



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

**ALLEGED ABUSE OF OFFICE AND CORRUPTION IN THE PROCUREMENT OF 2,000  
MOTORCYCLES FOR THE MINISTRY OF LOCAL GOVERNMENT**

**ENTITY : MINISTRY OF LOCAL GOVERNMENT**

**COMPLAINANT: WHISTLE BLOWER**

**DECEMBER 2019**

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## **ACRONYMS**

AO	-	Accounting Officer
CC	-	Cubic Centimeters
FY	-	Financial Year
LC	-	Local Council
MoLG	-	Ministry of Local Government
MoWT	-	Ministry of Works and Transport
NEMA	-	National Environment Management Authority
NSSF	-	National Social Security Fund
PDU	-	Procurement and Disposal Unit
PPDA	-	Public Procurement and Disposal of Public Assets Authority
UGX	-	Uganda Shillings
URSB	-	Uganda Registration Services Bureau

## 1.0 SUMMARY OF FACTS

1. On 26<sup>th</sup> February 2019, Ministry of Local Government requested the Ministry of Public Service to procure 2,020 motorcycles for Sub-County, Town Councils and Municipality Division Chairpersons.
2. On 14<sup>th</sup> March 2019, Ministry of Local Government sought clearance of the draft specifications of the motorcycles for use by LCIII Chairpersons country wide from Ministry of Works and Transport.
3. On 14<sup>th</sup> March 2019, the Ministry of Works and Transport approved the specifications of motorcycles for use by LCIII Chairpersons country wide.
4. On 15<sup>th</sup> March 2019, Ministry of Public Service approved the request by Ministry of Local Government.
5. On 26<sup>th</sup> March 2019, the Entity initiated the procurement for supply, delivery and commissioning of 2,000 motor cycles for Sub-County, Town Councils and Municipality Division Chairpersons estimated at a cost of UGX.33.04 Billion.
6. On 16<sup>th</sup> April 2019, the Contracts Committee approved the open domestic bidding method, bidding document, and the Evaluation Committee indicated in Table 1 below:

**Table 1: Evaluation Committee**

No.	Name	Designation
1.	Mr. Tom Oyet	Senior Procurement Officer- MoLG
2.	Mr. Ben Nuwagaba	Senior Assistant Secretary- MoLG
3.	Mr. Rashid Biruma	Principal Research Officer – MoLG
4.	Eng. Julius Tinkamanyire	Senior Mechanical Engineer- MoWT

7. On 25<sup>th</sup> April 2019, the Entity published a bid notice for the supply of 2,000 motor cycles in the New Vision Newspaper and Monitor Newspaper with the deadline of bid submission of 10<sup>th</sup> May 2019.
8. On 30<sup>th</sup> April 2019, the pre-bid meeting was held.
9. On 2<sup>nd</sup> May 2019, Simba Automotive (U) Limited submitted a complaint to the Authority alleging restrictive specification for the motorcycles.
10. Seven bidders were issued with the solicitation document and all responded.

11. On 13<sup>th</sup> May 2019, PPDA directed the Entity to revise the specifications and extend bid submission date to 14<sup>th</sup> May 2019.
12. On 20<sup>th</sup> May 2019, the Entity extended the bid submission deadline from 14<sup>th</sup> to 24<sup>th</sup> May 2019.
13. Bids were received on 24<sup>th</sup> May 2019 and opened on the same day as indicated in Table 2 below:

**Table 2: Record of Bid Opening**

No.	Bidder	Price Read Out(UGX)
1.	Toyota (U) Ltd	22,892,999,702
2.	Mantra Motorbike East Africa Ltd	15,920,000,000
3.	Ruvraj International (U) Ltd	9,600,000,000
4.	Verma Co. Ltd	14,891,139,996.08
5.	Honda Uganda Limited	19,800,000,000
6.	Simba Automotive (U) Limited	16,382,000,000
7.	Nile Fishing Company Limited	18,340,000,000

14. The Evaluation Report indicated that 4 bidders were not responsive at the preliminary examination as indicated in Table 3 below:

**Table 3: Unsuccessful Bids at Preliminary Examination**

No.	Bidder	Reasons for Disqualification
1.	Simba Automotive (U) Limited	<ul style="list-style-type: none"> <li>• Inspection of the UG Boss Pro motorcycle presented chassis no. LB412YC52KC030253 as sample indicated it had tyres rims size of front/rear of 19/17 inches rather than those of minimum sizes of 21/18 required in the bidding document.</li> <li>• The Power of Attorney was not registered by URSB as required.</li> <li>• Bidder provided evidence of supply of only 194 units in the last 3 years instead of the required 500 units.</li> </ul>

No.	Bidder	Reasons for Disqualification
		<ul style="list-style-type: none"> <li>• No NSSF Certificate submitted</li> <li>• Manufactures authorization indicated it was issued from Chongqing Yinxiang Motor Cycle (Group) Co. Ltd of No. 822 Konggang Economic Development Zone, Yubei, Chongqing, China. The website of the manufacturer did not indicate any UG BOSS 125 Pro MC or even any other motorcycle with similar specifications.</li> </ul>
2.	Ruvraj International Ltd	<ul style="list-style-type: none"> <li>• Inspection of the TVS 125cc motorcycle presented as sample indicated that it was “on road” and not “off-road” as per specifications.</li> <li>• Motorcycle provided had tyres rims size of front/rear of 17/17 inches associated with on-road motorcycles as opposed to off-road</li> <li>• Bidder lacked a valid Income Tax Clearance Certificate</li> <li>• No NSSF Certificate submitted</li> <li>• Bidder provided evidence of supply of only 62 units in the last 3 years instead of the required 500 units.</li> </ul>
3.	Mantra Motorbike East Africa Ltd	<ul style="list-style-type: none"> <li>• Inspection of the Hero 150cc motorcycle presented as sample chassis no. MBLKCH053LGP00097 indicated that it was in a different road category -Lower category of lower ground clearance) as compared to the required specifications-higher ground clearance.</li> <li>• Motorcycle proposed lacked local usage of 5 years on the market.</li> <li>• Bidder has not supplied motorcycles on the local market</li> </ul>
4.	Verma Co. Ltd	<ul style="list-style-type: none"> <li>• Inspection of the Bajaj Boxer 125CC motorcycle presented as sample chassis no. MD2B15BY7JWH87093 indicated that it was in a different road category -Lower category of lower ground clearance) as compared to off-road</li> </ul>

No.	Bidder	Reasons for Disqualification
		category in the specifications.

15. Three bidders namely Honda Uganda Limited, Toyota (U) Ltd and Nile Fishing Company Limited were evaluated at detailed technical stage, found responsive and progressed to financial comparison.
16. Financial comparison of the three bidders is indicated in Table 4 below:

**Table 4: Financial Comparison**

No	Name of bidder	Evaluated Price (UGX)	Ranking
1.	Honda Uganda Limited	19,800,000,000	2
2.	Toyota Uganda Limited	22,893,000,640	3
3.	Nile Fishing Company Limited	19,190,000,000	1

17. The Evaluation Committee conducted a post qualification on the best evaluated bidder and found it responsive to the criteria on average turnover of twice the bid price, evidence of supply of 500 units in the last 3 years and evidences appropriate premises/workshop for assembly of motorcycles.
18. On 10<sup>th</sup> June 2019, Parliament halted the procurement of supply of 2,000 motor cycles for Sub-County, Town Councils and Municipality Division Chairpersons by the Ministry of Local Government.
19. On 29<sup>th</sup> July 2019, Parliament lifted the suspension of the procurement process of supply of 2,000 motor cycles.
20. On 30<sup>th</sup> August 2019, the Evaluation Committee recommended award of contract for supply of 2,000 motor cycles for Sub-County, Town Councils and Municipality Division Chairpersons to Nile Fishing Company Limited at UGX. 19,190,000,000 (DDP).
21. On 5<sup>th</sup> September 2019, the Entity requested bidders to extend the bid validity to 10<sup>th</sup> November 2019.
22. On 9<sup>th</sup> September 2019, the best evaluated bidder extended the bid validity to 10<sup>th</sup> November 2019.
23. On 16<sup>th</sup> September 2019, the Authority received a complaint from the Inspectorate of Government alleging irregularities in the procurement of supply of 2,000 and 39 motor cycles by the Ministry of Local Government.

24. On 18<sup>th</sup> September 2019, the Head Procurement and Disposal Unit requested the User Department to validate the Form 5 since it was raised in FY 2018/19.
25. On 20<sup>th</sup> September 2019, Nile Fishing Company Limited complained to the Authority in respect to delayed completion of the evaluation of the procurement of supply of 2,000 motor cycles.
26. On 18<sup>th</sup> October 2019, the head of the User Department informed the Head Procurement and Disposal Unit that the departmental procurement plan was amended and the Form 5 was still valid and in any case the Accounting Officer would have to conduct a re-assessment of the market price before contract signature.
27. On 18<sup>th</sup> November 2019, the Head Procurement and Disposal Unit sought guidance from the Accounting Officer on the availability of funds for the procurement of the motorcycles.
28. On 18<sup>th</sup> November 2019, the Accounting Officer informed the Head Procurement and Disposal Unit that there was no funding for the procurement of the 2,000 motorcycles during FY 2019/20.
29. On 21<sup>st</sup> November 2019, the Contracts Committee cancelled the procurement of supply of 2,000 motorcycles.

## **2.0 OBJECTIVES OF THE INVESTIGATION**

The objectives of the investigation were to establish whether:

1. There was bribery of the Evaluation Committee;
2. The motorcycle specifications favored Nile Fishing Company Ltd;
3. The 2-stroke engine motorcycles are difficult to maintain, pollutes the environment and were not allowed by NEMA;
4. Nile Fishing Company Ltd was a fictitious and fraudulent company; and
5. The Evaluation Committee properly evaluated the bid of Nile Fishing Company Ltd.

## **3.0 LAWS APPLICABLE**

- i. The Public Procurement and Disposal of Public Assets Act, 2003;
- ii. The Public Procurement and Disposal of Public Assets Regulations, 2014;
- iii. The Public Procurement and Disposal of Public Assets Guidelines 2014; and
- iv. The bidding document issued for procurement of the 2,000 motorcycles.

## 4.0 METHODOLOGY

The Authority reviewed the following documentation:

- i. Procurement Requisition;
- ii. Bid notice;
- iii. Record of issue of bidding documents;
- iv. Solicitation document issued to bidders;
- v. Records of bid closing and bid opening;
- vi. Bids submitted by bidders;
- vii. Evaluation Report;
- viii. Contracts Committee decisions for this procurement; and
- ix. Any other document related to above matter.

4.2 The Authority held a meeting with the following persons indicated in Table 5:

**Table 5: Persons Met**

No.	Name	Designation
1.	Mr. Ben Kumumanya	Permanent Secretary/Accounting Officer
	Mr. Mike Duncan Tumwikirize	Head Procurement and Disposal Unit- MoLG
2.	Mr. Tom Oyet	Senior Procurement Officer - MoLG
3.	Mr. Winston Manzi	Consultant- Nile Fishing Company Ltd
4.	Mr. Francis Asimwe	Procurement Manager - Nile Fishing Company Ltd

## 5.0 FINDINGS BY THE AUTHORITY

### 5.1 Whether there was bribery of the Evaluation Committee

1. The complaint alleged that the Evaluation Committee received a bribe of UGX. 700 Million from Nile Fishing Company Ltd to recommend the company for award of tender for supply of 2,000 motor cycles. The complainant did not substantiate the bribery allegation or adduce evidence of such.
2. ITB 3.1 of the bidding document provided that; *“It is the Government of Uganda’s policy to require that Procuring and Disposing Entities, as well as Bidders and Providers observe the highest standards of ethics during procurement and the execution of contracts. In pursuit of this policy, the Government of Uganda; defines “corrupt practice” to mean the offering, giving, receiving, or soliciting, directly or*

*indirectly, of anything of value, to influence the action of a public official in the procurement process or in contract execution”.*

3. In a meeting held with a representative of the Evaluation Committee Mr. Tom Oyeten denied the allegations that the Evaluation Committee had received a bribe.
4. In a letter dated 27<sup>th</sup> September 2019, the Accounting, Ministry of Local Government informed the Authority that he investigated the allegation on bribery but found no evidence in support of the allegation of bribery of the Evaluation Committee by Nile Fishing Company Ltd.
5. The Authority interviewed officials from Nile Fishing Company Ltd who denied offering any bribe to the Entity officials in the procurement.
6. The Authority found no merit in the allegation since no evidence was adduced to support the allegation that the Evaluation Committee was bribed.

## **5.2 Whether the motorcycle specifications favored Nile Fishing Company Ltd**

1. The complaint alleged that the motorcycle specifications approved by the Ministry of Works and Transport favored Nile Fishing Company Ltd thus creating low competition and no value for money.
2. The Authority found that the Ministry of Works and Transport approved the specifications for the procurement of the motorcycles on 14<sup>th</sup> March 2019. The Ministry of Works and Transport is the competent authority mandated to approve the specifications for all vehicles and motorcycles procured by Ministries, Departments, Agencies and Local Governments.
3. The Evaluation Report dated 25<sup>th</sup> March 2019 indicated that three out of seven bidders i.e. Honda Uganda Limited, Toyota (U) Ltd and Nile Fishing Company Limited were found responsive to technical specifications of the motorcycle and progressed to financial comparison.
4. The fact that three out of seven bidders met the specifications of the motorcycles provided in the bidding document indicated that the requirements were not tailored to a particular brand of motorcycle. The Authority found no merit in the allegation that the specifications favored Nile Fishing Company Ltd.

**5.3 Whether the 2-stroke engine motorcycles are difficult to maintain, pollutes the environment and were not allowed by NEMA**

1. The complaint alleged that the 2-stroke engine motorcycles recommended by MoWT are difficult to maintain, pollute the environment and are not allowed by NEMA.
2. The specifications approved by the Ministry of Works and Transport on 14<sup>th</sup> March 2019, are indicated in Table 6 below.

**Table 6: Specification and Compliance Sheet**

<b>Item No.</b>	<b>Technical Specification required including applicable standards</b>
<i>a</i>	<i>b</i>
1.	Title: On and off road motor cycles
2.	Make/ model
3.	Year of manufacture: $\geq$ 2019
4.	Engine type: 4 stroke, 1-cylinder air cooled petrol engine with a displacement not exceeding 125cc.
5.	Engine power output and torque at rated rpm: Minimum 8.4 kW
6.	Starting system: Capacitor discharge kick starter or electric or both
7.	Gear box and drive train: Minimum 5 speeds constant mesh through roller chain
8.	Suspension front and rear – Telescopic oil dumpers, rear-swing arm and double shock absorbers.
9.	Front Guard Fender designed for off road capabilities
10.	Motorcycle ready to seat two persons with a rear carrier
11.	Minimum ground clearance: 260 mm
12.	Tyres: Front/rear minimum 2.75 or 70/100 or 80/90 -21 spoke steel rims with spokes, Rear 4.10 or 100/90 or 110/80-18 steel rims wire spokes (or equivalent) with off road pattern
13.	Brakes: Front and rear drum or disc
14.	Electrical system: all legal lighting
15.	Fuel tank: Minimum 11 litres
16.	Manufacturer recommended tool kit
17.	Original Manufacturer official published technical brochures for a

Item No.	Technical Specification required including applicable standards
	standard production model offered

3. The Authority established from the specifications that item number 5 indicated that: *“Engine type: 4 stroke, 1-cylinder air cooled petrol engine with a displacement not exceeding 125cc”*.
4. The Authority noted that the specifications contained in the bidding document were for a 4-stroke engine and not a 2-stroke as alleged.
5. The Authority found no merit in the allegation that the 2-stroke engine motorcycles are difficult to maintain pollutes the environment and were not allowed by NEMA since the specifications contained in the bidding document were for a 4-stroke engine.

#### **5.4 Whether Nile Fishing Company Ltd was a fictitious and fraudulent company**

1. The complaint alleged that Nile Fishing Company Ltd was a fictitious and highly fraudulent company in the following aspects:
  - i. That all contracts for supply of motorcycles to all Government entities are won by the company after connivance with the respective procurement officials through altering its bids.
  - ii. That Company was already blacklisted by Arua District for failure to deliver 10 motorcycles.
2. ITB 3.1 (a) (ii) of the bidding document define “fraudulent practice” as any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation”.
3. ITB 3.3 of the bidding document state that: *“In pursuit of the policy defined in Sub-Clause 3.1, the Procuring and Disposing Entity may terminate a contract or be ordered by the Public Procurement and Disposal of Public Assets Appeals Tribunal to cancel a contract if it at any time determines that corrupt, fraudulent, collusive or coercive practices were engaged in by representatives of the Procuring and Disposing Entity or of a Bidder or Provider during the procurement or the execution of that contract”*.
4. The Authority had earlier investigated the alleged irregularities in the procurement of 10 motorcycles by Arua District and found that Nile fishing Company Ltd did not supply the ten motorcycles to the District since there was no contract to perform following the annulment of the award and a re-tender of the procurement. In addition, it is

only PPDA with powers to blacklist a provider and not entities as per Section 94(e) of the PPDA Act, 2003 provides that: “*The Authority may on the recommendation of a procuring and disposing entity or after investigations on its own initiative, suspend a provider from engaging in any public procurement or disposal process for a period determined by the Authority, where— the provider fails to substantially perform the obligations specified in the contract*”.

5. The complaint did not substantiate or adduce evidence of the alleged fraudulent conduct by Nile Fishing Company Ltd while bidding for tenders in various Government Entities through alteration of its bids.
6. The Authority found no documentary evidence to support the allegation that Nile Fishing Company Limited is a fictitious and fraudulent company and hence found no merit.

### **5.5 Whether the Evaluation Committee properly evaluated the bid of Nile Fishing Company Ltd**

1. The complaint alleged that the Evaluation Committee did not properly evaluate the bid of Nile Fishing Company Ltd in respect to the following:
  - i. Having any after-sales service centres in Uganda;
  - ii. Failure to honor previous supply contracts to MoLG and Arua DLG;
  - iii. Submission of NSSF Certificate and audited books of accounts by the bid submission closing date; and
  - iv. Validity of the bid.
2. Regulation 7 (1) of the PPDA (Evaluation) Regulations, 2014 provides that “*the Evaluation of a bid shall be conducted in accordance with evaluation criteria stated in the PPDA (Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services) Regulations 2014 and in the bidding document*”.
3. The Authority found evidence of performance in the bid of Nile Fishing Company Limited with the following contracts for supply of motorcycles and verifications for the motorcycles supplied between 2015 to 2018:

**Table 7: Evidence of Performance of Contracts by Nile Fishing Company Limited**

No.	Date of contract	Subject of supply	Client	Amount	Delivery date
1.	5/10/2018	Supply of 843 Motorcycles	Ministry of Agriculture Animal Industry and	6,323,313,075	28/11/2018

No.	Date of contract	Subject of supply	Client	Amount	Delivery date
			Fisheries		
2.	11/12/2017	Supply of 124 Motorcycles	Ministry of Local Government	1,248,299,940	7/5/2018
3.	23/4/2018	Supply of 161 Motorcycles	Ministry of Gender, Labor and Social Development	1,491,648,900	18/6/2018
4.	8/12/2015	Supply of 185 Motorcycles	Ministry of Education and Sports	USD 454,418	17/6/2016
5.	14/5/2015	Supply of 170 Motorcycles	Office of the Prime Minister	555,900,000	2015

4. The Authority established that the Evaluation Report for the procurement of the 2,000 motorcycles was not considered by the Contracts Committee. The procurement was cancelled by the Entity for lack funding in FY 2019/20 in accordance with Section 59(2) of the PPDA Act, 2003.
5. The Authority further established that the bid of Nile Fishing Company Limited expired on 10<sup>th</sup> November 2019 since further bid validity extension was no longer tenable in light of the confirmation of lack of funding for the procurement.
6. The finding as to whether the bids were properly evaluated could not therefore be made since the Evaluation Report was not considered by the Contracts Committee to make a determination of an award.

## 6.0 OTHER FINDINGS

The investigation into alleged corruption in the procurement of 39 motorcycles procurement reference: MOLG/PRELNOR/SUPLS/2018-19-00101 was concluded and a report issued on 24<sup>th</sup> May 2019 to the Inspectorate. The Authority has established that the procurement process was discontinued following expiry of the bids. However, the procurement was re-tendered and the Funder (IFAD) granted a No Objection to the bidding document on 28<sup>th</sup> November 2019.

## **7.0 CONCLUSION**

In accordance with Section 9 (1) (a) of the PPDA Act 2003, the Authority found no merit in the allegations and closed the investigation.