



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

**INVESTIGATION REPORT INTO THE ALLEGED IRREGULAR
AWARD OF A CONTRACT FOR CONSTRUCTION OF A DRUG
STORE AND A FRAMEWORK CONTRACT FOR SUPPLY OF
PRINTED MEDICAL STATIONERY AT ARUA REGIONAL
REFERRAL HOSPITAL**

ENTITY: ARUA REGIONAL REFERRAL HOSPITAL

COMPLAINANT: INSPECTORATE OF GOVERNMENT

AUGUST 2018

CONTENTS

ACRONYMS 3

1.0 SUMMARY OF FACTS 4

2.0 OBJECTIVES OF THE INVESTIGATION 5

3.0 LEGAL PROVISIONS APPLICABLE 6

4.0 METHODOLOGY 6

5.0 FINDINGS BY THE AUTHORITY 6

6.0 RECOMMENDATIONS 9

ACRONYMS

PDU	-	Procurement and Disposal Unit
PPDA	-	Public Procurement and Disposal of Public Assets Authority
HPDU	-	Head Procurement and Disposal Unit
Ltd	-	Limited
PDU	-	Procurement and Disposal Unit
PPDA	-	Public Procurement and Disposal of Public Assets Authority
PPDA Act	-	Public Procurement and Disposal of Public Assets Act No. 1 of 2003
UGX	-	Uganda Shillings

1.0 SUMMARY OF FACTS

1.1 Construction of a drug store at Arua Regional Referral Hospital

- i. On 29th September 2016, the Stores Assistant initiated the procurement for construction of a drug store at an estimated cost of UGX 490,000,000.
- ii. On 5th October 2016, the Contracts Committee approved the shortlist of bidders, the evaluation committee, bid notice, bidding document and the restricted domestic bidding procurement method.
- iii. On 20th October 2016, the Entity received and opened bids from the following shortlisted bidders:
 - a) Maways Construction and Engineering Works Ltd;
 - b) Tabu and Brothers Enterprises; and
 - c) Jinako Engineering Works Ltd.
- iv. On 21st October 2016, evaluation of bids was completed and the evaluation committee recommended contract award to Maways Construction and Engineering Works Ltd at UGX 483,258,568. The evaluation committee was comprised of the following members:

Table 1: Evaluation committee members

SN	Name	Position
1.	Leonard Okoth	Senior Dispenser
2.	Bernard Olul	Inventory Officer
3.	Obadiah Muhanguzi	Head PDU
4.	Michael Amaniyo	Consultant Engineer

- v. On 24th October 2016, the Contracts Committee approved the evaluation report and award of contract to Maways Construction and Engineering Works Ltd at UGX 483,258,568.
- vi. On 8th November 2016, the contract for construction of a drug store was signed between Arua Regional Referral Hospital and Maways Construction and Engineering Works Ltd.
- vii. On 15th June 2017, the contract for construction of the drug store was completed.

1.2 Supply of printed medical stationery

- i. On 24th April 2015, the Senior Medical Records Officer initiated the procurement for supply of printed medical stationery at an estimated cost of UGX 52,283,000.

- ii. On 6th May 2015, Contracts Committee approved the evaluation committee, bid notice, bidding document and the open domestic bidding method.
- iii. On 11th May 2015, the bid invitation notice was placed in the New Vision Newspapers.
- iv. On 8th June 2015, bids were opened as indicated in Table 2 below:

Table 2: Record of bid opening

SN	Bidder	Readout price (UGX)
5.	Direct Establishment Ltd	131,798,200
6.	Nid Apex Printers International Ltd	115,985,000
7.	Muna Enterprises	69,767,000
8.	Work and Deliver (U) Ltd	134,197,400
9.	Chosen Garments and Printers Ltd	334,810,840

- v. On 10th June 2015, the evaluation committee recommended contract ward to Direct Establishment Ltd at a price of UGX 131,798,200. The evaluation committee comprised of the following members:

Table 3: Evaluation committee members

SN	Name	Position
1.	Bosco Aluonzi	Senior Medical Records Officer
2.	Griffin Alia	Head of Drivers
3.	Absolom Emudu	In-charge Workshop
4.	Dr. Robert Candia	Dental Surgeon
5.	Obadiah Muhanguzi	Head PDU
6.	Robert Dombo	Procurement Officer

- vi. On 11th June 2015, the Contracts Committee approved the evaluation report and awarded the contract to Direct Establishment Ltd at a price of UGX 131,798,200.
- vii. On 29th June 2015, the contract for supply of printed medical stationery was signed between Direct Establishment Ltd and Arua Regional Referral Hospital.

2.0 OBJECTIVES OF THE INVESTIGATION

The objectives of the investigation were to establish whether:

- i. Maways Construction and Engineering Works Ltd did not meet the evaluation criteria set in the solicitation document for construction of a drug store;
- ii. The lowest priced bid from Muna Enterprises Ltd was not recommended for contract award in supply of printed stationery under a framework contract; and

- iii. Direct Establishment Ltd and Work and Delivery Ltd have a common Director and bid for the same procurement.

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; and
- iii. Solicitation documents.

4.0 METHODOLOGY

The Authority adopted the following methodology.

4.1 Review of the following documents:

- i. Requisition forms;
- ii. Letters of Invitation;
- iii. Bidding documents issued to bidders;
- iv. Records of issue and receipt of bids;
- v. Records of bid opening;
- vi. Bids submitted by bidders;
- vii. Evaluation reports;
- viii. Notices of the Best Evaluated Bidder;
- ix. Contracts Committee minutes; and
- x. Correspondences relating to the procurements.

4.2 The Authority met with the following persons as shown in the Table 4 below.

Table 4: Officials met by the Authority

No.	Name	Organization	Title / Role in the Procurement Process
1.	Obadiah Muhanguzi	Arua Regional Referral Hospital	Head PDU
2.	Stella Namatovu	Direct Establishment Ltd	Director

5.0 FINDINGS BY THE AUTHORITY

5.1 *Whether Maways Construction and Engineering Works Ltd did not meet some of the evaluation criteria in construction of a drug store.*

- i. The complainant alleged that Maways Construction and Engineering Works Ltd's bid did not contain a signed code of ethical conduct form, proposed work method, work schedule, a declaration that the company was not under suspension by PPDA and that the company did not meet some of the post-qualification criteria.

- ii. ITB 14.1(i) in the solicitation document required bidders to submit a signed copy of the ethical code of conduct and methodology of work.
- iii. The Authority reviewed the bid of Maways Construction and Engineering Works Ltd and noted that it contained a signed ethical code of conduct but did not include the methodology of work.
- iv. The Authority also noted that all the bids submitted contained altered Bid Submission Sheets different from those in the issued solicitation documents and as such all bidders did not declare that they were not under suspension by PPDA as required under the preliminary evaluation criteria.
- v. The Head PDU informed the Authority that the best evaluated bidder was required to submit a work schedule one week to contract commencement, therefore, the work schedule was not considered during evaluation. However, there was no evidence that the requirement for a work schedule was waived during evaluation.
- vi. The Head PDU also stated that ITB 36.4 did not require post-qualification and that the post-qualification that was done was to confirm information submitted by the bidder during pre-qualification. The Authority reviewed the solicitation document and confirmed that post-qualification was not mandatory.
- vii. The Authority found that all the bidders including the best evaluated bidder were not properly evaluated and should have been found non responsive for failure to indicate whether they were not under suspension by PPDA. The Authority also found that the best evaluated bidder did not submit a work schedule contrary to ITB 14.1(i) in the solicitation document.

5.2 *Whether the lowest priced bid from Muna Enterprises Ltd was not recommended for contract award for supply of printed stationery under a framework contract.*

- i. The complainant alleged that Muna Enterprises Ltd submitted a low priced bid at UGX 69,787,000 but the contract was awarded to Direct Establishment Ltd at UGX 131,798,200.
- ii. The Authority reviewed the bid documents of Muna Enterprises and Direct Establishment Ltd and found that their quoted bid prices were UGX 69,767,000 and UGX 131,798,200 respectively.
- iii. The Authority also reviewed the evaluation report and found that the bid of Muna Enterprises Ltd was eliminated at the preliminary evaluation stage for lack of Powers of Attorney contrary to ITB 11.1(b) in the solicitation document. A review of the bid of Muna Enterprises confirmed that it did not contain a copy of

the Powers of Attorney and therefore, was rightly eliminated during preliminary evaluation.

- iv. The Authority found that whereas Muna Enterprises Ltd submitted the lowest priced bid, it could not be recommended for contract award since it was found to be non responsive.

5.3 *Whether Direct Establishment Ltd and Work and Deliver Ltd have a common Director but bid for the same procurement*

- i. The complaint alleged that Direct Establishment Ltd and Work and Deliver Ltd share a Director and therefore it was irregular for them to bid for the same contract.
- ii. The Authority reviewed the Articles and Memoranda of Association contained in the bid documents of Direct Establishment Ltd and Work and Deliver Ltd and found that Mr. Iga Edward is a Director and has majority shareholding in both companies.
- iii. ITB 4.4 in the solicitation document states that a bidder shall not have a conflict of interest. *“All Bidders found to be in conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest with one or more parties in this bidding process, if they have controlling shareholders in common or have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the bid of another Bidder”.*
- iv. The Authority was informed by Namatovu Stella, a co-director in Direct Establishment Ltd, that whereas Iga Edward-her father- has some shares in this company, it is run independently and separately from Work and Deliver (U) Ltd. She also informed the Authority that Iga Edward is responsible for Work and Deliver Ltd and she for Direct Establishment Ltd. She further stated that there was no collusion since they both made the decision to bid for this procurement independently without consulting each other.
- v. The Head PDU informed the Authority that the evaluation committee looked at the people who had Powers of Attorney in both companies and these were different; the committee did not look at the ownership and/or directorship of the two companies.
- vi. The Authority conducted a due diligence with Uganda Registration Services Bureau on the ownership of the two companies and found that Iga Edward owns 70 and 75 shares out of a total of 100 shares in Direct Establishment Ltd and Work and Deliver (U) Ltd respectively.

- vii. The Authority found that Direct Establishment Ltd and Work and Deliver Ltd have a common Director and both companies were not disqualified contrary to ITB 4.4 in the solicitation document.

6.0 RECOMMENDATIONS

In light of the above findings and in accordance with the Section 9 of the PPDA Act, 2003, the Authority recommends that:

1. Direct Establishment Ltd and Work and Deliver (U) Ltd should be submitted to the Authority for suspension for violating the ethical code of conduct.
2. The Accounting Officer should task the following to show cause why disciplinary action should not be taken against them:
 - i. The evaluation committee members below for failing to disqualify Direct Establishment Ltd and Work and Deliver Ltd which had a conflict of interest in the procurement for supply of printed stationery under a framework contract.

SN	Name	Position
1.	Bosco Aluonzi	Senior Medical Records Officer
2.	Griffin Alia	Head of Drivers
3.	Absolom Emudu	In-charge Workshop
4.	Dr. Robert Candia	Dental Surgeon
5.	Robert Dombo	Procurement Officer

- ii. The evaluation committee members below for failing to eliminate the bid of Maways Construction and Engineering Works Ltd at preliminary evaluation in the contract for construction of a drug store.

SN	Name	Position
1.	Leonard Okoth	Senior Dispenser
2.	Bernard Olul	Inventory Officer
3.	Obadiah Muhanguzi	Head PDU
4.	Michael Amaniyo	Consultant Engineer