



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

**INVESTIGATION REPORT INTO ALLEGED IRREGULAR
PROCUREMENTS AND ABUSE OF OFFICE BY DISTRICT
OFFICIALS**

ENTITY: NAMAYINGO DISTRICT LOCAL GOVERNEMENT

COMPLAINANT: WHISTLE BLOWER

JUNE 2019

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Acronyms

FY	-	Financial Year
PPDA	-	Public Procurement and Disposal of Public Assets Authority
UGX	-	Uganda Shillings

1.0 SUMMARY OF FACTS

A- Construction of a 5-stance pit latrine at Bulagaye Primary School worth UGX 25,529,890

1. On 29th July 2016, the procurement for construction of a 5-stance latrine at Bulagaye Primary School was initiated by Kaawo Kawere at an estimated cost of UGX 26,000,000. The funds were confirmed by Wabwiro Slafen on behalf of the Accounting Officer on the same day.
2. An invitation notice dated 5th September 2016, indicated that the Entity invited six (6) firms below to participate in the procurement under selective bidding after payment of a non-refundable fee of UGX 50,000.

Table 1: List of invited bidders for 5 stance latrine at Bulagaye Primary School

No	Name of Bidder
1.	Three Angels General Enterprises Limited
2.	Kyobanaky General Enterprises Limited
3.	Chirikumwino Investments Limited
4.	MEP Consults (U) Limited
5.	Jopal Investments and Logistics Limited
6.	Nitzevet (U) Limited

3. The record of bid issue indicated that three bidders were issued with the bidding document as indicated in table 2 below:

Table 2: Record of issue of bid documents for 5 stance latrine at Bulagaye Primary School

No	Name of the Bidder	Date of issue
1.	Chirikumwino Investments Limited	16/09/2016
2.	Jopal Investments and Logistics Limited	19/09/2016
3.	Three Angels General Enterprises Limited	19/09/2016

4. On 26th September 2016, the Entity received and opened two bids as shown in the table:

Table 3: Record of Bid Opening for 5 stance latrine at Bulagaye Primary School

No	Name of the Bidder	Price as Read Out (UGX)
1.	Chirikumwino Investments Limited	26,553,540
2.	Jopal Investments and Logistics Limited	25,529,890

5. On 3rd October 2016, the Evaluation Committee recommended contract award for the construction of a 5-stance pit latrine at Bulangye Primary School to Jopal Investments and Logistics Limited at UGX 25,529,890.
6. On 19th October 2016, the notice of Best Evaluated Bidder was displayed and removed on 26th October 2016. Chirikumwino Investments Limited was unsuccessful for quoting a higher price of UGX 26,553,540.
7. On 31st October 2016, Namayingo District Local Government issued a letter of bid acceptance to Jopal investments and Logistics Limited.
8. On 7th November 2016, Namayingo District Local Government signed a contract with Jopal investments and Logistics Limited to construct a 5-stance pit latrine at Bulagaye Primary School at cost of UGX 25, 553,540, a price UGX 23,650 higher than the evaluated price.
9. On 6th December 2016, the contract was completed and the contractor was paid a sum of UGX 24,275,863 less the 5% retention.

B- Supply of 80/100 bitumen at UGX 74,000,000 and Primer MC Cutback 30 at UGX 30,000,000

1. On 25th April 2016, Mr. Hannington Egessa initiated the procurement for supply of 24 drums of Primer MC 30 cutback bitumen, and 76 drums of 80/100 penetration bitumen for road sealing of Namayingo Town Council roads at an estimated cost of UGX 32,400,000 and UGX 83,600,000 respectively. The funds for the procurement were confirmed by Mrs. Jolly Hasoho, the Town Clerk at the time.
2. On 29th April 2016, the Entity published a bid notice inviting eligible firms to bid for supply of the above-mentioned items under framework contracting with a bid submission deadline of 17th May 2016.
3. On 17th May 2016, the Entity received and opened six (6) bids for the supply of 80/100 bitumen and supply of Primer MC 30 cutback respectively as shown in tables 5 & 6 below:

Table 4: Record of Bid Opening for supply of 80/100 bitumen

No	Name of the Bidder	Price as read out (UGX)
1.	Broad Care International Limited	64,524,000
2.	Quartile Services Limited	75,240,000
3.	Kavona Holdings Limited	76,000,000
4.	Dehkon Projects Limited	83,600,000

No	Name of the Bidder	Price as read out (UGX)
5.	Highway Solutions Limited	76,000,000
6.	Mogas (U) Limited	74,480,000

Table 5: Record of Bid Opening for supply of Primer MC 30 cutback

No	Name of the Bidder	Price as read out (UGX)
1.	Broad Care International Limited	30,000,000
2.	Quartile Services Limited	32,400,000
3.	Kavona Holdings Limited	32,000,000
4.	Dehkon Projects Limited	32,400,000
5.	Highway Solutions Limited	30,000,000

4. On 14th June 2016, the Evaluation Committee recommended contract award for supply of bitumen 80/100 penetration grade at UGX 74,480,000 to Mogas (U) Limited and supply of Primer MC 30 cutback at UGX 30,000,000 to Broad Care International Limited respectively. The unsuccessful bidders were:

Table 6: Unsuccessful bidders for supply of 80/100 penetration bitumen

No	Name of the Bidder	Reason for being unsuccessful
1.	Broad Care International Limited	Did not pay for the bidding document
2.	Quartile Services Limited	Did not pay for the bidding document
3.	Kavona Holdings Limited	Did not pay for the bidding document
4.	Dehkon Projects Limited	Did not attach powers of attorney
5.	Highway Solutions Limited	Did not pay for the bidding document

Table 7: Unsuccessful bidders for supply Primer MC 30 Cutback bitumen

No	Name of the Bidder	Reason for being unsuccessful
1.	Mogas Uganda Limited	Ranked second at financial evaluation
2.	Quartile Services Limited	Did not pay for the bidding document
3.	Kavona Holdings Limited	Did not pay for the bidding document
4.	Dehkon Projects Limited	Did not attach powers of attorney
5.	Highway Solutions Limited	Did not pay for the bidding document

5. On 23rd June 2016, the Contracts Committee awarded the contract for supply of 80/100 bitumen to Mogas (U) Limited at UGX 74,480,000, and supply of supply of Primer MC cutback grade at UGX 30,000,000 to Broad Care International under framework contracting respectively.

6. On 29th June 2016, Namayingo District Local Government issued letters of bid acceptance to Mogas (U) Limited and Broad Care International Limited to supply 80/100 bitumen at UGX 74,480,000 and Primer MC 30 Cutback at UGX 30,000,000 respectively.
7. On 6th July 2016, the Managing Director, Broad Care International Limited wrote an acceptance letter to the Entity.
8. On 15th July 2016, the Managing Director, Mogas (U) Limited wrote an acceptance letter to Entity.
9. On 18th July 2016, the Entity signed a framework contract with Broad Care International Limited to supply an estimated 24 drums of Primer MC 30 cutback bitumen at a cost of UGX 30,000,000.
10. On 19th July 2016, the Entity signed a framework contract with Mogas Uganda Limited to supply an estimated 76 drums of 80/100 penetration grade bitumen at a cost of UGX 30,000,000.
11. On 22nd July 2016, a call off order was issued to Broad Care International Limited to supply 24 drums of Primer MC 30 cutback bitumen worth UGX 30,000,000. On the same day, a call off order was issued to Mogas (U) Limited to supply 76 drums of 80/100 penetration grade bitumen worth UGX 74,480,000.

C- Construction of the Namayingo Town Council Office Block

1. On 18th April 2017, the Contracts Committee rejected the Town Clerk’s request to use force account mechanism for the construction of Namayingo and instead developed a shortlist of four (4) providers below who were invited to bid for the procurement opportunity under selective bidding.

Table 8: Shortlist of providers for construction of Namayingo Town Council offices

No	Name of Bidder
1.	Jopal Investments and Logistics (U) Limited
2.	Zenis Technical Services (U) Limited
3.	Teco Investments (U) Limited
4.	Three Angels General Enterprises Limited

The Contracts Committee that approved the following Evaluation Committee members:

Table 9: Evaluation Committee

No	Name	Position
1.	Dr. Batwala Stephen	Chairman
2.	Ms. Kasoga Idah	Member

No	Name	Position
3.	Ms. Mutesi Minisa	Member
4.	Dr. Mbolwa Lazalo	Member

2. On 3rd May 2017, the Entity received and opened three (3) bids as shown in the table below:

Table 10: Record of bid opening for construction of Namayingo Town Council offices

No	Name of the Bidder	Price as read out (UGX)
1.	Jopal Investments and Logistics (U) Limited	50,678,522
2.	Zenis Technical Services (U) Limited	49,800,000
3.	Three Angels General Enterprises Limited	68,478,000

3. On 12th May 2017, the Evaluation Committee recommended contract award for the construction of Namayingo Town Council offices Phase I at UGX 49,800,000 to Zenis Technical Services (U) Limited. The unsuccessful bidders were:

Table 11: Unsuccessful bidders for construction of Namayingo Town Council offices

No	Name of the Bidder	Reason for being unsuccessful
1.	Jopal Investments and Logistics Co. Ltd	Ranked second
2.	Three Angels General Enterprises Ltd	Ranked third

4. On 25th May 2017, the Contracts Committee approved award of contract for construction of Namayingo Town Council offices Phase I at a contract price of UGX 49,800,000 inclusive of VAT.
5. On 29th May 2017, the Entity signed a contract with Zenis Technical Services Limited to undertake the construction of Namutumba Town Council offices Phase I at a contract sum Of UGX 49,800,000 inclusive of VAT.

2.0 OBJECTIVES OF THE INVESTIGATION

The objectives of the investigation were to establish whether:

- i. The invitation of bidders was conducted properly in the procurement for construction of a 5-stance pit latrine at Bulagaye Primary School.
- ii. There were no contracts placed for supply of 80/100 bitumen and Primer MC Cutback 30 to Namayingo Town Council by Mogas (U) Limited.

- iii. The contractor for construction of the Namayingo Town Council office block was procured directly without justification.
- iv. Zenis Technical Services Limited belonged to one of the Contracts Committee members.

3.0 LAWS APPLICABLE

- i. The Public Procurement and Disposal of Public Assets Act, 2003;
- ii. The Local Governments (PPDA) Regulations, 2006;
- iii. The Local Governments (PPDA) Guidelines, 2008;
- iv. Bidding documents issued.

4.0 METHODOLOGY

The Authority adopted the following methodology:

- 4.1 Review of the following documents;
 - i. Procurement requisition;
 - ii. Invitation letter;
 - iii. Solicitation document issued to bidders;
 - iv. Records of issue and receipt of bids;
 - v. Bids submitted by bidders;
 - vi. Evaluation report;
 - vii. Contracts Committee minutes;
 - viii. Notice of Best Evaluated Bidder;
 - ix. Contract agreements; and
 - x. Other related correspondences.

4.1 The Authority held meetings with the following persons:

Table 12: Persons met by the Authority

No	NAME	DESIGNATION
1.	Ms. Jolly Hasoho	Town Clerk-Namayingo Town Council
2.	Mr. Shafen Fredrick Benard Wabwire	Principal Assistant Secretary/Ag. Accounting Officer-Namayingo DLG
3.	Ms. Harriet Kakai	Senior Procurement Officer-Namayingo DLG
4.	Mr. Paul Egesa	Procurement Officer-Namayingo DLG

5.0 FINDINGS BY THE AUTHORITY

5.1 Whether the invitation of bidders was conducted properly in the procurement for construction of a 5-stance pit latrine at Bulagaye Primary School

- i. The complainant alleged that the contractor for the construction of a 5-stance pit latrine at Bulagaye Primary School was irregularly procured as only two companies, Jopal Investments and Logistics Limited were informed to pick the bidding documents.
- ii. The Authority noted that the procurement was conducted using the Selective National Bidding Method. The Entity shortlisted and invited six bidders, three bidders were issued with the bidding document and only two returned bids which were evaluated. Jopal Investments and Logistics Limited was declared as the Best Evaluated Bidder.
- iii. Regulation 38 (3) of the Local Governments (PPDA) Regulations, 2006 requires an Entity to develop a Shortlist that has sufficient bidders to ensure effective and real competition.
- iv. The Authority found that the award the contract for procurement for construction of a 5-stance pit latrine at Bulagaye Primary School worth UGX 25,529,890 was competitive, and the invitation of bidders was properly conducted in accordance with Regulation 38 (3) of the Local Governments (PPDA) Regulations, 2006.

5.2 Whether Entity procured 80/100 bitumen and Primer MC Cutback 30 for Namayingo Town Council without contracts

- i. The complainant alleged that there were no contract agreements for supply of 80/100 bitumen at UGX 74,000,000, and Primer MC Cutback 30 at UGX 30,000,000 to Namayingo Town Council by Mogas (U) Limited and Broad Care International Limited respectively.
- ii. On 19th July 2016, the Entity signed a framework contract with Mogas Uganda Limited to supply an estimated 76 drums of 80/100 penetration grade bitumen at a cost of UGX 30,000,000. A call off order was subsequently issued to the company to supply the same items to the Entity on 22nd July 2016.
- iii. On 18th July 2016, the Entity signed a framework agreement with Broad Care International Limited to supply 24 drums of Primer MC 30 cutback bitumen at an estimated cost of UGX 30,000,000. A call off order was subsequently issued to the company to supply the same items to the Entity on 22nd July 2016.
- iv. The Authority also noted that the Entity entered into two contracts for supply of 80/100 bitumen at UGX 74,000,000, and Primer MC Cutback 30 at UGX 30,000,000 to

Namayingo Town Council by Mogas (U) Limited and Broad Care International Limited respectively.

- v. The Authority found that the Entity placed two contracts for the supply of 80/100 bitumen and Primer MC Cutback 30 for Namayingo Town Council by Mogas (U) Limited and Broad Care International Limited respectively.

5.3 Whether the contractor for construction of the Namayingo Town Council office block was procured directly without justification

- i. The complainant alleged that the contract for construction of the Namayingo Town Council office block at UGX 50,000,000 was awarded to Zenis Technical Services Limited under direct procurement instead of selective bidding.
- ii. The Authority noted that the Entity used the Selective National Bidding method to procure the provider. The Entity shortlisted and invited four providers of which three returned their bids. The evaluation of bids was conducted and Zenis Technical Services Limited emerged as the Best Evaluated Bidder.
- iii. The Authority found that the contractor for the construction of Namayingo Council Office Block at UGX 49,800,000 was procured under selective and not procured directly as alleged.

5.4 Whether Zenis Technical Services Limited belonged to one of the Contracts Committee members

- i. The complainant alleged that Zenis Technical Services Limited belonged to one of the Municipal Contracts Committee members.
- ii. The Authority noted that the Contracts Committee comprised of the following members:

Table 13: Contracts Committee

No	Name	Position
1.	Dr. Batwala Stephen	Chairman
2.	Ms. Kasoga Idah	Member
3.	Ms. Mutesi Minisa	Member
4.	Dr. Mbolwa Lazalo	Member

- iii. The Authority also noted that Zenis Technical Services Limited had the following shareholding:

Table 14: Shareholding of Zenis Technical Services Limited

No	Name of the shareholder	Shareholding
1.	Mr. Ndawula Charles	40%
2.	Mr. Kato John	60%

- iv. The Authority found no evidence of direct relationship between the shareholders/owners of Zenis Technical Services Limited and any of the Contracts Committee members at the time of the procurement.

6.0 OTHER FINDINGS

The Authority further found the following irregularities:

1. There was a conflict of roles between the Contracts Committee and PDU in the procurement for construction of Town Council Office Block. The Contracts Committee usurped the powers of the Procurement and Disposal Unit when it developed the shortlist of providers, which same shortlist it later approved and hence there were no checks and balances in the process.
2. The Authority noted that the Notices of Best Evaluated Bidder was not sent to all bidders that participated in the procurement processes contrary to Regulation 85 (5) of the Local Governments (PPDA) Regulations, 2006.

7.0 RECOMMENDATIONS

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

1. The Contracts Committee should desist from developing the Shortlist of providers under Selective Bidding Method but approve or reject with reasons submissions by the Procurement and Disposal Unit. The Procurement and Disposal Unit is mandated with developing the Shortlists of providers under Selective Bidding Method in accordance with Regulation 38 (6) of the Local Governments (PPDA) Regulations, 2006.
2. The Head, Procurement and Disposal Unit should ensure that the notice of Best Evaluated Bidder is sent to all bidders that participate in a procurement process in accordance with Regulation 85 (5) of the Local Governments (PPDA) Regulations, 2006.