



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

**INVESTIGATION REPORT INTO ALLEGED IMPROPER AWARD OF CONTRACT FOR DESIGN, SUPPLY, DELIVERY, INSTALLATIONS, TESTING AND COMMISSIONING OF 60/80 MVA POWER TRANSFORMERS & ACCESSORIES TORORO SUBSTATION**

**ENTITY : UGANDA ELECTRICITY TRANSMISSION COMPANY LTD**

**COMPLAINANT : INSPECTORATE OF GOVERNMENT**

**NOVEMBER 2019**

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## ACRONYMS

AO	-	Accounting Officer
BEB	-	Best Evaluated Bidder
HPDU	-	Head Procurement and Disposal Unit
ITB	-	Introduction To Bidders
KV	-	Kilovolt
Ltd	-	Limited
MVA	-	Mega Volt Amp
O&M	-	Operations and Maintenance
PDU	-	Procurement and Disposal Unit
PPDA Act	-	Public Procurement and Disposal of Public Assets Act No. 1 of 2003
PPDA	-	Public Procurement and Disposal of Public Assets Authority
SCC	-	Special Conditions of Contract
UECTL	-	Uganda Electricity Transmission Company Ltd
UGX	-	Uganda Shillings
VAT	-	Value Added Tax

## 1.0 SUMMARY OF FACTS

1. On 12<sup>th</sup> May 2017, Uganda Electricity Transmission Company Ltd (UECTL) initiated the procurement for the procurement of design, supply, installation, testing and commissioning of a 60/80 MVA Power Transformer & Accessories Tororo Substation at an estimated cost of UGX. 3.6 Billion.
2. The Project involved the design, supply, delivery, installations, testing and commissioning of 32/40 MVA power transformer & accessories at Tororo Substation.
3. On 29<sup>th</sup> September 2017, the Contracts Committee approved the bidding document, open international bidding method, and Evaluation Committee indicated in Table 1.

**Table 1: Evaluation Committee**

No.	Name	Designation
1.	Mr. Daniel Okot	Senior Maintenance Engineer
2.	Mr. Joseph Lutwama	Technician
3.	Mr. Andrew Mawanda	Maintenance Engineer
4.	Ms. Margaret Ziribaggwa	Procurement Officer
5.	Mr. Ronald Kajjabaga	Financial Accountant
6.	Mr. Edward Rwabushenyi	Senior legal officer

4. On 24<sup>th</sup> October 2017, the bid notice was published in the Monitor Newspaper with bid closing on 29<sup>th</sup> November 2017.
5. On 7<sup>th</sup> November 2017, a pre-bid meeting was held at UECTL Offices and minutes sent to bidders.
6. On 29<sup>th</sup> November 2017, five bids were received and opened in the presence of the bidders indicated in Table 2.

**Table 2: Record of Bid Opening**

No.	Bidder	Bid Price (UGX)
1.	Xian Electric Engineering Co.	4,972,468,332.37
2.	Abb Ltd	8,176,050,369.56
3.	Chint Electric Co. Ltd	5,571,410,260.36
4.	Shandong Taikai Power Co Ltd	6,603,907,006.16
5.	Zest Weg Group	8,132,056,777.64

7. The Evaluation Report dated 15<sup>th</sup> March 2018 indicated that five bidders passed preliminary examination and progressed to detailed evaluation.
8. Three bidders were found non-complaint to technical specifications and eliminated indicated in Table 3:

**Table 3: Bidders Eliminated at Technical Evaluation**

No.	Bidder	Reason for Elimination
1.	Xian Electric Engineering Co.	Bidder did not provide the Reference voltage current for the MV surge arrester contrary to the requirement. Bidders method statement and workplan adequately cover the civil works but void of installation and assembly of power transformer and does not adequately address safety on site and testing and commission activities.
2.	ChintElectric Co. Ltd	Bidder did not comply with UECTL requirements on earthing method of neutral and Transformer (solid) instead the bid stated 2500mm.
3.	Shandong Taikai Power Co Ltd	Bidder stated N/A on how the Buchholz relay signal is to be monitored contrary to digital input signal required by the Entity. Reference voltage at referent current (KVrms) provided by the bidder is too high (44KV) contrary to the minimum equal to the minimum rated KV for MV sensor arrester surge required

9. Two bidders i.e. Zest Weg Group Africa (PYT) Ltd and ABB were found responsive at technical and proceeded to financial comparison and ranked as indicated in Table 4.

**Table 4: Financial Comparison**

No.	Bidder	Read out bid price	Rank
1.	Zest Weg Group Africa (PYT) Ltd	8,132,056,777.64	1
2.	ABB	8,176,050,369.56	2

10. On 15<sup>th</sup> March 2018, the Evaluation Committee recommended award of contract to Zest Weg Group Africa (PYT) Ltd at UGX. 8,132,056,777.64 inclusive of VAT subject to negotiations on technical issues and carrying out due diligence on the bidder.
11. On 6<sup>th</sup> April 2018, the Contracts Committee approved the Evaluation Report and award of contract to Zest Weg Group Africa (PYT) at a total evaluated price of UGX. 8,132,056,777.64 inclusive of VAT subject to negotiations on technical issues, the implementation plan, commercial and payment terms.
12. On 6<sup>th</sup> April 2018, the Contracts Committee approved the Negotiation Team indicated in Table 5 and the implementation Plan.

**Table 5: Negotiation Team**

No.	Name	Designation
1.	Mr. Daniel Okot	Senior Maintenance Engineer
2.	Mr. Joseph Lutwama	Technician
3.	Mr. Andrew Mawanda	Maintenance Engineer
4.	Ms. Marianne Wakabi	Senior Procurement Officer
5.	Mr. Ronald Kajjabaga	Financial Accountant
6.	Ms. Lydia Kakooza	Contracts Compliance Officer

13. On 13<sup>th</sup> April 2018, the Head Procurement and Disposal Unit requested the Manager Operations and Maintenance (O&M) to seek additional funding to a tune of UGX. 3,291,573,540.38 to top the initial estimate of UGX. 3.6 Billion since the contract was awarded at UGX. 8,132,056,777.64 taxes inclusive.
14. On 13<sup>th</sup> April 2018, the Entity requested Zest Weg Group Africa (PYT) to extend its bid validity to 30<sup>th</sup> July 2018.
15. On 19<sup>th</sup> April 2018, Zest Weg Group Africa (PYT) to extend the bid validity to 30<sup>th</sup> July 2018.
16. On 22<sup>nd</sup> May 2018, the Contracts Committee approved the replacement of Ms. Margaret Ziribaggwa and Mr. Edward Rwabushenyi with Ms. Marianne Wakabi (SPO) and Ms. Lydia Kakooza (Contracts Compliance Officer) respectively on the Negotiation Team.
17. On 7<sup>th</sup> June 2018, the Entity revised the initial cost estimate to UGX. 5,080,299,766.
18. On 30<sup>th</sup> July 2018, the bidder further extended the bid validity to 30<sup>th</sup> September 2018.
19. On 23<sup>rd</sup> August 2018, the Entity confirmed additional funding of UGX. 884,096,474.
20. The negotiation minutes dated 23<sup>rd</sup> May 2018, indicated that it was agreed that due to budget constraints, the entire on-line monitoring system be removed and the contract sum be reduced to UGX. 7,209,397,475 taxes inclusive.
21. On 26<sup>th</sup> October 2018, the Contracts Committee approved the Negotiation Report dated 23<sup>rd</sup> May 2018 and awarded the contract for design, supply, installation, testing and commissioning of 60/80 MVA Power Transformers & Accessories Tororo Substation to Zest Weg Group Africa (PYT) Ltd at a reduced price of UGX. 7,209,397,475.31 inclusive of taxes.
22. On 1<sup>st</sup> November 2018, the notice of the Best Evaluated Bidder for the procurement of design, supply, installation, testing and commissioning of 60/80 MVA Power Transformers & Accessories Tororo Substation was displayed and removed on 14<sup>th</sup> November 2018.
23. On 9<sup>th</sup> November 2018, CHINT complained to the Accounting Officer on the outcome of the procurement.
24. On 14<sup>th</sup> November 2018, the Entity held debrief meetings with Chint Electric Co. Ltd and Shandong Taikai Power Co Ltd.
25. On 15<sup>th</sup> November 2018, the Entity sought Solicitor General's clearance of the draft contract for the procurement of design, supply, installation, testing and commissioning of 60/80 MVA Power Transformers & Accessories Tororo Substation.

26. On 22<sup>nd</sup> November 2018, the Solicitor General cleared the contract for the procurement of design, supply, installation, testing and commissioning of 60/80 MVA Power Transformers & Accessories Tororo Substation for signature.
27. On 26<sup>th</sup> November 2018, the bidder extended its bid validity to 31<sup>st</sup> December 2018.
28. On 21<sup>st</sup> December 2018, UECTL signed a contract with Zest Weg Group Africa (PYT) Ltd for design, supply, installation, testing and commissioning of 60/80 MVA Power Transformers & Accessories Tororo Substation at UGX. 7,209,397,475.31 inclusive of taxes.
29. On 21<sup>st</sup> December 2018, the Entity forwarded a copy of the contract to Zest Weg Group Africa (PYT) Ltd and requested the provider to furnish a performance security of 10% of the contract sum within 28 days from contract signing.
30. On 21<sup>st</sup> December 2018, and the bidder acknowledged receipt of contract.
31. On 21<sup>st</sup> January 2019, Mr.ChrisMutyaba was appointed as contract supervisor for the procurement of design, supply, installation, testing and commissioning of 60/80 MVA Power Transformers & Accessories Tororo Substation.

## **2.0 LAW 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.

## **3.0 OBJECTIVE OF THE INVESTIGATION**

The objective of the investigation was to establish whether the procurement for design, supply, installation, testing and commissioning of 60/80 MVA Power Transformer & Accessories for Tororo Substation was awarded to the highest bidder.

## **4.0 METHODOLOGY**

The Authority adopted the following methodology:

### **2.1. Review of the following documents:**

- i. The invitation to bid;
- ii. Solicitation document issued;
- iii. Minutes of pre-bid meetings;
- iv. Record of bid closing and bid opening;
- v. The bidding document;
- vi. Bids received;
- vii. Evaluation report;
- viii. Contracts Committee decisions for this procurement;
- ix. No objection from the Kingdom of Norway and French Agency for Development;

- x. The contract;
- xi. Contract management reports; and
- xii. Other correspondences on file related to this matter.

2.2.The Authority held a meeting with the following persons as shown in the Table 6 below.

**Table 6: Persons met by the Authority**

S/No.	Name	Designation
1.	Mr. W.K. Kiryahika	Managing Director/Accounting Officer
2.	Mr. Herbert Opolot	Principal Procurement Officer
3.	Ms. Margaret Ziribagwa	Procurement Officer

## 5.0 FINDINGS OF THE AUTHORITY

### **Whether the procurement for design, supply, installation, testing and commissioning of 60/80 MVA Power Transformer & Accessories for Tororo Substation was awarded to the highest bidder with the highest price**

1. The complaint alleged that the Entity awarded the contract for design, supply, installation, testing and commissioning of 60/80 MVA Power Transformer & Accessories for Tororo Substation to the highest bidder when other bidders had quoted nearly half the cost of the highest bidder.
2. The Entity awarded the contract to Zest Weg Group Africa (PYT) Ltd at UGX.7,209,397,475.31 inclusive of taxes. Out of the five bids received, three were eliminated at technical evaluation and only two were evaluated and ranked at financial evaluation.
3. ITB 37 of the bidding document on determination of Best Evaluated Bid(s) provided that *“the Procuring and Disposing Entity shall compare all substantially compliant and responsive bids to determine the best evaluated bid or bids, in accordance with Section 3, Evaluation Methodology and Criteria”*.
4. ITB 39.3 provided that *“the Procuring and Disposing Entity shall award the contract to the bidder whose offer has been determined to be the best evaluated bid, provided that the bidder is determined to be qualified to perform the Contract satisfactorily”*.
5. Section 3: Evaluation Methodology and Criteria 2.1 provided that Technical Compliance Selection methodology recommends the lowest priced bid, which is eligible, compliant and substantially responsive to the technical and commercial requirements of the bidding document, provided that the Bidder is determined to be qualified to perform the contract satisfactorily.
6. The Authority found that the bid evaluation was conducted in three sequential stages namely:

- i. a preliminary examination to determine the eligibility of bidders and the administrative compliance of bids received;
  - ii. a detailed evaluation to determine the commercial and technical responsiveness of the eligible and compliant bids; and
  - iii. a financial comparison to compare costs of the eligible, compliant, responsive bids received and determine the best evaluated bid.
7. The Authority found that the Evaluation Committee properly recommended award to Zest Weg Group Africa (PYT) Ltd at UGX. 8,132,056,777.64 subject to negotiations since the bid price was above the Entity's budget. The negotiations were approved by the Contracts Committee which reduced the price to UGX. 7,209,397,475.31 inclusive of taxes. The Entity obtained additional funding of UGX. 3.6 Billion in accordance with the Regulations 8 of the PPDA (Contracts) Regulations, 2014.
8. The Authority found that the Entity adhered to the technical compliance selection methodology in the award of procurement for design, supply, installation, testing and commissioning of 60/80 MVA Power Transformer & Accessories for Tororo Substation to Zest Weg Group Africa (PYT) Ltd and the bid complied with the requirements of the bidding document. The allegation that the procurement was awarded to the highest bidder lacks merit.

## **6.0 OBSERVATIONS**

The Authority observed that at the time of conducting the investigation (August 2019) with four months left to the end of the contract period, the contract for the Substation was not yet effective. The provider (Zest Weg Group Africa (PYT) Ltd) had not yet furnished the performance security of UGX. 720,939,747.53 to the Entity contrary to Bid Data Sheet 44.1 which provided that within twenty-one (21) days of signing of the contract, the successful bidder shall where applicable, furnish to the Procuring and Disposing Entity a Performance Security in the amount stipulated in the SCC. The Entity had not yet not paid the advance payment of UGX. 1,441,897,495.06 to the provider.

The Project Manager informed the Authority that although the contract was not yet effective the manufacturing of the transformer was under way and the provider will be able to meet the contractual deadline of 12 months after contract effectiveness. The SCC 12 of the bidding document provided that delivery for the contract of design, supply, installation, testing and commissioning of 60/80 MVA Power Transformer & Accessories for Tororo Substation shall be 12 months from the date of contract effectiveness. The contract provided that it would become effective when the requisite performance security and advance payment guarantee have been furnished.

## **7.0 CONCLUSION**

In light of the above, the Authority finds no merit in the allegations and Accounting Officer should proceed with the implementation of the contract in accordance with the terms and conditions therein.