



PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS AUTHORITY

**INVESTIGATION REPORT INTO ALLEGED IRREGULARITIES IN THE
PROCUREMENT OF A SERVICE PROVIDER FOR THE OPERATION AND
MANAGEMENT OF AGRO PROCESSING FACILITY (MAIZE MILL) AT KATERERA
SUB- COUNTY**

ENTITY : RUBIRIZI DISTRICT LOCAL GOVERNMENT

COMPLAINANT : RUKOMA FARMING COOPERATIVE SOCIETY LIMITED

MARCH 2022

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ACRONYMS

AO	-	Accounting Officer
APF	-	Agro Processing Facility
CAO	-	Chief Administrative Officer
CAIIP	-	Community Agricultural Infrastructure Improvement Programme
PPDA	-	Public Procurement and Disposal of Public Assets Authority
UGX	-	Uganda Shillings

1.0 SUMMARY OF FACTS

1. On 3rd February 2020, the Contracts Committee approved the open national bidding method, the bidding document and the following Evaluation Committee; the District Water Officer, Procurement Officer and the Senior Assistant Secretary, Katerera Sub-County.
2. On 4th February 2020, the Agricultural Officer, Rubirizi District Local Government initiated the procurement for operation and management of Agro Processing Facility (Maize mill) at Katerera Sub-County with an estimated cost of UGX 700,000 per quarter. The requisition was certified by the Sub-County Chief, Katerera.
3. On 9th March 2020, an invitation to bid was sent out to the bidders with a deadline for bid submission of 27th March 2020.
4. Only Rukoma Farming Co-operative Society Ltd was issued with a solicitation document.
5. On 27th March 2020, Rukoma Farming Co-operative Society Ltd submitted a bid with a bid price of UGX 240,000 per quarter. The bid opening was witnessed by the Chairperson Contracts Committee.
6. On 24th July 2020, the Evaluation Committee recommended award of contract to Rukoma Farming Co-operative Society Ltd at UGX 240,000 subject to negotiations since the bidder was below the reserve price.
7. On 27th July 2020, the Accounting Officer requested members of the Negotiation Committee namely the District Water Officer, Procurement Officer and Senior Assistant Secretary to liaise with the Head Procurement and Disposal Unit and commence negotiations.
8. On 30th July 2020, the Secretary Negotiation Committee invited Rukoma Farming Co-operative Society Ltd for the negotiation meeting scheduled for 7th August 2020 at the Resident District Commissioner's Boardroom at 11.00 a.m. to discuss the offer by the bidder since it was below the reserve price of UGX 700,000.
9. On 20th August 2020, the Sub-County Chief Katerera requested the Accounting Officer to manage the agro-processing plant until the Entity secures a provider.
10. On 25th August 2020, the Contracts Committee cancelled the procurement process for the management and operation of the agro-processing facility at Katerera Sub-County.
11. On 16th September, the Contracts Committee approved the open bidding procurement method, the bidding document, the invitation to bid and the following Evaluation Committee comprising of the Assistant Engineering Officer; Senior Assistant Secretary; and the Procurement Officer.
12. On 23rd September 2020, an invitation to bid was published on the notice boards of all User Departments and the deadline for bid submission was 16th October 2020.

13. The record of issue of solicitation document indicated that 3 bidders were issued with bidding documents as indicated in Table 1:

Table 1: Record of Issue of Bids

No	Name of bidder	Fee Paid (UGX)	Date of Issue
1.	Katerera Parish Produce Dealers Group	50,000	12/10/2020
2.	Mikieli Technical Services Ltd	50,000	14/10/2020
3.	Rukoma Farming Society Ltd	100,000	14/10/2020

14. On 16th October 2020, two firms namely; Katerera Parish Produce Dealers Group and Rukoma Farming Cooperative Society Limited submitted bids. Bid opening witnessed by the chairperson Contracts Committee was as follows:

Table 2: Record of Bid Opening

S/N	Name of Bidder	Read Out Price (UGX)
1.	Katerera Parish Produce Dealers Group	750,000
2.	Rukoma Farming Society Ltd	630,000

15. On 29th October 2020, the Evaluation Committee recommended award of contract to Katerera Parish Produce Dealers Group for the operation and management of Agro Processing Facility (APF) [maize mill] in Katera Sub-County at UGX 750,000 per quarter.
16. On 2nd November 2020, the Contracts Committee awarded the contract to Katerera Parish Produce Dealers Group at a total price of UGX 750,000 per quarter.
17. On 3rd November 2020 a best evaluated bidder notice was displayed and expiring on 16th November 2020.
18. On 17th November 2020, the Accounting Officer communicated the award decision to Katerera Parish Produce Dealers Group at UGX 750,000 per quarter for the operation and management of APF (maize mill) at Katerera Sub-County.
19. On 20th November 2020, the Katerera Parish Produce Dealers Group accepted the offer for the operation and management of APF (maize mill) at Katerera Sub-county at UGX 750,000 per quarter.
20. On 1st December 2020, the Accounting Officer signed the contract for the operation and management of Agro Processing Facility (maize mill) at Katerera Sub-county with Katerera Parish Produce Dealers Group at a contract price of UGX 750,000 per quarter.
21. On 15th February 2021, the Authority received a complaint from the Rukoma Farming Co-operative Society Limited alleging irregularities in the procurement process for the operation and management of Agro Processing Facility (maize mill) at Katerera Sub-County.
22. On 2nd March 2021, the Authority received another complaint from the Inspectorate of Government citing irregularities at Rubirizi Local Government Procurement and Disposal

Unit in respect to the award of tender for the operation and management of Agro Processing Facility (maize mill) at Katerera Sub-county.

2.0 OBJECTIVES OF THE INVESTIGATION

The objectives of the investigation as derived from the complaint were to establish whether:

1. The award to operate and manage the Agro Processing Facility (Maize mill) at Katerere Sub-County was contrary to the CAIP Guidelines; and
2. The procurement was undertaken in a fair and transparent manner.

3.0 LAWS APPLICABLE

- i. The Public Procurement and Disposal of Public Assets Act, 2003;
- ii. The Local Governments (PPDA) Regulations, 2006;
- iii. The Local Governments (PPDA) Guidelines 2008;
- iv. The Community Agricultural Infrastructure Improvement Programme (CAIP) Guidelines;
- v. Chapter 112 of The Cooperative Societies Act; and
- vi. The Bidding document issued.

4.0 METHODOLOGY

The Authority adopted the following methodology:

1. The Authority reviewed the following documentation:
 - i. Procurement initiation form
 - ii. Bidding document issued;
 - iii. Records of issue of solicitation documents, record of receipt of bids and record of bid opening;
 - iv. Bids submitted by Katerera Parish Produce Dealers Group and Rukoma Farming Co-Operative Society Ltd;
 - v. The Evaluation report;
 - vi. Contracts Committee minutes;
 - vii. Notice of the best evaluated bidder;
 - viii. Contract award letter;
 - ix. Signed copy of the contract; and
 - x. Other correspondences on the procurement.
2. The Authority met the following persons in Table 3 below:

Table 3: Persons Met

S/N	Name	Designation	Entity
1.	Mr. Rubeihayo Anthony	Chairman Contracts Committee	Rubirizi District
2.	Mr. Tukashaba Robert	Senior Assistant Secretary	Rubirizi District
3.	Mr. Kwikiriza Alex	Senior Procurement Officer	Rubirizi District
4.	Mr. Natumanya Apollo	Chairman	Rukoma Farming Cooperative Society Ltd
5.	Mr. Turyasingura Deus	Treasurer	Rukoma Farming Cooperative Society Ltd
6.	Furayide Jamir Kimiti	Member	Rukoma Farming

S/N	Name	Designation	Entity
			Cooperative Society Ltd

5.0 FINDINGS BY THE AUTHORITY

5.1 Whether the award to operate and manage the Agro Processing Facility (maize mill) was contrary to the CAIP Guidelines

1. The complainant (Rukoma Farming Co-operative Society Ltd) alleged that the District denied them an opportunity to operate and manage the APF (maize mill) in Katerera Sub-County contrary to the CAIP (Ministry of Local Government) Guidelines, 2013.
2. Review of documentation at the Entity indicated that Rukoma Farming Co-operative Society Ltd was hired to operate and manage the agro-processing facility in Katerera Sub-County for a period of 2 years effective 28th November 2017. Its contract expired on 27th November 2019 and it was not renewed. However, the APF (maize mill) was advertised and the contract awarded to another firm, Katerera Parish Produce Dealers Group in November 2020.
3. The Community Agricultural Infrastructure Improvement Programme (CAIIP) Guidelines, 2013 under Ministry of Local Government state that; *“the Co-operative Society management system was adopted as the best suitable system through which these facilities can be managed.” In the event that the farmers in a given area are not yet constituted into an agro-processing co-operative society or that the existing agro-processing co-operative society has no capacity to manage the grain mill/huller facility, the District shall assist the sub-county to hire the services of a private firm/bulk buyer (using the PPDA Regulations)”*.
4. The District advertised for the management of the agro-processing facility at Katerere Sub-County on the District notice board on 9th March 2020 and only the sitting tenant (Rukoma Farming Co-operative Society Ltd) responded with a quotation of UGX 240,000 far below the Entity’s estimate of UGX 700,000.
5. Whereas the Evaluation Committee recommended negotiation on price at evaluation because the bidder quoted below the reserve price; whereas the Accounting Officer nominated a Negotiation Committee on 27th July 2020; and whereas Rukoma Farming Co-operative Society Ltd was invited for the negotiation meeting scheduled for 7th August 2020 at the Resident District Commissioner’s Boardroom, there was no evidence that negotiations were held, hence the cancellation and re-tender of the procurement.
6. The Head Procurement and Disposal Unit submitted that the District advertised the APF (maize mill) because it wanted to steer competition amongst other upcoming Co-operative Societies/groups. The sole bidder, Rukoma Farming Co-operative Society Ltd, quoted below the reserve price and the Entity decided to re-advertise for the operation and management of the maize mill.
7. During interviews, Rukoma Farming Co-operative Society Ltd explained that it was never invited for the negotiations.

8. The Authority noted that an invitation was sent out to Rukoma Farming Co-operative Society Ltd inviting them for a meeting on 7th August 2020 at the Resident District Commissioner's Boardroom but there was no evidence that the bidder received the invitation.
9. The Authority found that Rukoma Farming Co-operative Society Ltd was given an opportunity to submit a bid for the operation and management of APF (maize mill) at Katerera Sub-County, however its bid was below the reserve price of UGX 700,000 having quoted UGX 240,000 and hence found non-responsive.

5.2 Whether the procurement process for the operation and management of the agro processing facility (maize mill) at Katerera Sub County was undertaken in a fair and transparent manner

The Authority further noted that the procurement process was not undertaken in a fair and transparent manner as evidenced by following irregularities:

1. The requisition form (PP Form 1) was certified by the Senior Assistant Secretary, Katerera Sub-County without evidence of delegated authority from the Accounting Officer contrary to Regulation 65 (7) of the Local Governments (PPDA) Regulations, 2006.
2. The initial procurement was cancelled by the Contracts Committee on 25th August 2020. However, the sole bidder, Rukoma Farming Co-operative Society Ltd was not notified about the cancellation contrary to Regulation 57 (4) of the Local Governments (PPDA) Regulations, 2006.
3. The Procurement and Disposal Unit failed to advise the Evaluation Committee on the correct evaluation methodology resulting in the use of a wrong evaluation methodology. The Committee used quality and cost-based selection for evaluation of a service instead of using the correct evaluation methodology of technical compliance selection.
4. The evaluation criteria at preliminary stage stated in the solicitation document required the bidders to provide the following:
 - a) A copy of the Bidder's Trading Licence or equivalent.
 - b) A copy of Bidder's Certificate of Registration or equivalent where applicable.
 - c) A copy of current Bidder's income Tax clearance Certificate for Cooperative Societies.
 - d) A statement in the Bid Submission sheet that the Bidder meets the eligibility Criteria stated in ITB 4.1.
 - e) A declaration in the Bid submission sheet of Nationality of the Bidder.
 - f) Bidder's bank statement for one month.
 - g) Statement in the Bid Submission sheet that the Bidder has no conflict of interest.
 - h) A declaration in the Bid Submission sheet that the Bidder is not under suspension by PPDA.
 - i) Cooperative societies shall have at least 30 members and shall be qualified for membership in line with Section 13 of Co-operative Society's Act.
 - j) Bidder's evidence of Transport means for the produce.
 - k) Whereas the solicitation document demanded for submission of an Income Tax Clearance, this was omitted during evaluation.

5. The Authority noted that the bidders were evaluated on the following evaluation criteria that was different from that stated in the solicitation document above:
 - a) Non refundable fee
 - b) Registration certificate
 - c) 3 copies of the bidding document
 - d) Current Trading Licence
 - e) Local Council recommendation
 - f) Bank Statement
 - g) Membership List

Table 4: Detailed Evaluation of the Firms

EVALUATION CRITERIA	BIDDER	
	Katerera Parish Produce Dealers Group	Rukooma Farming Cooperative Society Ltd
A copy of the Bidder's Trading Licence or equivalent	Not submitted	Not submitted.
A copy of Bidder's Certificate of Registration or equivalent where applicable	Not submitted.	Submitted
A copy of current Bidder's income Tax clearance Certificate for Cooperative Societies	Not submitted.	Not submitted.
Cooperative societies shall have at least 30 members and shall be qualified for membership in line with Section 13 of Co-operative Society's Act.	Not submitted.	Submitted

6. The Authority noted that by the Evaluation Committee erred when it deviated from the evaluation criteria set in the bidding document during evaluation. This amounted to both an amendment by modification and substitution of the evaluation criteria stated in the bidding document as well as introduction of another evaluation criteria other than the criteria stated in the bidding document and was contrary to Regulation 45(5) of the Local Governments (PPDA) Regulations, 2006.
7. Both firms did not satisfy the requirements indicated in the solicitation document and hence Katerera Parish Produce Dealers Group was irregularly awarded the contract for the operation and management of the APF (maize mill) at Katerera Sub-County since its bid was non-responsive to the requirements.

6.0 RECOMMENDATIONS

In accordance with Section 9 of the PPDA Act, 2003 and in light of the above findings, the Authority recommends that:

1. The Evaluation Committee should evaluate bids in a fair and transparent manner and the evaluation criteria in the solicitation document should be adhered to at evaluation in accordance with Regulation 73 (2) of the Local Governments (PPDA) Regulations, 2006.

2. The Head Procurement and Disposal Unit should provide guidance to the Evaluation Committee during evaluation to avoid unfairness that might lead to unnecessary complaints from bidders in accordance with Regulation 25 of the Local Governments (PPDA) Regulations, 2006.
3. The Sub-County Chief should only confirm availability of funding under delegated authority from the Accounting Officer in accordance with Regulation 65 (7) of the Local Governments (PPDA) Regulations, 2006.
4. In future, the Accounting Officer and Head Procurement and Disposal Unit should ensure that negotiations are conducted in accordance with Section 74 of the PPDA Act, 2003.
5. The Head Procurement and Disposal Unit should communicate to bidders about the cancellation of the procurement process in accordance with Regulation 57(4) of the Local Governments (PPDA) Regulations, 2006.