



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

**INVESTIGATION REPORT INTO THE ALLEGED NON-COMPLIANCE WITH
PROCUREMENT PRACTICES IN THE PROCUREMENT OF DRILLING AND
CONSTRUCTION OF 4 BOREHOLES IN RWEBISENGO AND BUTUNGAMA SUB
COUNTIES IN NTOROKO DISTRICT LOCAL GOVERNMENT**

ENTITY: NTOROKO DISTRICT LOCAL GOVERNMENT

COMPLAINANT: DIRECTORATE FOR ETHICS AND INTEGRITY

SEPTEMBER 2019

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ACRONYMS

IAF	-	Inter-Agency Forum
LEAF II	-	Lakes Edward and Albert Integrated Fisheries and Water Resources Management II
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. On 15th August 2018, the Ntoroko District Local Government initiated the procurement for siting and drilling of 4 deep boreholes in Rwebisengo and Butungama Sub-Counties estimated at UGX. 118,000,000.
2. On the 23rd August 2018, the Entity published a bid notice in the New Vision Newspaper with a deadline for bid submission of 18th September 2018.
3. On 8th September 2018, both firms that were issued with the solicitation document submitted bids which were opened on 18th September 2018 as indicated below:

Table 1: Record of Bid Opening

No.	Bidders	Price Read Out (UGX)
1.	Mama Bore wells Africa Limited	96,052,000
2.	GIC Logistics and Engineers	118,783,500

4. The Evaluation Report dated 24th September 2018 indicated that both bids were responsive at preliminary and technical stages and were evaluated at the financial comparison stage. The financial ranking is indicated in Table 2 below:

Table 2: Ranking at Financial Evaluation

No.	Name of bidder	Bid Total (UGX)	Rank
1.	Mama Bore wells Africa Limited	97,586,000	1 st
2.	GIC Logistics and Engineers	118,783,500	2 nd

5. The Evaluation Committee recommended award of tender of siting and drilling of four (4) boreholes in Rwebisengo and Buntugama Sub-Counties to Mama Bore wells Africa Limited at UGX. 97,586,000. The report was signed by all members except Mr. Musinguzi Robert the Civil Engineer (Water).
6. On 22nd October 2018, the Civil Engineer (Water), who represented the User Department at evaluation, wrote to the Chairperson Evaluation Committee contesting the recommendation of the award of contract to Mama Bore wells Africa Limited on grounds that the Best Evaluated Bidder had quoted below the Civil Engineer's estimate hence doubt on the quality of works to be executed. He recommended award to GIC Logistics and Engineers at UGX. 118,783,500 above the estimate by UGX 783,500.
7. On 2nd November 2018, the Chairperson Evaluation Committee responded to the Civil Engineer (Water)'s letter and stated that the bid by Mama Bore wells Africa Limited was the lowest priced and technically responsive bid and hence the recommendation to award to the bidder.

8. On 3rd December 2018, the Contracts Committee rejected the award decision following the differing opinions among the Evaluation Committee. The Contracts Committee requested the Civil Engineer (Water) to submit a detailed feasibility report on financial, economic and social aspects of the project before re-tendering the procurement.
9. On 5th January 2019, the Civil Engineer (Water) submitted the financial feasibility studies for the project to the Chief Administrative Officer (CAO). According to the financial feasibility studies the total value of the project was estimated at UGX. 117,998,500.
10. On 22nd January 2019, the procurement was re-advertised without a formal cancellation of the previous process by the Contracts Committee.

RE-TENDERED PROCESS

1. On 11th January 2019, the Contracts Committee approved the open bidding procurement method, bid notice and the Evaluation Committee comprised of the Finance Officer, Civil Engineer (Water) and Procurement Officer.
2. On 22nd January 2019, an advert was published in New Vision Newspaper with the deadline for bid submission of 18th February 2019. Only GIC Logistics and Engineers Limited responded to the notice.
3. On 18th February 2019, GIC Logistics and Engineers Limited submitted a bid with a total price of UGX. 117,283,500.
4. On 21st February 2019, the Evaluation Committee recommended award of tender to GIC Logistics at UGX. 117,283,500.
5. On 7th March 2019, the Contracts Committee awarded the procurement for siting and drilling 4 boreholes in Rwebisengo and Buntugama Sub-counties to GIC Logistics at UGX. 117,283,500.
6. On 7th March 2019, the best evaluated bidder notice was displayed and with a removal date of 22nd March 2019.
7. On 25th March 2019, the contract was signed with GIC Logistics and Engineers Limited with a completion period of twelve months.
8. On 22nd May 2019, the Civil Engineer (Water) the Project Supervisor presented to the CAO a monitoring and inspection report of the drilled and constructed boreholes in the selected locations. The report stated that the construction works on all the four deep boreholes had been completed and the facilities were well functioning and therefore recommended the contractor for payment of 99.8% of the contract sum.

9. On 24th May 2019, the contractor was paid as per the interim payment certificate No.1 worth UGX. 104,165,240.
10. On 22nd May 2019, the Authority received a complaint forwarded from the Directorate for Ethics and Integrity, the Secretariat of the Anti-Corruption Inter-Agency Forum (IAF) dated 22nd May 2019 in which it was alleged that the procurements for the drilling and construction of 4 boreholes in Rwebisengo and Butungama Sub-Counties in Ntoroko district was marred by irregularities.
11. On 24th October 2017, the Authority instituted an investigation into the matter and requested the Entity to submit the procurement action file for review.

2.0 LAW APPLICABLE

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

3.0 OBJECTIVES OF THE INVESTIGATION

The objectives of the investigation were to establish whether:

- i. There were irregularities in the procurement of construction of boreholes in Butungama and Rwebisengo Sub-counties; and
- ii. There was collusion between the Ntoroko District Officials and staff from the Ministry of Water and Environment under the Lakes Edward and Albert Integrated Fisheries and Water Resources Management (LEAF II) Project in the procurement.

4.0 METHODOLOGY

The Authority adopted the following methodology:

1. The Authority reviewed the following documentation submitted by the Entity:
 - i. Procurement Requisition
 - ii. Solicitation document issued to bidders;
 - iii. Record of bid closing and bid opening;
 - iv. Bids submitted by bidders;
 - v. Evaluation reports;
 - vi. Contracts Committee minutes;
 - vii. Contract document;
 - viii. Payment records; and
 - ix. All correspondences on file related to this matter.

2. The following Officials were met:

Table 3: Officials Met

No.	NAME	DESIGNATION
1.	Mr. Christopher Friday	Senior Procurement Officer
2.	Mr. Baros John Mugume	District Commercial Officer
3.	Mr. Edward Musana	Senior Finance Officer
4.	Mr. Robert Musinguzi	Civil Engineer (Water)

5.0 FINDINGS BY THE AUTHORITY

5.1 Whether there were irregularities in the procurement of construction boreholes in Butungama and Rwebisengo Sub-counties

1. The complaint alleged that the construction of five boreholes in Butungama and Rwebisengo Sub-counties for FY 2018/19 did not follow the procurement process yet payment was reportedly made.
2. The Authority reviewed the Contracts Committee minutes and found that they did not indicate approval of the procurement method, bid notice, bidding document and Evaluation Committee of the first procurement process for siting and drilling of 4 boreholes in Rwebisengo and Butungama Sub-counties.
3. The first Evaluation Committee recommended Mama Bore Wells Africa Limited for the award of tender for siting and drilling 4 boreholes in Rwebisengo and Buntugama Sub-counties based on technical responsiveness and lowest price of UGX 97,586,000.
4. There was a minority report was written 20 days after evaluation by the Civil Engineer (Water) that objected to the recommendation since Mama Bore Wells Africa Limited quoted below the estimate of UGX. 118,000,000 and doubted the quality of works to be executed by the bidder. The report recommended award of tender to the second highest bidder GIC Logistics and Engineers at UGX. 118,783,500.
5. The Contracts Committee rejected the award recommendation due to differing opinions among the Evaluation Committee. It advised for a re-tender of the procurement and requested the User Department to provide a detailed feasibility report on the financial, economic and social aspects of the project.
6. Following submission of the financial feasibility study report on 5th January 2019 with the revised estimate of UGX. 117,998,500, the Contracts Committee approved the opening bidding method and the bid notice before cancellation of the previous procurement process.

7. The Authority found that the decision by the Entity to re-tender was irregular since the previous award was to the lowest priced and technically responsive bid. The re-tender also affected bidder response since a bid by GIC Logistics Engineers Limited was received.
8. The Authority found that the Contracts Committee also erred to approve the advert for the re-tender before cancelling the previous process. The bidders were not informed of the cancellation of the procurement.

5.2 Whether there was collusion between the Ntoroko District Officials and staff from the Ministry of Water and Environment under the Lakes Edward and Albert Integrated Fisheries and Water Resources Management (LEAF II) Project in the procurement.

1. The complaint alleged that there was conspiracy and collusion between officials of the Works and Water Departments of Ntoroko District Local Government and officials from the Ministry of Water and Environment under the Lakes Edward and Albert Integrated Fisheries and Water Resources Management (LEAF II) Project to construct one borehole and latrine in the area instead of several boreholes.
2. The Authority established that the Lakes Edward and Albert Integrated Fisheries and Water Resources Management (LEAF II) was a Project under the Ministry of Water and Environment. Procurements under this Project were initiated, advertised, evaluated and contracts signed by the Permanent Secretary at the Ministry and the benefiting Districts Local Governments only played a supervisory role.
3. The Authority noted that the procurement for siting and drilling of 4 boreholes in Rwebisengo and Butungama Sub-Counties was a District Project which was budgeted for and implemented by Ntoroko District Local Government.
4. The Authority found no evidence of collusion between Officials of Ntoroko District and the Ministry of Water and Environment since the procurement of siting and drilling of 4 boreholes in Rwebisengo and Butungama Sub-Counties was a District Project which was implemented and paid for. The boreholes were not implemented by the Ministry of Water and Environment under the Lakes Edward and Albert Integrated Fisheries and Water Resources Management (LEAF II) Project.

6.0 OBSERVATION

The Authority observed that there were delays at various stages of the procurement as indicated below:

Table 5: Delays in procurement process

No.	Activity	Date	No. of days
1.	Evaluation	24 th September 2018	22
2.	Contracts Committee rejection	3 rd December 2018	49
3.	Re-advertisement	11 th January 2019	26

No.	Activity	Date	No. of days
4.	Evaluation	21 st February 2019	29
5.	Contracts Committee award	7 th March 2019	10
6.	Contract signature	25 th March 2019	12
	Total number of days		148

NOTE: *The longest delay period was two months, that is the time between the first evaluation and Contracts Committee rejection.*

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 Accounting Officer should task the Contracts Committee to show cause as to why appropriate disciplinary action should not be taken against them for failure to award the tender for sitting and drilling of 4 boreholes in Rwebisengo and Butungama Sub-counties to Mama Bore Wells Africa Limited to the best evaluated bidder whose bid was the lowest priced and technically responsive.
2. The Entity should in future ensure that procurements are handled within the planned timelines to avoid delayed execution of the projects and service delivery to the intended beneficiaries.
3. The Accounting Officer should task the Head Procurement and Disposal Unit to show cause as to why disciplinary action should not be taken against him for failure to guide the evaluation process in accordance with Regulation 25 (3) (e) of the Local Governments (PPDA) Regulations, 2006.

ANNEX 1: PHYSICAL VERIFICATION PICTURES

<p>Bore hole at Mujumba II village, Rwebisengo subcounty.</p> <p>The works were implemented and the borehole was in use.</p>		
<p>Budiba II, Butungama Sub County.</p> <p>The works were implemented and the borehole was in use.</p>		
<p>Kazigiso, Butungama Sub County.</p> <p>The works were implemented and the borehole was in use.</p>		

Kiranga I,
Rwebisengo Sub
county.

The works were
implemented and the
borehole was in use.

