



PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS AUTHORITY

**INVESTIGATION REPORT INTO THE ALLEGED IRREGULARITIES IN THE
AWARD OF TENDER FOR LOADING AND OFF LOADING
IN KABWOHE DIVISION**

ENTITY: SHEEMA MUNICIPAL COUNCIL

COMPLAINANT: WHISTLEBLOWER

AUGUST 2018

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ACRONYMS

Authority	-	Public Procurement and Disposal of Public Assets Authority
MC	-	Municipal Council
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

1.0 SUMMARY OF FACTS

1. On 20th March 2018, the Senior Assistant Town Clerk, Kabwohe Division requisitioned for the collection of revenue for loading and off-loading from Kabwohe Division at a reserve price of UGX 1,620,000. The Accounting Officer certified funding on the same day.
2. On 12th April 2018, the Contracts Committee approved the Evaluation Committee comprising of the Treasurer, Kagango Division; the Senior Assistant Town Clerk, Kabwohe Division and the Senior Assistant Town Clerk, Sheema Central Division.
3. On 23rd April 2018, Sheema Municipal Council published an advert in the Orumuri Newspaper inviting providers to bid for collection of revenue for loading and off-loading in Kabwohe Division with the deadline for bid submission of 29th April 2018.
4. The record of issue of solicitation documents indicated that 5 individuals picked documents, namely; Ms. Santurina Bongyerire, Mr. Patrick Muhwezi Bandedeba, Mr. Robert Bebwa, Mr. Siraji Bakunda and Mr. Jamil Ainomugisha.
5. On 15th May 2018, the following bids were received and opened in the presence of the Contracts Committee:

S/No	Bidder	Bid price (UGX)
1.	Ms. Santurina Bongyerire	1,755,000
2.	Mr. Patrick Muhwezi Bandedeba	-
3.	Mr. Robert Bebwa	1,896,000
4.	Mr. Siraji Bakunda	233,000
5.	Mr. Jamil Ainomugisha	1,965,000

6. On 1st June 2018, the Evaluation Committee recommended award of tender for collection of revenue for loading and off-loading in Kabwohe Division to Mr. Robert Bebwa at UGX 1,896,000.
7. On 1st June 2018, Contracts Committee awarded the tender to Mr. Robert Bebwa at UGX 1,896,000 and the best evaluated bidder notice was displayed on the same day.
8. On 28th June 2018, the Authority received a complaint from a whistleblower alleging anomalies in the award of tender for collection of revenue for loading and off-loading in Kabwohe Division.
9. On 28th June 2018, the Entity signed the contract for collection of revenue for loading and off-loading in Kabwohe Division with Mr. Robert Bebwa at UGX 1,896,000 for a period of one year.

10. On 19th July 2019, the Authority instituted an investigation in accordance with Section 8 (c) of the PPDA Act, 2003 and requested for the procurement action files which were delivered on the same day.

2.0 LAW APPLICABLE

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

3.0 OBJECTIVE OF THE INVESTIGATION

The objectives of the investigation were to establish:

- i. Whether Ms. Santurina Bongyerire was intentionally denied a recommendation by the Senior Assistant Town Agent of Kabwohe Division yet it was a requirement at evaluation and as such, the bidder was disadvantaged and failed to win the tender; and
- ii. Whether Mr. Jamil Ainomugisha with the highest priced bid of UGX 1,965,000 was irregularly denied the tender in preference to the second highest bidder, Mr. Robert Bebwa with a quotation of UGX 1,896,000.

4.0 METHODOLOGY

The Authority adopted the following methodology:

4.1 Review of the following documentation on the procurement process:

The Authority adopted the following methodology:

- The invitation to bid;
- Solicitation document issued
- Record of bid closing and bid opening;
- Bid documents for loading and offloading in Kabwohe Division;
- Evaluation report;
- Contracts Committee decisions for this procurement;
- Contract Award letters; and
- All correspondences related to this matter.

4.2 The Authority met the following persons:

Table 2: Officials met

S/No	NAME	DESIGNATION	ENTITY
1.	Mr. Geoffrey B. Bamanyisa	Town Clerk	Sheema MC
2.	Ms. Maude Katusime	Procurement Officer	Sheema MC
3.	Ms. Santurina Bongyerire	Complainant	Complainant

5.0 FINDINGS OF THE AUTHORITY

5.1 Whether Ms. Santurina Bongyerire was intentionally denied a recommendation by the Senior Assistant Town Agent of Kabwohe Division yet it was a requirement at evaluation and as such, the bidder was disadvantaged and failed to win the tender

1. The complainant alleged that the Entity denied her a contract since she failed to attach a recommendation from the Senior Assistant Town Clerk of Kabwohe Division yet it was a requirement at evaluation. She further explained that whereas the Town Agent recommended her for the job, the Senior Assistant Town Clerk denied her a recommendation despite several visits at his office in Kabwohe Division.
2. During bid submission, Ms. Santurina Bongyerire complained to the Town Clerk, Sheema Municipal Council, in a letter dated 14th May 2018, about the Senior Assistant Town Clerk's refusal to give her a recommendation.
3. During interview, the Town Clerk explained that he did not respond to the letter contained in Ms. Santurina Bongyerire's bid because it was not brought to his attention.
4. The Procurement and Disposal Unit further explained that the letter was not considered during evaluation since the Evaluation Committee only noted that Ms. Santurina Bongyerire did not attach the recommendation from the Senior Assistant Town Clerk.
5. The Senior Assistant Town Clerk in charge of Kabwohe Division acknowledged in his defence to PPDA dated 9th July 2018 that:
 - i. Ms. Santurina Bongyerire was denied the recommendation because her husband, Mr. Patrick Muhwezi Bandedeba, had defaulted in the previous tender and had accumulated arrears in unpaid revenue amounting to UGX 4,347,000; and
 - ii. Initially, the husband of Ms. Santurina Bongyerire, applied for the tender and sought the recommendation from Kabwohe Division but since he had defaulted advised to clear the previous debt, he opted to submit a tender through his wife Ms. Santurina Bongyerire which was considered as impersonation.
6. Part 1 Bidding Procurement: Evaluation of Bids stated that *"The evaluation of bids for loading and off-loading in Kabwohe Division will consider the following criteria"*:
 - a. Telephone contacts and physical address;
 - b. Recommendation from Town Agent fully signed and stamped;
 - c. Recommendation from Division Town Clerk fully signed and stamped;
 - d. Original receipt of non-refundable fees;
 - e. National Identification Card; and
 - f. For associations, registration certificate should be attached.
7. Ms. Santurina Bongyerire was disqualified during the preliminary evaluation because of a lack of recommendation from the Senior Assistant Town Clerk.

8. The Authority found that it was irregular and unfair for the Senior Assistant Town Clerk Kabwohe Division to deny Ms. Santurina Bongyerire a recommendation since Ms. Santurina Bongyerire and Mr. Patrick Muhwezi Bandeeba are two different legal parties.

5.2 Whether Mr. Jamil Ainomugisha, with the highest priced bid of UGX 1,965,000, was irregularly denied the tender in preference to the second highest bidder, Mr. Robert Bebwa with a quotation of UGX 1,896,000.

1. The complainant alleged the Entity awarded the tender to the second highest bidder, Mr. Robert Bebwa who offered UGX 1,896,000 instead of Mr. Jamil Ainomugisha with the highest bid of UGX 1,995,000 at bid opening which was irregular.
2. Part 1 Bidding Procurement: Evaluation of Bids stated that *“The evaluation of bids for loading and off-loading in Kabwohe Division shall consider the following criteria”*:
 - a. Telephone contacts and physical address;
 - b. Recommendation from Town Agent fully signed and stamped;
 - c. Recommendation from Division Town Clerk fully signed and stamped;
 - d. Original receipt of non-refundable fees;
 - e. National Identification Card; and
 - f. For associations, registration certificate should be attached.
3. The evaluation report dated 1st June 2018 indicated the following results of evaluation:

Table 3: Evaluation Results

S/ No	Bidder	Amount Quoted	Recommendation from Town Clerk/ Town Agent	Evidence of paying Non Refundable fees	National Identification Card	Remarks
1.	MS. Santurina Bongyerire	1,755,000	No	Receipt 7569	Yes	Fail
2.	Mr. Patrick Muhwezi Bandeeba	1,705,000	No	Receipt 7573	Yes	Fail
3.	Mr. Jamil Ainomugisha	1,965,000	Yes	Receipt 8263	No	Forwarded by different Entity
4.	Mr. Sirajje Bakunda	2,330,000	Yes	Receipt 8266	No	Forwarded by different Entity
5.	Mr. Robert Bebwa	1,896,000	Yes	Receipt 7589	Yes	Pass

4. Both Mr. Sirajje Bakunda with the highest priced bid of UGX 2,330,000 and Mr. Jamil Ainomugisha the second highest bidder with UGX 1,965,000 at bid opening failed because they did not provide national identification cards and submitted recommendations from different Entities/Divisions.
5. The Head Procurement and Disposal Unit explained that the recommendations were supposed to be got from Kabwohe Division where the revenue source was located and not Sheema Central Division. However, both parties submitted recommendations from Sheema Central Division.
6. The Authority noted that both Mr. Sirajje Bakunda and Mr. Jamil Ainomugisha, the highest and second highest bidders with a bid price of UGX 2,330,000 and UGX 1,965,000 respectively failed due to lack of National identification cards and submitting a recommendation from a different Division i.e. not the division where the revenue source was located.

However, the Authority noted that the requirement for a recommendation “*from a Division where the revenue source was located*” was introduced during evaluation and was not explicitly stated in the solicitation document. *Part 1 Bidding Procurement: Evaluation of Bids* required bidders to submit a fully signed and stamped recommendation from Town Agent and Division Town Clerk without specifying the Division where the revenue source is located.

7. Evaluation Committee found the bid submitted by Mr. Jamil Ainomugisha, non responsive on criteria of the requirement for a recommendation “*from a Division where the revenue source was located*” that was not in the bidding document.
8. The Authority found that the Evaluation Committee did not adhere to the evaluation criteria in the bidding document, and hence Mr. Jamil Ainomugisha, with the highest priced bid of UGX 1,965,000, was irregularly denied the tender in preference to the second highest bidder, Mr. Robert Bebwa with a quotation of UGX 1,896,000.

6.0 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 following to show cause as to why appropriate disciplinary action should not be taken against them:
 - a. The Senior Assistant Town Clerk, Kabwohe Division him for denying Mr. Santurina Bongyerire a recommendation under the pretext of impersonating her husband; and
 - b. The Evaluation Committee for introducing a new evaluation criteria during evaluation of bids.

2. The Evaluation Committee should strictly adhere to the criteria set out in the solicitation document in accordance with Regulation 48 (4) of the Local Governments (PPDA) Regulations 2006.