



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

"Procurement That Delivers"

PPDA/NAPA/907

31th August 2023

The Chief Administrative Officer

Napak DLG

P. O. Box 106

NAPAK

**BID PREPARATORY AUDIT EXERCISE FOR SITTING, DRILLING AND
INSTALLATION OF DEEP BOREHOLES AT SELECTED SITES FY 2023/24**

Reference is made to the above subject.

The Public Procurement and Disposal of Public Assets Authority (PPDA) conducted a bid preparatory audit for sitting, drilling and installation of deep boreholes at selected sites in Napak District Local Government. 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 Local Governments (PPDA) Regulations, 2006 and attendant guidelines; and
2. Establish whether the solicitation 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.

The Authority identified a number of 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:

1.0 Procurement Planning and Initiation process

1.1 Delayed approval of the procurement plan for the FY 2023-2024

The Authority was availed with a draft procurement plan for the Financial Year 2023-2024 implying that the procurement was initiated against a plan that had not yet been approved by the Contracts Committee. This was contrary to the circular from the Authority on submission of procurement plans dated 22nd June 2015 that requires Entities to submit their approved annual procurement plans to the Authority by the 31st of July each Financial Year.

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Implication

This might affect the Entities budgeting process and could lead to a lack of coordination and consistency in procurement activities.

Recommendation

The Accounting Officer should task the Heads of User Departments and the Head Procurement and Disposal Unit to expedite the process of completing the consolidated procurement and disposal plan of the Entity for FY2023/24 and have it approved by the Contracts Committee and submitted to the Authority not later than the 5th September 2023.

1.2 Failure to complete the funds availability section of the LG PP Form 1 (Budget Tracker)

The procurement requisition form LG Form 1 was not fully filled with all the required information to guide the procurement process. The section on funds availability which acts as the budget tracker for any particular procurement transaction was left blank contrary to Regulation 65 (6) and (7) of the Local Governments (PPDA) Regulations, 2006.

Implication

Failure to complete the funds availability section exposes the Entity to a risk of conducting a procurement transaction for which funds are not available and impairs the Entity's ability to prioritize in the event the budget balance is found to be low.

Recommendation

The Accounting Officer should instruct all User Departments to fill the funds availability section before authorizing any procurement.

1.3 Delayed initiation of the procurement

The planned start date was scheduled for 10th August 2023, but according to the requisition form, the effective start date was pushed to 28th August 2023. Furthermore, there was a one-month interval between the date when the requirement was first identified and when the Accounting Officer officially approved the funding. While the requirement was identified on 26th July 2023, the funding confirmation didn't occur until 28th August 2023.

1.4 Retrospective confirmation of funding

The confirmation of funding was done on 28th August 2023 whereas the bid notice was published on 24th August 2023. Implying that the advert ran before approval of the procurement by the Accounting Officer. This might have been occasioned by the delayed confirmation of funding alluded to above.

Implication

These initial delays may affect the timely delivery of the services to the intended beneficiaries.

Recommendation

The Accounting Officer should ensure that the procurement is executed in accordance with the timelines indicated in the procurement plan to avoid delayed service delivery.

2.0 Preparation of the solicitation document

2.1 Incomplete bid notice

The bid notice within the solicitation document remained unfilled. Vital details like the location where bidding documents would be issued, the address for bid submission, opening, time and the proposed procurement schedule outlining the proposed timelines for various procurement stages were all missing.

Implication

Denial of information to bidders might lead to confusion and errors and could compromise competition in the procurement process.

Recommendation

The Head Procurement and Disposal Unit should ensure that the procurement schedule and the details required in the bid notice are completed and issued to bidders through a fresh addendum.

2.2 Failure to provide for a pre-bid meeting and site visit in the bidding document and bid notice

There was no provision for a pre-bid meeting in the bidding document for the selected procurement irrespective of the complexity of the procurements and inconsistencies in the bidding document which may lead to bidders submitting nonresponsive bids.

Implications

- This denies bidders a chance to express their concerns about the solicitation documents and scope of works which might affect contract implementation.
- This may lead to failure to provide uniform information to bidders.
- This may lead to submission of non-responsive bids by the bidders.

Recommendation

The Head Procurement and Disposal Unit should ensure that an addendum to the bidding document is issued to provide for a pre-bid meeting and also ensure that the meeting is held and minutes sent to all bidders participating in the procurement process and in the event that bidders do not show up for the pre bid meeting, a record is made to that effect.

2.3 Inadequate statements of requirements

i. Irregular inclusion of performance security in the BOQs.

Item 1.1 required bidders to quote for a performance security which was irregular as such costs are meant to be borne by the contractor and not charged on the Entity.

ii. Vague statements of requirements.

Item 4.1 regarding tree planting did not indicate type, age and number of trees required.

Implication

This may lead to financial loss and could also affect the achievement of the planned objectives of the procurement.

Recommendation

The Authority recommends that the:

- i. Head, Procurement and Disposal Unit should delete the provision for performance security from the BOQs and only retain the performance security requirement in form

a bank guarantee in the bid data sheet and in Section 4 of the bidding document with bidding forms.

- ii. Head Procurement and Disposal Unit together with the Environmental Officer should ensure that Item 4.1 in the BOQs is clear and specific on the type of trees, age and number that will be planted under this project.

2.4 Bid data sheet

The following exceptions were observed in the Bid Data Sheet

- i. Whereas ITB 47 provided that the advance Payment shall be limited to 20% of the Contract Price, the Entity did not provide advance payment security as a requirement and the mode of recovery of the advance payment.
- ii. ITB38.1 stated that a margin of preference shall not apply contrary to section 59 (A) of the PPDA Act 2003 that requires it to apply where open domestic or open international bidding methods have been used.
- iii. ITB38.3; did not state the documents that a bidder should submit to qualify for a margin of preference.
- iv. ITB 17.3 was omitted and yet it should clarify the requirements on duties, taxes, and other levies.
- v. ITB 12 did not indicate the floor/room number/office for making clarifications.
- vi. ITB 21.1 did not clarify whether alternative bids would be acceptable.
- vii. ITB 24.1 did not state the floor/room number and deadline for bid submission.
- viii. ITB 27.1 did not state the floor/room number and time for bid opening.

Implication

Such discrepancies in the instructions to bidders (ITB) increase the risk of bidders submitting non-responsive bids which may limit competition and achievement of value for money.

Recommendation

The Authority recommends that the Head, Procurement and Disposal Unit should customize the ITBs mentioned above and provide details on advancement payment, margin of preference application and clarity on the taxes and duties that apply to this procurement. This can be effected in the bid data sheet under the respective ITBs.

Also the specific location and time for bid submission and bid opening should be clearly stated in the bid notice and bid data sheet respectively.

2.5 Special conditions of contract

The Authority noted that the entire special conditions of contract (Section 8) of the bidding document were not filled and completed.

Implication

Failure to be specific and intentional in the Special Conditions of Contract (SCC) increase the risk of disputes during contract execution.

Recommendation

The Authority recommends that the Head, Procurement and Disposal Unit should ensure that the special conditions of contract are appropriately filled and completed to avoid causing disputes during contract execution.

2.6 Evaluation Methodology and criteria

Inadequate evaluation criteria

- i. The evaluation criteria under the preliminary stage did not state the exact documents that should be provided by the bidders to signify administrative and eligibility compliance. This may lead to doubt or assumption by the bidders about the requirements of the Entity.
- ii. The detailed evaluation under clause 6.1 (personnel and equipment) does not detail clearly the necessary documentation required from bidders regarding personnel such as detailed and current signed CVs, academic documents, letters of availability, passport photos among others.
- iii. Whereas bidders were required to provide evidence of possession of an Environment and Social development officer, there was no indication of the requisite academic qualifications required from them.
- iv. There was no requirement for a costed ESMP for this project from the bidders

Implication

This causes challenges during the evaluation of bids and compromises the objectivity of the evaluation process.

Recommendation

The Head Procurement and Disposal Unit together and the respective User Departments should ensure that the evaluation criteria are well detailed and very clear on the specific documents and requirements that the bidders must adhere to while preparing their bids in order to improve on the bid responsiveness rate and bidders should be required to submit a costed ESMP plan for this project.

The purpose of this letter is to forward to you the findings from the bid preparatory audit exercise for your implementation. In order to administer and enforce compliance with the provisions of the PPDA Act 2003, the Accounting Officer should ensure that an addendum is issued to all bidders and that the bid submission deadline be extended to allow potential bidders sufficient time to prepare responsive bids.



Moses Ojamba

FOR; EXECUTIVE DIRECTOR

- cc: Chairperson Contracts Committee
cc: Head Procurement and Disposal Unit