

PPDA/IGG/103

7th November 2019

The Inspector General of Government
Inspectorate of Government
P.O Box 1682
KAMPALA

RE: ALLEGED IRREGULARITIES IN THE AWARD OF A CONTRACT TO UPGRADE 124 HEALTH CENTRES UNDER UGIFT P4R LOT 12 UNDER MINISTRY OF HEALTH BY OYAM DISTRICT LOCAL GOVERNMENT-PPDA/HQ/029/19

Reference is made to the above subject.

The Authority received a complaint dated 19th March 2019 referred by the Inspector General of Government (Ref: HQT/CO/123/2019) from Zimu Construction Co. Ltd alleging the following irregularities:

1. Otada Construction Company Limited was awarded the contract for the above works yet it did not meet the requirement of specific experience of building projects worth UGX. 500 Million per year for the last five years.
2. Otada Construction Company Limited submitted forged completion certificates.
3. Bidders were not notified of the outcome of bid evaluation before the entities contracted the successful bidder.

In accordance with Section 8 (1) (c) of PPDA Act, 2003, the Authority instituted an investigation into the matter and found that:

Brief facts:

1. On 30th August 2018, the Ministry of Health published a bid notice in the New Vision Newspaper for upgrading of 124 Health Centre IIs to Health Centre IIIs in 20 lots funded by the World Bank under the Uganda Intergovernmental Fiscal Transfer (UGIFT) Program for Results (P4R) with the deadline for bid submission on 7th October 2018. Lot 12 was in respect of 8 Health Centres each at estimated cost of UGX. 500 Million totalling to 4 Billion from 6 districts as follows:

Table 1: Selected Districts and Beneficiary Health centre II under Lot 12

No.	District	Name of Health Centre
1.	Amolatar	Nakatiti HC II
2.	Dokolo	Awelo HC II Adok HC II
3.	Alebtong	Awei HC II Angetta HC II
4.	Otuke	Ogwete HC II
5.	Agago	Lapirin HC II
6.	Pader	LapulOcwida HC II

2. The bid submission deadline was extended by Addendum issued on 15th November 2018 from 19th to 20th November 2018.
3. The bid notice required bidders to submit the bids to the Regional Procurement and Disposal Units. The bids for the northern region were to be submitted to Gulu District Local Government (DLG), However, the venue for bid submission was changed to Oyam DLG.
4. On 30th October 2018, Oyam DLG held a pre-bid meeting.
5. On 26th November 2018, Oyam DLG received and opened 9 bids for Lot 12 with the following bid prices:

Table 2: Record of Bid Opening for Lot 12

No.	Bidder	Bid price (UGX.)
1.	Modern Structures International Ltd	7,154,671,376
2.	Hawaa Construction & Energy Technology Ltd	3,870,674,744
3.	Amugoli General Enterprises Ltd	6,409,716,216
4.	Kilibbi United Construction & Supplies Co. Ltd	3,937,118,056
5.	Rohi Services Ltd	5,720,873,610
6.	Tijos Investments Ltd	3,001,294,044
7.	Zimu Construction Co. Ltd	609,794,620
8.	Wadia Construction (U) Ltd	6,321,874,260
9.	Otada Construction Co. Ltd	4,750,021,744

6. The designs for the works were standardised based on the worst-case scenario to take care of places with poor soils. Bidders were required to submit one technical bid and different financial bids for each Health Centre for each Lot.
7. The Evaluation Report dated 30th November 2019 indicated that the Evaluation Committee corrected arithmetic errors totalling to UGX. 10,911,673 in all the financial bids of Otada Construction Co. Ltd for the different health centres before recommending award at a total evaluated price of UGX.4,739,110,071 VAT inclusive and the following bid prices for the respective Health Centres:

Table 3: Evaluated Bid Prices Per Health Centre under Lot 12

No.	District	Name of Health Centre	Evaluated bid price (UGX.)
1.	Amolatar	Nakatiti HC II	585,190,389
2.	Dokolo	Awelo HC II	592,845,593
		Adok HC II	584,340,715
3.	Alebtong	Awei HC II	594,346,303
		Angetta HC II	584,340,715
4.	Otuke	Ogwete HC II	592,845,593
5.	Agago	Lapirin HC II	597,456,533
6.	Pader	LapulOcwida HC II	596,894,560
	Total		4,728,260,401

8. On 17th December 2019, the UGFIT Project Manager, Ministry of Health advised the Accounting Officers for the Entities under Lot 12 to negotiate the works on only the placenta pit, medical waste pit and external works and reduce the prices offered by Otada Construction Company Ltd to UGX.500,000,000 per Health Centre.
9. On 11th January 2019, the Contracts Committee Amolatar DLG approved the negotiation report and awarded the contract to Otada Construction Company Ltd at UGX.500,000,000 VAT inclusive.
10. On 11th January 2019, Amolatar DLG displayed a notice of best evaluated bidder with a removal date of 24th January 2019.
11. On 1st February 2019, the Solicitor General cleared the contract for signature.
12. On 6th February 2019, Amolatar DLG signed a contract with Otada Construction Co. Ltd at UGX.500,000,000 VAT inclusive in respect of Nakatiti HC II.

Issues:

- 1. Whether the bid by Otada Construction Company Limited was properly evaluated on the requirement of specific experience**
 - i. The bidding document required bidders at page 35, par 6.1.5(ii) to provide specific experience of participation as a contractor, management contractor or subcontractor, in at least 5 contracts within the last 5 years each with a value of at least UGX.500,000,000 that have been successfully and substantially completed (at least 70% complete) which are similar to the proposed works. The similarity was to be based on the physical size, complexity, methods/technology or other characteristics as described in section VI, Employer's Requirements.
 - ii. The bid submitted by Otada Construction Co. Ltd indicated that the bidder had similar construction experience as follows:

Table 4: Specific Experience Submitted by Otada Construction Co. Ltd

No.	Procurement	Duration	Contract Price	Evidence provided
1.	Construction of 11 staff houses and 2 OPDs in Abim District under NUSAF2, employed by Abim DLG	Jan 2013- June 2015	1,612,000,000	Contract Agreement dated 8 th April 2013 for construction of- Alerek HC III Staff House, Alerek PS Staff House, Arembwola PS Staff House, Kanu HC II Staff House, Abim PS Staff House, Gangming HC II Staff House at UGX.736,614,383. Contract Agreement dated 8 th April 2013 for construction of Opopongo HC II OPD, Oreta Health Staff House A, Oreta PS Staff House B, Katabok HC II OPD, Morulem Boys PS Staff House, Kiru HC II Staff House, Awach PS Staff House at UGX.865,042,227.
2.	Construction of a JLOS Center (Magistrates Court) at Bukwo. Employed by JLOS/Judiciary	May 2014- June 2016	832,877,422	Contract Agreement dated 24 th June 2013.
3.	Chain link fencing of schools in Moroto District, under NUSAF 2, employed by Moroto DLG	April 2014- November 2014	710,218,950	Contract Agreement dated 3 rd April 2014 for construction of Chain Link Fencing for- Rupa P/S, Musupo P/S, Atedeoi P/S and Perimeter fencing for – Loputuk P/S, Lokeriaut and Nadunget P/S.

- iii. The Evaluation Report indicated that the bid by Otada Construction Co. Ltd met the requirement of specific experience of building projects worth UGX. 500 Million per year within the last five years.
- iv. The Authority established that the Evaluation Committee considered the substance of the above requirement on specific experience as requiring a bidder to show evidence of construction contracts of a five years average value of UGX. 500 Million.

- v. The Authority found that Otada Construction Co. Ltd submitted three instead of the required five contracts. The Evaluation Committee hence did not properly evaluate the bid by Otada Construction Co. Ltd on the requirement of specific experience since it did not submit evidence of the required five contracts executed.
- vi. The Authority hence found merit on this issue.

2. Whether Otada Construction Company Limited submitted forged completion/payment certificates to meet the required experience

- i. The complainant submitted various copies of unclear payment certificates. The certificates were photocopied together with Bank cheques on the same page and the Authority could not ascertain the Entity to which they relate.
- ii. On 7th June 2019, the Authority held a meeting with the complainant to substantiate the allegations. The complainant simply stated that the manner in which the payment certificates were submitted indicated that they were forged.
- iii. The Authority verified the three contracts submitted by Otada Construction Company Limited stated in Table 4 with the Accounting Officers of the Entities where the projects were indicated to have been undertaken.
- iv. The Authority found that the Otada Construction Company Limited had executed and performed the contracts to the satisfaction of the employers.
- v. In a letter dated 16th September 2019 the Chief Administrative Officer Moroto DLG confirmed that Otada Construction Co. Ltd executed the contract with the Entity.
- vi. In a letter dated 10th October 2019 (Ref: SJ/103) the Permanent Secretary and Secretary to Judiciary equally confirmed that Otada Construction Co. Ltd executed the contract with the Entity.
- vii. By the time the Authority completed this report it has not received the response from the Accounting Officer of Abim DLG.
- viii. The Authority found no evidence to support the allegation that Otada Construction Co. Ltd submitted forged payment/completion certificates and hence no merit.

3. Whether Bidders were notified of the outcome of bid evaluation before the entities contracted the successful bidder

- i. The Authority established that Amolatar DLG displayed a notice of best evaluated bidder on its notice board on the 11th January 2019 with a removal date of 24th January 2019 but did not send copies to the bidders.

- ii. Regulation 85(3) of the Local Governments (PPDA) Regulations, 2006 requires the Procuring Entity to display the Notice of Best Evaluated Bidder on its notice board and post it on the Authority's website.
- iii. The Authority found that the display of the Notice of Best Evaluated Bidder on the Entity's notice board amounted to notification of the outcome of bid evaluation to the bidders and hence found no merit to the allegation that the bidders were not notified.

The Authority established through inquiries from the Accounting Officers of the implementing Entities that at the time of concluding this investigation in October 2019, contracts are already executed. The works have reached the wall plate/ring beam and are behind schedule. The different beneficiary Entities have granted extensions of contract periods to provide for completion of works.

CONCLUSION

In accordance with Section 9 (1) (a) of the PPDA Act, 2003 and the findings above, the Authority found merit in the allegation on specific experience and the respective Accounting Officers should task the Evaluation Committee members to show cause why disciplinary action should not be taken against them for failure to follow the evaluation criteria in bidding document.

Uthman Segawa

FOR: EXECUTIVE DIRECTOR

- c.c.: Permanent Secretary, Ministry of Health
- c.c.: Chief Administrative Officer, Amolatar DLG
- c.c.: Chief Administrative Officer, Dokolo DLG
- c.c.: Chief Administrative Officer, Alebtong DLG
- c.c.: Chief Administrative Officer, Otuke DLG
- c.c.: Chief Administrative Officer, Agago DLG
- c.c.: Chief Administrative Officer, Pader DLG
- c.c.: Managing Director, Zimu Construction Co. Ltd