



PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS AUTHORITY

**INVESTIGATION INTO ALLEGED GRAND CORRUPTION IN MINISTRY OF
LANDS, HOUSING AND URBAN DEVELOPMENT, PROCUREMENT REFERENCE
NO. MLHUD/SRVCS/USMID/2017-18/00346**

ENTITY : MINISTRY OF LANDS, HOUSING AND URBAN DEVELOPMENT

COMPLAINANT : INSPECTORATE OF GOVERNMENT

JULY 2018

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ACRONYMS

AO	-	Accounting Officer
BEB	-	Best Evaluated Bidder
EOI	-	Expression of Interest
CC	-	Contracts Committee
HPDU	-	Head Procurement and Disposal Unit
IVA	-	Independent Verification Agent
Ltd	-	Limited
M&E	-	Monitoring and Evaluation
MLHUD	-	Ministry of Lands Housing and Urban Development
PDU	-	Procurement and Disposal Unit
PPDA Act	-	Public Procurement and Disposal of Public Assets Act No. 1 of 2003
PPDA	-	Public Procurement and Disposal of Public Assets Authority
UGX	-	Uganda Shillings
USMID	-	Uganda Support to Municipal Infrastructure Development

1.0 SUMMARY OF FACTS

1. On 14th November 2017, the notice of expression of interest was approved by the Contracts Committee.
2. On 22nd November 2017, the User Department initiated procurement of consultancy services for the performance assessment of eighteen (18) Municipal Local Governments and the Ministry (MLHUD) for Financial Years (2017-2018 & 2018-2019) at USD 460,000.
3. On 28th November 2017, the Ministry of Lands, Housing and Urban Development advertised the Request for Expression of Interest in the Daily Monitor Newspaper with a deadline of bid submission of 14th December 2017.
4. On 14th December 2017, eleven firms submitted expressions of interest and were opened as indicated in Table 1 below:

Table 1: Record of opening of Expression of Interest

S/No	Name
1.	Ufinac Consulting Services Ltd
2.	REEV Consult International and Agile Investments (u) Ltd
3.	Business Synergies
4.	Strategic Friends International
5.	KPMG Uganda
6.	Prime Solutions
7.	Adroit Consult International
8.	Empower Consult
9.	International Project Consultants Ltd
10.	Ernst and Young
11.	PriceWaterHouse Coopers Ltd

5. On 20th December 2017, the Evaluation Committee Report indicated that the following six consultants were shortlisted:

Table 2: Shortlisted firms

S/No	Name of bidder
1.	Reev Consult International in Joint Venture with Agile Investments (U) Ltd
2.	Strategic Friends International Ltd
3.	KPMG Uganda
4.	Empower Consult Ltd
5.	International Project Consultants Ltd (IPC)
6.	Price Water House Coopers Ltd

6. On 21st December 2017, the Contracts Committee approved the Request for Proposal (RFP) document, evaluation of expression of interest report, shortlist of Consultants and the Evaluation Committee as indicated in Table 3 below:

Table 3: Evaluation Committee

S/No	Name	Designation
1.	Mr. Gilbert Kiracho	M & E specialist/ USMID
2.	Mr. David Karuma	Ag. HPDU/ F& A
3.	Ms. Margret Lwanga	Environment and Social Management Specialist/ USMID
4.	Mr. William Ediu	Procurement Specialist/ USMID
5.	Mr. Richard Segona	Procurement Officer/PDU

7. On 12th January 2018, a debrief was issued to consultants not shortlisted.
8. On 5th February 2018, six (6) short-listed firms were invited to submit proposals for conducting performance assessment of eighteen Municipal Local Governments for Financial Years 2017/18 and 2018/19.
9. A pre-proposal meeting was held on 13th February 2018.
10. On 26th February 2018, four bidders submitted proposals and were opened in the presence of bidders:

Table 4: Record of opening of proposals

S/No	Name of bidder
1.	KPMG
2.	Strategic Friends International
3.	Reev Consult International and Agile Investments Ltd
4.	International Projects Consultants Ltd

11. The Technical Evaluation Report dated 5th March 2018 indicated the scores for the four Consultants below:

Table 5: Scores for Technical evaluation

S/No.	Name of Consultant	Technical score (%)
1.	KPMG	95.3
2.	Strategic Friends International	69.5
3	Reev Consult International and Agile Investments Ltd	55.3
4.	International Projects Consultants Ltd	57.4

12. The Evaluation Committee recommended opening of KPMG's financial proposal having attained a technical score of 95.3%. Strategic Friends International, Reev Consult International and Agile Investments Ltd JV and International Projects Consultants Ltd did not meet the minimum score of 80 % to progress to financial evaluation.
13. On 12th March 2018, a debrief was sent to unsuccessful bidders not recommended for financial evaluation.

14. On 4th April 2018, KPMG's financial bid was opened with a price of USD 1,091,132 taxes inclusive.
15. On 4th April 2018, the Evaluation Committee recommended award of contract to KPMG at UGX 3,994,405,114.28 with a final score of 96.24%. The Evaluation Committee recommended that negotiations be held with the best evaluated bidder to fit within the available budget.
16. On 9th April 2018, the record of negotiations indicated that the Entity and the Consultant agreed that:
 - i The Local Government Expert and Project Monitoring and Evaluation Specialist be collapsed.
 - ii Team leader's time input was reduced from 30 days to 20 days per year.
 - iii Financial Management expert's time input was reduced from 42 days to 38 days
 - iv Physical planner's time input was increased from 30 days to 38 days.
 - v All other experts' time input was reduced from 30 days to 26 days.
17. On 10th April 2018, the Contracts Committee awarded the contract for consultancy services for conducting the performance assessment of eighteen (18) Municipal Local Governments and the Ministry (MLHUD) for two Financial Years (FY 2017-2018 & FY 2018-2019) to KPMG at UGX 2,876,399,848 inclusive of taxes.
18. On 10th April 2018, the notice of best evaluated bidder was displayed with a removal date of 24th April 2018.
19. On 4th May 2018, the Authority received a letter from the Inspectorate of Government alleging irregularities in the procurement of consultancy services for the performance assessment of eighteen (18) Municipal Local Government and the Ministry (MLHUD) for Financial Years (FY 2017-2018 & FY 2018-2019).
20. On 28th May 2018, the Solicitor General approved a draft contract for consultancy services for conducting the performance assessment of eighteen (18) Municipal Local Government and the Ministry (MLHUD) for Financial Years (FY 2017-2018 & FY 2018-2019) by KPMG.

2.0 LAW APPLICABLE

- i. The Public Procurement and Disposal of Public Assets Act 2003;
- ii. The PPDA (Procurement of Consultancy Services) Regulations, 2014;
- iii. The Public Procurement and Disposal of Public Assets Guidelines, 2014; and;
- iv. The bidding document.

3.0 OBJECTIVES OF THE INVESTIGATION

The objectives of the investigation were to establish:

- i. Whether there was an evaluation of proposals submitted by firms;
- ii. Whether the Evaluation Committee properly evaluated the proposals in respect to turnover requirement and registration of consultants with professional bodies;
- iii. Whether there was bribery to the Evaluation Committee; and
- iv. Whether the technical scores were communicated to all consultants in time except to the pre-selected firm.

4.0 METHODOLOGY

The Authority adopted the following methodology:

4.1 Review of the following documents:

- i. The invitation to bid;
- ii. Expression of interest issued;
- iii. Record of issue of proposals ;
- iv. Minutes of pre-proposal meeting;
- v. Record of proposal receipt and opening;
- vi. The bidding document;
- vii. Evaluation report;
- viii. Negotiation minutes;
- ix. Contracts Committee decisions for this procurement; and
- x. All correspondences on file related to this matter.

4.2 The Authority held a meeting with the following person on 17th July 2018 as shown in Table 6:

Table 6: Persons met by the Authority

S/No.	NAME	DESIGNATION
1.	Mr. John William Ediu	Procurement Specialist /USMID
2.	Mr. Gilbert Kiracho	Monitoring and Evaluation Specialist /USMID
3.	Ms. Margret Lwanga	Environment and Social Management Specialist/ USMID
4.	Mr. Richard Segona	Procurement Officer-MLHUD

5.0 FINDINGS OF THE AUTHORITY

5.1 Whether there was an evaluation of proposals submitted by firms.

1. The complainant alleged that there was no evaluation conducted and that members of the Evaluation Committee just signed off documents on a few issues raised by one person.

2. Section 33.1 of the bidding document required that *“the Procuring and Disposing Entity shall technically evaluation the proposals on the basis of the consultants’ responsiveness to the Terms of Reference, applying the evaluation criteria, sub-criteria, and methodology specified in Section 3”*.
3. The Evaluation of proposals was conducted in accordance to Regulation 42 (1) of the PPDA (Procurement of Consultancy Services) Regulations, 2014. The evaluation methodology adopted was the quality and cost based selection which involved the following:
 - a. Preliminary examination on a pass or fail basis to determine the eligibility of the consultants and assess their administrative compliance to the invitation;
 - b. Detailed evaluation to assess the technical quality of proposals against the criteria in the Terms of Reference in the invitation and determine their total score using a merit point system;
 - c. Financial proposals of those consultants who are substantially responsive and met the minimum qualifying mark will be opened and a financial comparison carried out to examine financial proposals and determine the financial score of each proposal; and
 - d. Technical and financial scores will be combined, using the weights given in the invitation, to give a total score of each proposal.
4. The Technical Evaluation Report dated 5th March 2018 indicated that three bidders i.e. Reev Consult in Joint Venture with Agile Investments (U) Ltd, Strategic Friends International were non responsive to technical requirements in the proposal. KPMG’s bid was found compliant and proceeded to financial evaluation.
5. On 4th April 2018, the Evaluation Committee recommended award of contract to KPMG at UGX 3,994,405,114.28 with a final score of 96.24 %.
6. The Authority found that the Entity conducted a technical and financial evaluation of the procurement of an Independent Verification Agent (IVA) to conduct performance assessment of 18 Municipal Local Governments and the Ministry for FY 2017/18 and 2018/2019.

5.2 Whether the Evaluation Committee properly evaluated the proposals in respect to turnover requirement and registration of consultants with professional bodies.

- i. The complainant alleged that Firms were disqualified on basis of failure to have a turnover of USD 2 Million and the Entity included consultants who were not registered with professional bodies.
- ii. Section 3: A (3) of the Evaluation Methodology and Criteria stated that *“the Consulting firm should have an average annual turnover of a minimum of USD 2 Million during the last three Financial Years i.e. FY 2014/15, 2015/16 and 2016/17”* and Section 3:C-Personnel *“...registered with requisite professional bodies of all key*

personal except the Environment and Social Safe guard Specialist, Health Sector Specialist and Education Sector Specialist”.

- iii. The technical evaluation report dated 5th March 2018 indicated that Reev Consult in Joint Venture with Agile Investments (U) Ltd and International Projects Consultants Ltd did not meet the requirement in respect to turnover. Strategic Friends International Ltd and KPMG were compliant with the requirement of a minimum average annual turnover of USD 2 Million.
- iv. The Evaluation Report also indicated that the following three firms were eliminated at technical evaluation for the following reasons:

Table 7: Reasons for unsuccessful firms

No.	Name of Consultant	Reason
1.	Reev Consult in JV with Agile	<ul style="list-style-type: none"> • Did not possess the required combined turnover of USD 2,000,000 • Key personnel did not possess the required experience and registration with professional bodies
2.	Strategic Friends International	<ul style="list-style-type: none"> • Key personnel did not possess the required experience. • Failure to demonstrate understanding of the ToR.
3.	International Projects Consultants Ltd	<ul style="list-style-type: none"> • Did not possess the required combined turnover of USD 2,000,000. • Failure to demonstrate understanding of the ToRs. • The consultants lacked qualifications.

- v. The Authority reviewed the proposal submitted by KPMG and noted that its turnover for the last three years was USD 6,986,320.52 well above the minimum of USD 2 Million required and hence its bid was responsive to the requirement in the evaluation criteria.
- vi. The Authority found that the Evaluation Committee properly evaluated the proposals in respect to average annual turnover of USD 2 Million and registration of consultants with professional bodies.

5.3 Whether there was bribery to the Evaluation Committee

- i. The complainant alleged that members of Evaluation Committee were bribed with UGX 400,000,000 to help particular bidder get the contract.
- ii. In a meeting held with the Entity, the members of the Evaluation Committee denied the allegations and informed the Authority that they did their work professionally.

- iii. The Authority found no evidence to support the allegation that there was bribery to the Evaluation Committee of UGX 400 Million.

5.4 Whether the technical scores were communicated to all consultants in time except to the pre-selected firm.

- i. The the complainant alleged that results of technical scores were not revealed to all consultants in time except to the pre-selected firm. Other consultants were informed after 14 days were over from the date of release of the technical evaluation results.
- ii. The technical evaluation of proposals was concluded and a report signed on 5th March 2018.
- iii. On 12th March 2018, a debrief was sent to unsuccessful bidders not recommended for financial evaluation.
- iv. The Authority noted that after the debrief, no unsuccessful firm applied to the Accounting Officer for Administrative Review as required under Section 90 (1) of the PPDA Act, 2003.
- v. The Authority found that the technical scores were communicated to three unsuccessful bidders on 12th March 2018 after approval of the technical evaluation report and before opening of financial proposals in accordance with Regulation 50(1) of the PPDA (Procurement of Consultancy Services) Regulations, 2014.

6.0 OBSERVATION

The Authority observed that the contract was awarded at UGX 2,876,399,848 inclusive of taxes (USD 785,731.99) yet the Accounting Officer confirmed funding for only USD 460,000 (UGX 1,683,963,400) at an exchange rate of UGX 3660.79 at the initiation of the procurement contrary to Regulation 4 of the PPDA (Procurement of Consultancy Services) Regulations, 2014.

7.0 RECOMMENDATION

In light of the above findings and in accordance with Section 9 of the PPDA Act 2003, the Authority found no merit in the allegations by the complainant and recommends that the Entity proceeds with the procurement process upon confirmation of availability of funding by the Accounting Officer.