



**PUBLIC PROCUREMENT AND DISPOSAL  
OF PUBLIC ASSETS AUTHORITY**  
*"Procurement That Delivers"*

**INVESTIGATION INTO ALLEGED IRREGULARITIES IN THE  
BIDDING PROCESS IN THE MANAGEMENT OF MARKETS AND  
REVENUE COLLECTION**

**ENTITY: BUDUDA DISTRICT LOCAL GOVERNMENT**

**COMPLAINANT: MR. MOSES WAMBETE**

**SEPTEMBER 2023**

## TABLE OF CONTENTS

1.0	BACKGROUND .....	2
2.0	OBJECTIVES OF THE INVESTIGATION .....	2
3.0	LAWS APPLICABLE.....	2
4.0	METHODOLOGY .....	2
5.0	SUMMARY OF FACTS .....	3
6.0	FINDINGS BY THE AUTHORITY .....	2
7.0	RECOMMENDATIONS.....	6

Table 1: Persons interviewed by the Authority .....	3
Table 2: Bid notice.....	3
Table 3: Firms issued with the solicitation documents for Bushigai market.....	4
Table 4: Firms issued with the solicitation documents for Kikholo Market .....	4
Table 5: Firms issued with the solicitation documents for loading, offloading in Bushigai market .....	4
Table 6 Record of bids received and opened for Bushigai market.....	4
Table 7: Record of bids received and opened for loading and offloading at Bushigai Market .....	4
Table 8: Record of bids received and opened for revenue collection at Kikholo Market .....	5
Table 9: Showing recommendations for the Best Evaluated Bidders .....	5
Table 10: Showing contracts signed with the providers .....	2
Table 11: Record of bids received and opened for Bushigai market.....	2
Table 12: Record of bids received and opened for loading and offloading at Bushigai Market....	2
Table 13: Record of bids received and opened for revenue collection at Kikholo Market .....	2
Table 14: An analysis of the estimated prices at initiation against the offers received.....	3
Table 15: Showing contracts signed with dates of payment.....	5

## ACRONYMS

BEB	-	Best Evaluated Bidder
DLG	-	District Local Government
LTD	-	Limited
PDU	-	Procurement and Disposal Unit
PPDA	-	Public Procurement and Disposal of Public Assets Authority
UGX	-	Uganda Shillings

## **1.0 BACKGROUND**

- i. On the 21<sup>st</sup> and 22<sup>nd</sup> March 2023, procurements for revenue collection services and management of markets were initiated for the Financial Year 2022/23 respectively. Subsequently Bududa DLG invited for bids for the management of market/ Revenue collection services for 4<sup>th</sup> quarter under selective bidding procurement method for the revenue sources below;
  - a) Budu 812/servcs/2022-2023/ 00002 Bukigai market
  - b) Budu 812/srvcs/2022-2023/00003 Kikholo Market
  - c) Budu 812/srvcs/2022-2023/00004 offloading and Loading of Bukigai market.
- ii. On 27<sup>th</sup> April, 2023, the Authority received a complaint from Mr. Moses Wambete, one of the bidders in the process, alleging that there were irregularities in the bidding and evaluation processes for the provision of revenue collection services and requested the Authority to investigate the process.
- iii. On 28<sup>th</sup> April ,2023 the Authority instituted an investigation into the matter in accordance with section 8(e) of the PPDA Act 2003 to establish whether the procurement for management of markets and revenue collection services in Bududa District Local Government was marred with irregularities and non-compliance with the PPDA Act 2003 and Local Government (PPDA) Regulations 2006.

## **2.0 OBJECTIVE OF THE INVESTIGATION**

To establish whether the procurement for management of markets and revenue collection services in Bududa District Local Government was marred with irregularities and non-compliance with the PPDA Act 2003 and Local Government (PPDA) Regulations 2006.

## **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. Any other applicable laws.

## **4.0 METHODOLOGY**

The Authority adopted the following methodology in executing the investigation.

### **4.1 Review of Documentation:**

The Authority reviewed the following documentation on the procurement action file.

- i. Procurement requisition;
- ii. Invitation letter;

- iii. Copy of the solicitation document issued to bidders;
- iv. Records of issue, receipt and opening of bids;
- v. Bids submitted by bidders;
- vi. Evaluation report;
- vii. Notice of Best Evaluated Bidder;
- viii. Interviews; and
- ix. Other related correspondences.

#### 4.2 Interviews with selected stakeholders

On the 22<sup>nd</sup> May 2023, the Authority wrote to the stakeholders below inviting them for interviews that were held in the PPDA Regional Offices'board room in Mbale City as per the schedule in table 1 below.

**Table 1: Persons interviewed by the Authority**

S/No	NAME	DESIGNATION	Date of Interview
1.	Mr. Moses Wambete	Complainant	8 <sup>th</sup> May 2023
2.	Mr. Christopher Muyinda	Senior Procurement Officer	26 <sup>th</sup> May 2023
3.	Mr. Ronald Watira	Member Evaluation Committee	26 <sup>th</sup> May 2023
4.	Ms. Irene Nanzala	Member Evaluation Committee	26 <sup>th</sup> May 2023
5.	Mr. Ali Mangongo	Member Evaluation Committee	26 <sup>th</sup> May 2023

#### 5.0 SUMMARY OF FACTS

- 1 The Entity initiated three procurements for revenue collection services; at Kikholo market at an estimated reserve price of UGX 1,200,000, at Bukigai market estimated at UGX. 17,800,000 and loading and off loading at Bukigai market estimated at UGX. 800,000 respectively. The first procurement was initiated on 21<sup>st</sup> March, 2023 and the last two were initiated on 22<sup>nd</sup> March 2023 respectively.
- 2 On 23<sup>rd</sup> March 2023, the bid notice containing revenue collection from Bukigai market, Kikholo Market and offloading and Loading of Bukigai market was displayed on Bududa DLG notice board with a bid submission deadline of 5<sup>th</sup> April 2023. The notice had the particulars below in table 2.

**Table 2: Bid notice**

Grade	Reference number	Name of Revenue Centre	Reserve price
A.1	Budu/12/serves/2022-2023/ 00002	Bukigai market	17,800,000
A.2	Budu/812/srvcs/2022-2023/00003	Kikholo Market	1,200,000
B	Budu/812/srvcs/2022-2023/00004.	offloading and Loading of Bukigai market	800,000

3. The following firms purchased and were issued with the solicitation document for Bushigai market, Kikholo market and Loading and offloading as indicated in Tables 2, 3 and 4 below:

**Table 3: Firms issued with the solicitation documents for Bushigai market**

S/No	Name of Bidder	Date of Issue
	Maku Building Contractors Ltd.	04 <sup>th</sup> April 2023
	Mariri (U) Ltd.	04 <sup>th</sup> April 2023
	Mumago Contractors and Technical Engineering Ltd.	04 <sup>th</sup> April 2023

**Table 4: Firms issued with the solicitation documents for Kikholo Market**

1	Tsapwe Wilson	4 <sup>th</sup> April 2023
2	Bumuna civil Engineering	25 <sup>th</sup> march 2023
3	Mr. Moses Wambete	4 <sup>th</sup> April 2023
4	Mumago Contractors and Technical Engineering Ltd.	4 <sup>th</sup> April 2023

**Table 5: Firms issued with the solicitation documents for loading, offloading in Bushigai market**

1	Zeith Engineering Limited	4 <sup>th</sup> April 2023
2	Mr. Wilson Tsapwe	4 <sup>th</sup> April 2023
3	Mr. Moses Wambete	4 <sup>th</sup> April 2023
4	Mumago contractors and Technical engineering ltd.	4 <sup>th</sup> April 2023

4. Bid submission was closed on 6<sup>th</sup> April, 2023 as was evidenced by the record of receipt and opening of bids. Details of bid opening are indicated below in tables 6,7 and 8 respectively.

**Table 6 Record of bids received and opened for Bushigai market**

S/No	Name of Bidder	Date Received	Bid Price as read out
1.	Mariri (U) Ltd	6 <sup>th</sup> April 2023	UGX 15,150,000
2.	Maku Building Contractors Ltd.	6 <sup>th</sup> April 2023	UGX 16,200,000
3.	Mumago Contractors and Technical Engineering Ltd.	6 <sup>th</sup> April 2023	UGX 16,000,000

**Table 7: Record of bids received and opened for loading and offloading at Bushigai Market**

S/No	Name of Bidder	Date Received	Bid Price as read out (UGX)
1.	Mumago Contractors and Technical Engineering Ltd.	6 <sup>th</sup> April 2023	1,050,000
2.	Mr. Moses Wambete	6 <sup>th</sup> April 2023	650,000
3.	Mr. Wilson Tsapwe	6 <sup>th</sup> April 2023	1,010,000
4.	Zeith Engineering Limited	6 <sup>th</sup> April 2023	855,000

**Table 8: Record of bids received and opened for revenue collection at Kikholo Market**

S/No	Name of Bidder	Date Received	Bid Price as read out (UGX)
1	Mr. Wilson Tsapwe	6 <sup>th</sup> April 2023	1,550,000
2	Bumuna Civil Engineering Limited	6 <sup>th</sup> April 2023	1,900,000
3	Mr. Moses Wambete	6 <sup>th</sup> April 2023	1,205,000
4	Mumago Contractors and Technical Engineering Ltd.	6 <sup>th</sup> April 2023	1,250,000

5. On 5<sup>th</sup> April 2023, the Evaluation Committee conducted the evaluation exercise using technical compliance selection methodology.
6. On 6<sup>th</sup> April 2023, the the Notice of Best Evaluated Bidder was displayed with details as shown in table 9 below that was to run until 15<sup>th</sup> April 2023;

**Table 9: Recommendations for the Best Evaluated Bidders**

No.	Grade	Subject of Procurement	Name of Revenue Centre	Reserve price	Best evaluated bidder	Amount quoted(UGX)
1.	A.1	Budu/12/srvcs/2022-2023/ 00002	Bukigai market	17,800,000	Maku Building Contractors Ltd	16,200,000
2.	A.2	Budu/812/srvcs/2022-2023/00003	Kikholo Market	1,200,000	Tsapwe Wilson	1,550,000
3.	B	Budu/812/srvcs/2022-2023/00004.	offloading and Loading of Bukigai market	800,000	Mumago Contractors and Technical Engineering Ltd.	1,050,000

7. On 17<sup>th</sup> April 2023, the Entity signed contracts with the successful bidders as shown in table 10 below:

**Table 10: Showing contracts signed with the providers**

No	Subject of Procurement	Best Evaluated Bidder	Contract Amount (UGX)
1.	Provision of revenue collection services at Bushigai Market	Maku Building Contractors Ltd	17,000,000
2.	Loading and offloading at Bushigai Market	Zeith Engineering and Technical Services Limited	855,000

8. No contract was signed for the provision of revenue collection services at Kikholo market for Quarter 4 because the best evaluated bidder Bumuna Civil Engineering Limited failed to pay the advance amount for the month as tender fees worth UGX. 1,900,000 and neither was a contract signed with the second best evaluated bidder Mr. Wilson Tsapwe at UGX. 1,550,000 per month which resulted in to financial loss to the Entity worth UGX. 4,650,000

## **6.0 FINDINGS BY THE AUTHORITY**

### **6.1 Failure to Plan for revenue collections for the Markets**

The Authority established that all the procurements for revenue collection services for markets captured in the Bid notice of Bududa District Local Government were not included in the procurement and disposal plan of the Entity for FY 2022-23 which was contrary to Section 58 (7) of the PPDA Act, 2003 that provides that a procurement shall not be carried out outside the procurement plan except in cases of emergency situations.

### **6.2 Lack of assessment of revenue centers prior to initiation.**

The Authority established that there was no verifiable evidence at initiation to confirm that the Entity conducted an assessment of the revenue centres in order to come up with realistic reserve prices for each source and classification which was contrary to Regulation 65 (2) of the Local Governments (PPDA) Regulations 2006 which provides that: “in estimating the value of the works, services or supplies required and confirming the availability of funds, a procuring and disposing entity shall ensure that the estimate is realistic and that— (a) the estimate is based on up-to-date information; (b) technical advice is sought, where required; and (c) the confirmation of availability of funding takes into account the total acquisition cost.

- i. The analysis below shows the average variance between the reserve price per revenue source and actual average of quoted prices by bidders.

**Table 11: Record of bids received and opened for Bushigai market**

S/No	Name of Bidder	Reserve price(UGX)	Bid Price as read out (UGX)
1.	Mariri (U) Ltd	17,800,000	15,150,000
2.	Maku Building Contractors Ltd.	17,800,000	16,200,000
3.	Mumago Contractors and Technical Engineering Ltd.	17,800,000	16,000,000
<b>Average bid price</b>			<b>15,783,333</b>
<b>Variance from the average</b>			<b>2,016,667</b>

**Table 12: Record of bids received and opened for loading and offloading at Bushigai Market**

S/No	Name of Bidder	Reserve price(UGX)	Bid Price as read out (UGX)
1.	Mumago Contractors and Technical Engineering Ltd.	800,000	1,050,000
2.	Mr. Moses Wambete	800,000	650,000
3.	Mr. Wilson Tsapwe	800,000	1,010,000
4.	Zeith Engineering Limited	800,000	855,000
<b>Average bid price</b>			<b>1,188,333</b>
<b>Average variance</b>			<b>388,333</b>

**Table 13: Record of bids received and opened for revenue collection at Kikholo Market**

S/No	Name of Bidder	Reserve Price (UGX)	Bid Price as read out (UGX)
1	Mr. Wilson Tsapwe	1,200,000	1,550,000
2	Bumuna Civil Engineering Limited	1,200,000	1,900,000
3	Mr. Moses Wambete	1,200,000	1,205,000
4	Mumago Contractors and Technical Engineering Ltd.	1,200,000	1,250,000
<b>Average bid price</b>			<b>1,476,250</b>
<b>Average variance</b>			<b>276,250</b>

- ii. An analysis of the estimated prices at initiation against the offers received from the bidders indicated the following variances between the estimate and the average bid prices:

**Table 14: An analysis of the estimated prices at initiation against the offers received**

No	Subject of Procurement	Average bid prices (UGX)	Estimated Unit cost (UGX)	Variance (%)
1.	Provision of revenue collection services at Kikholo market Quarter 4	1,476,250	1,200,000	23
2.	Provision of revenue collection services at Bushigai Market	15,783,333	17,800,000	11
3.	Loading and offloading	1,188,333	800,000	48
<b>Average</b>				<b>27.33</b>

The Authority found that the Entity did not conduct an assessment of the revenue centres prior to initiation of the procurements to establish the prevailing market prices as there was no documentary evidence and furthermore an analysis of the average deviation of the bid prices from the estimated unit prices revealed a significant deviation of 27.3%.

### **6.3 Late initiation of the procurement process.**

The Authority established that procurements for revenues for fourth quarter of FY 2022/2023 were only initiated on 21<sup>st</sup> March 2023 which was towards the end of 3<sup>rd</sup> quarter. The authority further found out that from July 2022, the entity did not have any signed contract in regards to these revenue collections. The entity attributed this irregularity to a ban on cattle trade around this period, however, there was no any written communication to back up this assertion. Such delays in initiating procurements denies the Entity opportunity to mobilize revenue for service delivery.

### **6.4 No Contracts Committee approval of the procurement process**

The Authority noted that there was no evidence on file of Contracts Committee's approval of the procurement requirement, method of procurement, Evaluation Committee, and bid notice contrary to Section 28 (1) (b), (c) and (d) respectively of the PPDA Act, 2003. The Authority could not therefore ascertain the procurement method and procedure that was used which was irregular.

### **6.5 Vague and misleading bid notice.**

The Entity's bid invitation notice dated 23<sup>rd</sup> March 2023 was vague and misleading bidders as it had only details for the collection of revenue from Bukigai and Kikholo Markets as well loading and of loading at Bukigai Market yet the same notice made reference to applicants for parishes and slaughter slab whose details were not provided. This compromised the transparency and integrity of the procurement process which was irregular contrary to Regulation 48 (2) of the Local Governments (PPDA) Regulations 2006 and denied potential bidders sufficient guidance on specific information about the precise locations and reference numbers for the parishes and slaughter slabs that were to be outsourced to individuals.

### **6.6 Inadequate solicitation document for revenue collection.**

The Authority established that the solicitation document used in this procurement was poorly prepared and inadequate as it lacked statement of requirements, and detailed technical and commercial evaluation requirements contrary to Regulation 48 (2) of the Local Governments

(PPDA) Regulations 2006, which states that the bidding documents should contain the most suitable evaluation methodology and criteria to compare and assess the received bids.

**6.7 Lack of evidence of receipt of bid invitation by the bidders.**

The Authority established that there was no evidence of receipt of the invitation to bid by potential bidders as the notice was claimed to have been put on the Entity notice board which was not sufficient and was contrary to Regulation 66 (1) of the Local Governments (PPDA) Regulations 2006, which mandates the invitation of bidders through the publication of a bid notice in a widely circulated newspaper. This could have restricted competition and denied the Entity an opportunity of attracting competitive offers from the bidders.

**6.8 Delayed bid opening.**

The bid invitation notice was inconsistent as it stated that bid closure was 5<sup>th</sup> April 2023 at 11:20 am with an immediate bid opening at the same time. However, the Authority observed that the bid opening took place on 6<sup>th</sup> April 2023. This delay raises concerns about the transparency of the bidding process and increased the risk of potential bid tampering.

**6.9 Unethical behavior at evaluation**

The following anomalies and unethical conduct were noted at evaluation;

- i. Evaluation was done by only the Procurement officer Mr. Ronald Watira, which was contrary to Section 37 (3) of the PPDA Act, 2003, that stipulates a minimum of three members for the evaluation of bids. In addition to this, the Authority interviewed Mr. Ahmed Ali Mangongo and Ms. Irene Nanzala, both members of the evaluation committee who disclosed that they were not actively involved in the evaluation process but were instead presented with the evaluation report by the Senior Procurement Officer Mr. Muyinda Chris who asked them to sign which they did.
- ii. One-man evaluation was done on 5<sup>th</sup> April 2023 yet bids were belatedly opened on 6<sup>th</sup> April 2023 which was irregular.
  - Irregular award of contract to a non-compliant bidder for revenue collection at Bushigai Market in Bushigai Town Council. Maku Building Contractors Limited the best evaluated bidder lacked the following documents in their submission; A certified copy of the list of members of the Association and their passport photographs.
  - A certified copy of the Society's by laws.
  - A certified copy of the Bidder's Registration Certificates issued by the Registrar of Cooperatives under the Cooperative Societies Act Cap 112

In light of the above, the Authority found that the evaluation process was flawed with irregularities which led to award of contracts to providers that did not meet the requirements stipulated in the evaluation criteria contrary to Regulation 73 (1) (2) and (3) of the Local Governments (PPDA) Regulations, 2006.

**6.10 Failure to issue a Notice of Best Evaluated Bidder to all participating bidders.**

Contrary to Regulation 85 (5) of the Local Governments (PPDA) Regulations 2006, which mandates the issuance of a Notice of Best Evaluated Bidder to all participating bidders, the

Authority observed that although the Notice was publicly displayed on 6<sup>th</sup> April 2023, there was no verifiable evidence that it was actually sent to all the bidders who took part in the procurement process.

**6.11 Irregular Signing of a contract with a bidder not awarded by Contracts Committee.**

The Authority established discrepancies between the award decision made by the Contracts Committee and the contractor with whom the Accounting Officer signed the contract.

Although the Contracts Committee awarded the contract of loading and offloading at Bushigai market to Ms. Mumago Contractors and Technical Services Limited at UGX 1,050,000, the Accounting Officer instead signed a contract with Zeith Engineering Limited at UGX 855,000 without any justification. This caused financial loss of UGX. 195,000 per month and UGX. 585,000 for the quarter which was the contract period.

Furthermore, Zeith Engineering Limited was not compliant with the evaluation criteria for loading and offloading at Bushigai Town Council specifically the firm lacked;

- A copy of the Bidder’s income tax clearance certificate or equivalent; the contractor submitted an income tax clearance certificate referenced MB01210014410 relating to the Financial Year 2020 to 2021 instead of the Financial Year 2021 -2022.
- A certified copy of the list of members of the association and their passport photographs.
- A certified copy of the Society’s by laws.

The Accounting Officer usurped the powers of the Contracts Committee contrary to Section 38 of the PPDA Act 2003 on Independence in performance of functions.

**6.12 Failure to sign contracts with the second best evaluated bidder**

No contract was signed for the provision of revenue collection services at Kikholo market for Quarter 4 because the best evaluated bidder Bumuna Civil Engineering Limited failed to pay the advance amount for the month as tender fees worth UGX. 1,900,000 and neither was a contract signed with the second best evaluated bidder Mr. Wilson Tsapwe at UGX. 1,550,000 per month which resulted in to financial loss to the Entity worth UGX. 4,650,000 to the Entity.

**6.13 Retrospective procurement process to account for irregularities at remittance of revenues:**

The Authority discovered that despite the contracts for the two revenue centers being signed on 17<sup>th</sup> April 2023, the contractors had already made payments of the said revenues on 5<sup>th</sup> April 2023. This suggests that the process was carried out retrospectively as a mere attempt to conceal the actual sequence of events.

**Table 15: Showing contracts signed with dates of payment**

No	Subject of Procurement	Name of the Bidder	Amount paid (UGX)
1.	Provision of revenue collection services at Bushigai Market	Maku Building Contractors Ltd	16,000,000

2.	Loading and offloading at Bushigai Market	Zeith Engineering and Technical Services Limited	855,000
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## 7.0 RECOMMENDATIONS

In light of the above findings, the Authority found merit in the complaint and in accordance with Section 9 of the PPDA Act, 2003 recommends as follows: -

1. The Accounting Officer should ensure that;
  - i. The District Commercial Officer assesses all revenue sources in the district with an aim of objectively profiling, categorizing and establishing their realistic revenue potential (reserve prices) and plan for these in Entity's procurement plan in line with Section 58 (7) of the PPDA Act, 2003.
  - ii. The District Community Development Officer together with the District Commercial Officer sensitize vendors to register themselves into organized vendor associations for them to be eligible to bid for the management of markets in line with the Local Government policy on management of markets of 2010.
  - iii. All revenues sources are tendered out competitively through open domestic bidding method and restricted to locally registered associations in line Regulation 66 (1) of the Local Governments (PPDA) Regulations 2006, which mandates the invitation of bidders through the publication of a bid notice in a widely circulated newspaper and also the Local Governments policy guideline on management of markets of 2010.
  - iv. There is independence of functions in line with Section 38 of the PPDA Act 2003 so that the Accounting Officer, Procuring and Disposal Unit, Contracts Committee, User Departments and Evaluation committees act independently in relation to their respective functions and powers
  - v. contracts are signed with firms that are only awarded and approved by the Contracts Committee and in cases where the best evaluated bidder declines to sign a contract, then the second best evaluated bidders should be considered other not signing any contract at all which results in to financial loss since no revenue is collected.
  - vi. The Accounting officer should task the Head Procurement and Disposal Unit to show cause why disciplinary action should not be taken against him for mismanaging the procurement and for retrospectively managing the procurement process.
  - vii. Procurement and disposal processes in the Entity are not carried out retrospectively in order to promote transparency, fair competition and value for money.
  
2. User Departments should initiate their requests for revenue management services early in time to avoid delays in the procurement process and loss of revenue to having no contracts with service providers. In the event that there is no existing contract with any service provider, the User Departments should manage revenue collection themselves in line with the Local Government policy on management of markets of 2010.
  
3. The Contracts Committee should exercise strict adherence to its oversight role of approving procurement and disposal procedures and ensuring compliance with the Act in line with Section 28 (1) (b), (bb) (c), (d), (e) and (f) respectively of the PPDA Act, 2003 respectively of the PPDA Act, 2003 as Amended.

4. The Head procurement and Disposal Unit should ensure that:
  - i. The bid notice and solicitation documents prepared are adequate and define the requirements precisely and in a manner that leaves no doubt or assumption by a bidder in regard to the requirements of the Entity and have the most appropriate evaluation methodology and criteria in accordance with Regulations 48 (2) and 48 (4) of the Local Governments (PPDA) Regulations.
  - ii. The Notice of Best Evaluated Bidder is always issued to all bidders that participated in the bidding process and the evidence maintained in accordance with Regulation 85 (5) of the Local Governments (PPDA) Regulations 2006.
  - iii. Evaluation is conducted in line with set criteria as per Regulation 73 (1) (2) and (3) of the Local Governments PPDA Regulations 2006.