



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

Your Ref:

Our Ref: PPDA/MOES/013

25th April 2023

The Permanent Secretary
Ministry of Education and Sports
P.O. BOX 7063
KAMPALA

**RE: BID PREPARATORY AUDIT EXERCISE FOR THE PROCUREMENT OF
CONSTRUCTION OF SEED SECONDARY SCHOOLS IN SELECTED SUB-
COUNTIES IN UGANDA.**

Reference is made to the above subject.

The Public Procurement and Disposal of Public Assets Authority (PPDA) conducted a bid preparatory audit for the procurement of construction of Seed Secondary Schools in selected Sub-counties in Uganda in the FY 2022/23. The audit exercise involved a review of the procurement planning, requisition/initiation and solicitation document issued to bidders following the Public Procurement and Disposal of Assets Act, 2003, the PPDA Regulations and relevant guidelines.

The objectives of the audit were to:

1. Ensure that public procurement planning and requisition was conducted in a manner which promotes transparency, accountability and fairness in accordance with the PPDA Act, 2003, the PPDA Regulations, 2014; and
2. Establish whether the solicitation document issued to bidders was prepared in accordance with the provisions of the PPDA Act 2003, the PPDA Regulations, 2014.

The Authority identified some exceptions for the attention of management. The purpose of this letter therefore is to communicate the following findings and recommendations for your attention and action.

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1.0 Whether the public procurement planning and requisition was conducted in a manner which promotes transparency, accountability and fairness in accordance with the PPDA Act, 2003, the Local Governments (PPDA) Regulations, 2006 and attendant guidelines

1.1 Late initiation of the procurement process by Entities contrary to the timelines in their procurement plans.

Whereas Entities planned to initiate the procurement of construction of Seed Secondary Schools in 2022, it was noted that they initiated their procurements in March 2023 and April 2023, following issuance of guidance from Ministry of Education and Sports to the Entities on 3rd March 2023 and 20th March 2023 regarding the procurement of contractors for the construction of Seed Secondary Schools under UgiFT Phase III, and the roles of the Entities in the same.

Considering that bids were just advertised by the Ministry on 6th April 2023, Entities stand the risk of the funds being taken back to Ministry of Finance, Planning and Economic Development (MoFPED) at the end of June 2023 since completion of procurement and construction works before the closure of the financial year may not be possible. Return of the funds may lead to delay in construction, abandoning of site by Contractors and potential legal battles with the Contractors who would have commenced the construction works.

The Authority recommends that the Accounting Officer, Ministry of Education and Sports engages MoFPED with the view of ensuring that the UgiFT funds allocated for this project, is made available to the Entities at the beginning of FY 2022/23

1.2 Late submission of bidding document to Entities by Ministry of Education and Sports (MoES).

The Authority noted that MoES submitted the bidding document, the Bills of Quantities and the Drawings to Jinja City Council on 6th April 2023, the day the advert was run and the day where bidders were supposed to start picking documents. Entities were required to customize the documents to their respective Entities, and thereafter have it approved by the their Contracts Committees before issuing the same to bidders.

This is why most Entities at the time of audit couldn't submit their Contracts Committee minutes because they were either not yet ready/ signed by the Contracts Committee members, or had not yet got the Contracts Committee approval, and yet Jinja City Council had already started issuing the bidding documents to bidders on Wednesday 12th April 2023. The late submission of documents to Jinja City Council also delayed the issuance of bidding documents to the bidders from 6th April 2023 to 12th April 2023, hence reducing the bidding period for the bidders.

The Authority recommends that Ministry of Education and Sports should in the future ensure timely submission of documents and information to the selected Local Government Entities to benefit from UgiFT.

1.3 Failure to incorporate Environmental and Social specialists into the Evaluation Committees to evaluate Environmental, Social, Health and Safety (ESHS) safeguards.

Whereas Ministry of Education and Sports incorporated the ESHS components in their evaluation criteria, the Authority noted that Evaluation Committees approved by the Contracts Committees for the selected Local Government Entities didn't comprise of Environmental and Social specialist to evaluate and assess these ESHS safeguards. It was noted that the selected Entities did this in compliance to communication dated 20th March 2023 from Ministry of Education and Sports wherein they advised Entities to ensure that their Evaluation Committees were composed of the District Engineer, District Education Officer, and a staff from Procurement and Disposal Unit.

Failure to incorporate the Environmental and Social Specialists such as the Environment Officer, Community Development Officer among others, may lead to less emphasis and inadequate assessment of the ESHS components in the bids submitted by contractors.

The Ministry should issue another communication to the selected Local Government Entities to include Environmental and Social Specialists in their respective Evaluation Committees

2.0 *Whether the bidding document issued to bidders was prepared in accordance with the provisions of the PPDA Act 2003, the Local Governments (PPDA) Regulations, 2006 and attendant guidelines*

2.1 Failure to incorporate the Environmental, Social, Health and Safety (ESHS) concerns into the Bills of Quantities

The Authority noted that whereas the Entity attached the format of the Environmental and Social Management Plan which contained the various ESHS concerns and risks identified, the same was not sufficiently provided for in the Bills of Quantities issued to bidders for costing.

Failure of contractors to provide and cost for the ESHS concerns such as waste management, provision of PPEs to workers, HIV sensitization, health clinics among others, may amplify ESHS risks during contract implementation since contractors may ignore to incur costs not provided for in their bid.

The Authority recommends that ESHS concerns should be incorporated and provided for in the Bills of Quantities for all Seed Schools issued to bidders.

2.2 Discrepancy in the key schedules communicated to bidders.

The Authority noted that in the the Bid-notice and Invitation to bid in the bidding document which was issued to bidders, the deadline for bid-submission and bid opening was indicated as

10th May 2023 at 10:00am and 10:30am respectively. Contrastingly, in ITB 24.1 and ITB 27.1 in the bidding document, and the advert run in the New Vision on 6th April 2023, the bid submission deadline and bid opening deadline were indicated as 10th May 2023 at 10:30 and 11:00am respectively

Similarly, the pre-bid meeting time was not indicated in the advert contrary to ITB 9.3 in the bidding document which indicated that the pre-bid meeting would occur on 21st April 2023 at 10:30am

Discrepancy in key timelines and schedules may create confusion among the bidders as to which deadline they should comply with. This will ultimately result into disputes between the contractors and the Entities

The Ministry of Education and Sports should harmonise the timelines and schedules communicated to bidders in the bidding document and the bid advert. Similarly, in the future, the Entity should ensure consistency in information provided to bidders.

2.3 Expiry of bid security 28 days prior to expiry of the bid validity period.

Whereas a bid security expires 28 days after the bid validity period, the Authority was noted that according to ITB 19.1 bids must be valid until 25th August, 2023, while ITB 20.3 states that the bid security shall be valid until 28th July, 2023.

Expiry of bid security before expiry of the bid validity period exposes an Entity to the risk of bidders withdrawing from the bidding process prior to expiry of the bid validity period.

The Ministry should ensure that this anomaly is corrected, for the bid security period to expire 28 days after expiry of the bid validity period

2.4 Conflicting information as to the applicability of subcontracting in the bidding document.

Whereas GCC 10.2 in the special conditions of contract provides for sub-contracting following approval from the Entity, GCC 12.2 of the same didn't provide for the conditions for sub-contracting. Similarly, discussions with the MoES technical team indicated that subcontracting will not apply to these construction works.

Provision of such conflicting information may cause future disputes as to whether contractors are allowed to subcontract or not.

The Ministry of Education and Sports should amend the special conditions of the contract to clearly communicate whether sub-contracting is applicable or not.

2.5 Discrepancy in the lotting of Entities.

The Authority noted that there were discrepancies in the information pertaining to lot leaders in the bid advert that was run on 6th April 2023, and the lot leaders provided for in the bidding document as tabulated in Table 1 below;

Table 1. Lot leaders according to advert and the bidding document

S/N	Lot No.	Lot leader according to advert	Lot leader according to bidding document
1	3	Napak	Abim
2	5	Bududa	Budaka
3	9	Bunyangabu	Bundibugyo
4	10	Kagadi	Kyenjojo
5	12	Kiboga	Butambala
6	13	Nakaseke	Kyankwanzi

It was also noted that Lot 16 and 17 have their respective Sub-counties/schools and Lot leaders in the tender advert, which were not captured in the bidding document. Similarly in Lot 7, the Sub-county was mentioned as Nansololo, however in the bidding document it was indicated as Nasolo.

The Authority noted that these discrepancies in lot leadership has already created confusion among the selected Local Government Entities as to which Entity will be the lot leader of the lots with these discrepancies. This may also cause confusion to the bidders as well.

The Ministry of Education and Sports should issue clear communication to the selected Entities regarding the lot leaders for the different lots. Similarly, the Ministry should in the future harmonize the lotting prior to issuing out bidding documents.

2.6 Failure to provide for key equipment and NSSF Certificate in the evaluation criteria

The authority noted that in Part 1: Section 3 Evaluation methodology and criteria (B: Equipment) of the bidding document, the Entity didn't list excavators and graders among the key equipment required from the bidders, and yet excavations formed a major part of the site leveling works in Bill 1A of the Bills of Quantities issued to bidders, particularly for sites with hilly terrain.

Failure to incorporate key equipment means that a bidder's ability to access such equipment cannot be assessed during bid evaluation, and may create potential disputes during contract implementation.

Similarly, the Entity didn't list NSSF Certificate among the documents required by bidders to prove eligibility under Part 1: Section 3 Evaluation methodology and criteria (B:3: Eligibility criteria). This implies that a bidder's compliance to pay the social security of their workers cannot be assessed during bid evaluation. This exposes the Entities to the risk of selecting bids who don't pay their workers' social security, with their associated risks.

The Ministry should incorporate excavators and graders, and NSSF Certificate among the Evaluation Criteria.

2.7 Provision of a general sum for the Sports Field

The audit noted that a general provisional sum of UGX 50,000,000 was earmarked for construction of all sports fields across the different schools, without any breakdown as to what is comprised within the money provided for, and whether this sum will be sufficient for all the schools especially those with a high terrain.

Provision of such general sums for all the sports fields regardless of the terrain, without ascertaining its sufficiency might expose the Entities to the risk of the contractors abandoning site (sports field) due to insufficient funds, or poor quality works on the sports field by contractors, to fit within the budget.

2.8 Misalignment of the GCC Clauses captured in the BOQ

The audit noted that in preliminaries section of the BoQs issued to the bidders, the Entity referred the bidders to Clauses in the special conditions of the contract in the bidding document, which were not accurate, as shown in Table 2 below;

Table 2: Misaligned clauses in the BoQ and special conditions of the contract

S/N	Subject	Clause referred to in BoQ	Clause in Special Conditions of the contract
1	Insurance covers	GCC 13.1	GCC 18.1
2	Price adjustments	GCC 47.1	GCC 56.1
3	Work Program	GCC 27.1	GCC 36.1
4	Tests	GCC 34	GCC 43.1
5	Performance Security	GCC 52.1	GCC 61.1
6	Management Meetings	GCC 31	GCC 48.1
7	As-built drawings, Operating and Maintenance Manuals	GCC 58.1	GCC 67.1

Conclusion:

The purpose of this letter is to forward to you the results of the bid preparatory audit exercise. In order to administer and enforce compliance with the provisions of the PPDA Act 2003, Regulations and Guidelines, the Entity is required to implement the recommendations of the Authority contained in this letter.



Aloysius M. Byaruhanga (PhD)

FOR: EXECUTIVE DIRECTOR

- cc: The Permanent Secretary/ Secretary to Treasury, Ministry of Finance, Planning and Economic Development
- cc: The Town Clerk, Jinja City Council
- cc: The Head PDU, Ministry of Education and Sports
- cc: The Head PDU, Jinja City Council