compliant to requirement of successful completion of three contracts of similar nature and complexity.

5.2 SUBMISSIONS BY THE ENTITY

The Electoral Commission made the following submissions:

1. Upon the initiative of the Uganda Printers and Packaging Association and before the publication of the bid notice, it undertook a capacity assessment of the different local printers for the assignment. The assessment found that none of the local printers had the required capacity for the expected digital printing and finishes for the production of the ballot papers for the 2021 elections.
2. The printing for the ballot papers requires use of digital technology for the production of the ballot from design using the data base to be provided by the Electoral Commission, printing, stitching, finishing and packaging and none of the local providers had the technology.
3. With respect to the complexity of the assignment, the requirement had numerous variations², bar-coded Declaration of Results Forms, descriptive attributes of the particulars for the geographical location of the ballot papers requiring name and code for the district, constituency, sub county, parish and polling station. The Commission submitted that none of the local printers could successfully print ballot papers with more than 2,000 variations within the limited time yet some lots like Lot 1 (Presidential and directly elected Members of Parliament) alone has 35,000 variations.
4. The requirement of successful completion of three contracts of similar nature and complexity was never removed by the Entity. Works qualifying in that category include printing of currency, stamps and passports among others.
5. The email from Mr. Godfrey Wanyoto on 7th July 2020 to all bidders was not part of the record of proceedings at the Entity and the alleged amendment of the bidding document was not approved by the Contracts Committee.
6. During evaluation the Entity considered the evidence of successful completion of three contracts of similar nature and complexity submitted by Picfare Industries and found them lacking in terms of the number of variations, water marks and print finish of the ballot paper for the 2021 General elections. Some of the ballot papers printed by Picfare Industries were generic in nature and were not compliant to the requirement.
7. That the application be fast tracked to avoid a constitutional crisis as the conduct of the general elections is time bound.

² Ibid

6.0 RESOLUTION BY THE AUTHORITY

6.1 Ground One

The Entity erred in fact when it concluded that evidence of successful completion of three contracts of similar nature and complexity had not been included in bidder's bid yet Picfare Industries Ltd enclosed five contracts of security printing instead of the three required.

Issue extracted:

Whether the Entity properly evaluated Picfare's bid in respect to successful completion of three contracts of similar nature and complexity

Findings:

1. The best evaluated bidder notice indicated that Picfare Industries Limited was eliminated at administrative compliance stage for lack of evidence of successful completion of three contracts of similar nature and complexity in its bid.
2. The Authority studied Picfare Industries Ltd's bid and found that it submitted the following in its bid in response to the requirement of having successfully completed three contracts of similar nature and complexity:

Table 8: Evidence of Contracts of Similar Nature and Complexity Submitted

No.	Particulars of Previous Experience	Date of LPO	Value in (UGX)	Client
1.	Printing and supply of Ballot Papers for Municipality/City Council Division Local Government Council Elections & Local Government Councilors representing Special Interest Groups	27/11/2015	3,002,326,000	Electoral Commission
2.	Printing of ballot papers for the Youth elections	30/05/2011	5,160,000,000	Electoral Commission
3.	Printing of 78,300,000 ballot papers	3/10/2005	138,591,000	NRM
4.	Printing of ballot papers for lower election	17/02/2006	3,185,000,000	Electoral Commission

No.	Particulars of Previous Experience	Date of LPO	Value in (UGX)	Client
5.	Printing of Voter's Cards	31/03/2010	USD 897,051	UNDP (Burundi)

3. The Applicant also included evidence of successful completion in form of letters of appreciation as indicated in Table 9 below:

Table 9: Reference Letters

No.	Subject /Assignment	Signatory	Date of Letter
1.	2006 General Elections	Eng. Dr. Badru M. Kiggudu, Chairman, EC	17 th March 2006
2.	Ballot papers for the NRM elections in during October 2005	Mr. Sigh Katongole, Deputy National Treasurer	21 st July 2010
3.	Printing of Voter's Cards	Mr. Titus Isundina, Deputy Country Director Operations	30 th June 2010
4.	Ballot papers for the Youth Elections in January 2011.	Mr. Sam A. Rwakojo, Secretary, Electoral Commission	26 th April 2011
5.	Ballot paper for Municipality/City Division, Local Government Council Elections & Local Government Councilors representing Special Interest Groups (Lot 4) for the 2016 countrywide Elections.	Mr. Sam A. Rwakojo, Secretary, Electoral Commission	29 th September 2017

4. The Authority reviewed the bidding document and the bid by Picfare Industries Limited and found that the similarity in nature and complexity of the contracts in the statement of requirements related, to printing ballot papers or security related printing with the following features:

- i. On standard or security paper with prescribed weight/ gram age;
- ii. With tapered serial numbering;
- iii. For polling stations at different constituencies, districts, counties, sub counties, parishes and villages;
- iv. In different size dimensions as provided by the entity; and
- v. With information as would be provided by Electoral Commission.
- vi. Perforation of a given size (i.e. 21mm);
- vii. Weight and type of paper;
- viii. Inclusion of security mark; ultra-violent ink, "COPY SHOW" feature, water marked feature;
- ix. Binding: Stitched in booklets of 50 leaves.

5. The Authority considered the following definitions of similar nature and complexity that include:
 - i. Showing resemblance in qualities, characteristics, or appearance; alike but not identical; or
 - ii. Work in respect of which the skill, effort and responsibility required are the same, when performed under similar working conditions³.
6. The Authority noted that the Evaluation Committee on page 29 of 119 of the Evaluation Report, considered the requirement of successful completion of three contracts of similar nature and complexity in terms of the following variables:
 - i. Evidence of having printed large volumes of materials with security features;
 - ii. Having executed contracts to the tune of UGX 10 Billion; and
 - iii. Having done three such contracts.
7. The Authority found that use of the above variables by the Evaluation Committee at evaluation was irregular as it constituted an amendment, by modification and substitution of the evaluation criteria stated in the bidding document as well as introduction of another evaluation criteria other than the criteria stated in the bidding document contrary to Regulation 7(1) and (2) of the PPDA (Evaluation) Regulations 2014.
8. The contracts submitted by Picfare Industries Limited for supply and printing of ballot papers were therefore not properly evaluated with respect to the requirement for similarity in nature and complexity.
9. In light of the above, the Authority found that the bid by the Applicant was not properly evaluated with the respect to the requirement of submission of evidence of successful completion of three contracts of similar nature and complexity.

Decision of the Authority on Ground One

The Authority **found merit** in the ground raised since the Evaluation Committee did not properly evaluate Picfare Industries Ltd's bid with respect to successful completion of three contracts of similar nature and complexity in Africa.

³ Retrieved from <https://www.lawinsider.com/dictionary/same-work-or-work-of-a-similar-nature> accessed on 20th October 2020

Ground Two

The requirement of successful completion three contracts of similar nature and complexity experience was removed by the Entity

Issue extracted

Whether the requirement of successful completion three contracts of similar nature and complexity experience was removed by the Entity

Findings:

1. The applicant stated that the requirement of 15 Million ballot papers printing (similar nature and complexity) experience had been expunged from the bidding document in an email from Mr. Godfrey Wanyoto dated 7th July 2020 to all bidders, to the detriment of Picfare who honestly relied on the said representation by an Officer duly authorized to represent the Entity in this particular respect.
2. The email clarified that “ the requirement under *Section 3:12.1 (b) which required bidders to have printed 15,000,000 ballot papers had been revised and was no longer a requirement*, but the Entity would evaluate the bidders on :
 - i. Experience in similar assignments of security printing
 - ii. Capacity in form of machinery and print finish.
 - iii. Availability of relevant technology to handle security printing.
 - iv. Due diligence to verify the above information
3. Under ITB 7 of the Bid Data Sheet, it was stated that “for clarification purposes only, the Procuring and Disposing Entity’s address is ...“*Electronic mail address: gmwanyoto@yahoo.com*”. This was the same email used to send the clarification dated 6th July 2020.
4. The Authority therefore did not find merit in the submissions by the Entity that the email from Mr. Godfrey Wanyoto on 7th July 2020 to all bidders was not part of the record of proceedings at the Entity since it was not approved by the Contracts Committee. The Entity is bound by the contents of the email since that was the email availed to the bidders in the bidding document for clarification purposes.
5. Notwithstanding the above, Section 3.12.1 post qualification provided that to qualify for award of the contract, Bidders shall meet the following minimum qualifying criteria:
 - a) Experience on similar assignment within a period of the last 10 years
 - b) Capability with respect to equipment facilities to print, finish, bind, park and deliver at least 15 million ballot papers of various types within 6 weeks.

- c) Security printing facilities, procedures and standards within the printer's premises at are essential for preventing any duplication or counterfeiting the developed voters papers for the EC and feed in the printing press instantly.
 - d) Information technology facilities within the printer's premises that are essential for developing the required voters papers and feed in the printing press instantly.
6. The Authority noted that the above issues were to be assessed at post qualification Section 3.12 of the evaluation criteria and the bidder was not evaluated on the above parameters during evaluation since it was eliminated at Administrative compliance stage.
 7. The Authority observed that the criteria at post qualification under Part E paragraph/section 12 was different to the one under Administrative Compliance. The requirements in post qualification should have been indicated in the earlier stages of evaluation and not only at post qualification. The requirements should therefore not be considered at re-evaluation.
 8. The Evaluation Report indicated that the bidder was failed at administrative compliance stage for failure to meet the requirement of successful completion of three contracts of similar nature and complexity in Africa and not on the parameters of experience in similar assignments of security printing, capacity in form of machinery and print finish, and availability of relevant technology to handle security printing.
 9. The Authority noted that the requirement under Section 3.4 (g) of the bidding document in respect to successful completion of 3 contracts of similar nature and complexity in Africa was not removed by the email as alleged by Picfare Industries Limited.

Decision of the Authority on Ground Two

The Authority **found no merit** in the ground raised since the requirement of successful completion of 3 contracts of similar nature and complexity in Africa was not removed by the Entity as alleged by the Applicant.

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 Picfare Industries Limited is **upheld**. The Entity has been directed to:

1. Re-evaluate the bids immediately in accordance with the criteria stated in the bidding document:
2. Not to apply the post qualification criteria at preliminary, administrative and detailed technical evaluation at re-evaluation, since it was not part of the evaluation criteria at the earlier stages.

3. Refund the Administrative Review fees to Picfare Industries Ltd since merit was found in the application.