

PPDA/MBAL/891

13th September 2023

The Chief Administrative Officer
Mbale DLG
P. O. Box 931
MBALE

**BID PREPARATORY AUDIT EXERCISE FOR SELECTED PROCUREMENTS AT
MBALE DISTRICT LOCAL GOVERNMENT 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 selected procurements at Mbale 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.

Table 1 showing the selected procurements for the bid preparatory audit.

No.	Subject of procurement	Reference
1.	Construction of new Bubyangu – Bufumbo gravity flow scheme phase IV	Mbal891/wrks/2023-24/00008
2.	Rehabilitation of 25 boreholes	Mbal891/wrks/2023-24/00007
3.	Sitting and drilling, pump testing, installation of five boreholes	Mbal891/wrks/2023-24/00006

The objectives of the audit were to:

1. Ensure that public procurement planning and requisitioning were conducted in a manner which promotes transparency, accountability and fairness in accordance with the PPDA Act, 2003, the Central Governments (PPDA) Regulations, 2014 and attendant guidelines; and
2. Establish whether the solicitation documents issued to bidders were prepared in accordance with the provisions of the PPDA Act 2003, the Central Governments (PPDA) Regulations, 2014 and attendant guidelines.

The Authority under took this audit on 6th September 2023 and 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 CONSTRUCTION OF NEW BUBYANGU – BUFUMBO GRAVITY FLOW SCHEME PHASE IV - MBAL891/WRKS/2023-24/00008

The following issues were noted in the procurement for construction of the new Bubyangu Bufumbo GFS phase IV as detailed below.;

1.1 Procurement Planning and Initiation process

1.1.1 Non-Reservation of this procurement for Local and Resident providers

The Authority reviewed the procurement plan of the Entity and the Solicitation document that was prepared for issue to bidders and noted that there was no application of the reservation scheme to promote local content. This was contrary to Clauses 1.2 and 7 of the (PPDA) Guideline No.1/2018 on reservation schemes to promote local content that requires Procuring and Disposing Entities to disclose in their procurement plans all procurements that shall be subjected to reservation schemes.

Implication:

This limits national and resident providers' opportunity to prepare adequately for procurements reserved for them and frustrates the efforts put in place to promote Local Content.

Recommendation:

The Procurement and Disposal Unit should indicate in its procurement plan all procurements that shall be subjected to reservation schemes as per Clause 7 of the (PPDA) Guideline No.1/2018 on reservation schemes to promote local content and reflect the same in the bid notice and solicitation documents.

1.1.2 Late initiation of the procurement as compared to the procurement plan schedule for FY 2023/24.

The Authority noted a thirty-five days' delay to initiate the procurement as compared to the procurement plan schedule. Whereas the procurement plan indicated that the procurement was to be initiated on 5th June 2023, actual initiation as per the LG Form 1 was done on 24th July 2023 and approved by the Accounting Office on 2nd August 2023 contrary to Section 48 of the PPDA Act, 2003 which states that Entities should conduct procurements in a manner that promotes economy and efficiency.

Implication:

Delay at initiation of the procurement results into delays in the entire procurement process and delayed service delivery.

Recommendation:

The Accounting Officer should task the Procurement and Disposal Unit and User Departments to conduct procurements in a manner that promotes economy and efficiency in public procurement in accordance with Section 48 of the PPDA Act, 2003 by initiating procurement requirements early in time.

1.2 Inadequate preparation of the Solicitation document

The following gaps were observed in the solicitation document that prepared by the Entity for issue:

1.2.1 Bid Data Sheet:

- i. ITB 10 did not provide for local content in form of reservation schemes being applicable to national and resident providers.

The Entity should provide for reservation schemes in the solicitation document to promote local content in line with (PPDA) Guideline No.1/2018.

- ii. ITB 17.3; did not include the provision that shall form part of the bid price as Government of Uganda Laws e.g. VAT, other taxes, levies, duties and costs necessary to execute the works.

The Entity should provide that the bid price will be all tax inclusive in line with Government of Uganda Laws.

- iii. ITB 18.2 on the Authority for exchange rate should not be applicable since ITB 18.1 states that the lump sum of or unit rates and prices quoted by the bidder shall be made in Uganda Shillings.

Implication;

Gaps in the instructions to bidders (ITB) increase the risk of submission of non-responsive bids could deter potential bidders from participating in the procurement process.

Recommendation:

The HPDU should ensure that the above recommendations are implemented and an addendum issued to the bidders in line with the revisions made to the solicitation document.

1.2.2 Failure to attach the drawings to the Solicitation document.

The Authority noted that whereas the solicitation document had statements of requirements for the Gravity flow system, the drawings were just on file but were not part of the document.

Implication;

Failure to provide drawings for the Gravity flow system as part of the solicitation document may result into submission of nonresponsive bids by bidders and award of contracts to incompetent firms.

Recommendation:

The Contracts Committee and Head Procurement and Disposal Unit should ensure that the solicitation document approved for issue to bidders is complete with all statement of requirements, drawings and technical specifications that will guide technical evaluation.

2.0 REHABILITATION OF 25 BOREHOLES - MBAL891/WRKS/2023-24/00007

The following exceptions were noted in the procurement for rehabilitation of 25 bore holes in Mbale District Local Government;

2.1. Procurement Planning and Initiation process

2.1.1 Non-Reservation of this procurement for Local and Resident providers

The Authority reviewed the procurement plan of the Entity and the Solicitation document that was prepared for issue to bidders and noted that there was no application of the reservation scheme to promote local content. This was contrary to Clauses 1.2 and 7 of the (PPDA) Guideline No.1/2018 on reservation schemes to promote local content requires Procuring and Disposing Entities to disclose in their procurement plans all procurements that shall be subjected to reservation schemes.

Implication:

This limits national and resident providers' opportunity to prepare adequately for procurements reserved for them and frustrates the efforts put in place to promote Local Content.

Recommendation:

The Procurement and Disposal Unit should indicate in its procurement plan all procurements that shall be subjected to reservation schemes as per Clause 7 of the (PPDA) Guideline No.1/2018 on reservation schemes to promote local content and reflect the same in the bid notice and solicitation documents.

2.1.2 Late initiation of the procurement as compared to the procurement plan schedule for FY 2023/24.

The Authority noted a thirty-three days' delay to initiate the procurement as compared to the procurement plan schedule. Whereas the procurement plan indicated that the procurement was to be initiated on 5th June, 2023, actual initiation as per the LG Form 1 was done on 26th July 2023 and approved by the Accounting Office on 2nd August 2023 at an estimated cost of UGX. 136,395,500 contrary to Section 48 of the PPDA Act, 2003 which states that Entities should conduct procurements in a manner that promotes economy and efficiency.

Implication:

Delay at initiation of the procurement results into delays in the entire procurement process and delayed service delivery.

Recommendation:

The Accounting Officer should task the Procurement and Disposal Unit and User Departments to conduct procurements in a manner that promotes economy and efficiency in public procurement in accordance with Section 48 of the PPDA Act, 2003 by initiating procurement requirements early in time.

2.2 Preparation of the Solicitation document

The following gaps were observed in the solicitation document;

2.2.1 Bid Data Sheet:

- i. ITB 10 did not provide for local content in form of reservation schemes being applicable to national and resident providers.

The Entity should provide for reservation schemes in the solicitation document to promote local content in line with (PPDA) Guideline No.1/2018.

- ii. ITB 17.3; did not include the provision that shall form part of the bid price as Government of Uganda Laws e.g. VAT, other taxes, levies, duties and costs necessary to execute the works. The Entity should provide that the bid price will be all tax inclusive in line with Government of Uganda Laws.
- iii. ITB 18.2 on the Authority for exchange rate should not be applicable since ITB 18.1 states that the lump sum of or unit rates and prices quoted by the bidder shall be made in Uganda Shillings.

Implication:

Gaps in the instructions to bidders (ITB) increase the risk of submission of non-responsive bids could deter potential bidders from participating in the procurement process.

Recommendation:

The HPDU should ensure that the above recommendations are implemented and an addendum issued to the bidders in line with the revisions made to the solicitation document.

2.2.2 Lack of special conditions of contract and contract forms in the solicitation document.

The solicitation document on file was incomplete as it lacked completed special conditions of contract which puts the Entity at risk due to failure to expressly state conditions that make up part of the contract and therefore at a very high risk of disputes during contract execution.

The solicitation document reviewed for this procurement lacked special conditions of contract and contract forms.

Implication:

Lack of special conditions of contract and contracting forms deprives the bidders of information and specific requirements that form part of the contract which may cause challenges during contract execution thus project failure.

Recommendation:

The Contracts Committee and Head Procurement and Disposal Unit should ensure that the solicitation document approved for issue to bidders is complete with all special conditions of contract and contract forms as per the requirements in Section 8 and 9 of the solicitation document in order to minimize challenges during contract implementation. Therefore, this solicitation should be reviewed and appropriate amendments done and an addendum issued to this effect.

3 SITING, DRILLING, PUMP TESTING, AND INSTALLATION OF FIVE BOREHOLES - MBAL891/WRKS/2023-24/00006

The following issues were noted in the procurement for siting, drilling, pump testing and installation of five bores as detailed below.:

3.1 Procurement Planning and Initiation process

Below are some of the issues that were noted under procurement planning and initiation of this procurement.

3.1.1 Non-Reservation of this procurement for Local and Resident providers

The Authority reviewed the procurement plan of the Entity and the Solicitation document that was prepared for issue to bidders and noted that there was no application of the reservation scheme to promote local content. This was contrary to Clauses 1.2 and 7 of the (PPDA) Guideline No.1/2018 on reservation schemes to promote local content requires Procuring and Disposing Entities to disclose in their procurement plans all procurements that shall be subjected to reservation schemes.

Implication:

This limits national and resident providers' opportunity to prepare adequately for procurements reserved for them and frustrates the efforts put in place to promote Local Content.

Recommendation:

The Procurement and Disposal Unit should indicate in its procurement plan all procurements that shall be subjected to reservation schemes as per Clause 7 of the (PPDA) Guideline No.1/2018 on reservation schemes to promote local content and reflect the same in the bid notice and solicitation documents.

3.1.2 Late initiation of the procurement as compared to the procurement plan schedule for FY 2023/24.

The Authority noted a thirty-three days' delay to initiate the procurement as compared to the procurement plan schedule. Whereas the procurement plan indicated that the procurement was to be initiated on 5th June, 2023, actual initiation as per the LG Form 1 was done on 26th July 2023 and approved by the Accounting Office on 2nd August 2023 at an estimated cost of UGX. 112,983,755 contrary to Section 48 of the PPDA Act, 2003 which states that Entities should conduct procurements in a manner that promotes economy and efficiency.

Implication:

Delay at initiation of the procurement results into delays in the entire procurement process and delayed service delivery.

Recommendation:

The Accounting Officer should task the Procurement and Disposal Unit and User Departments to conduct procurements in a manner that promotes economy and efficiency in public procurement in accordance with Section 48 of the PPDA Act, 2003 by initiating procurement requirements early in time.

3.2 Preparation of the Solicitation document

The following gaps were observed in the solicitation document;

3.2.1 Bid data sheet

The following gaps were observed in the Bid Data Sheet:

- i. ITB 10 did not provide for local content in form of reservation schemes being applicable to national and resident providers.

The Entity should provide for reservation schemes in the solicitation document to promote local content in line with (PPDA) Guideline No.1/2018.

- ii. ITB 17.3; did not include the provision that shall form part of the bid price as Government of Uganda Laws e.g. VAT, other taxes, levies, duties and costs necessary to execute the works. The Entity should provide that the bid price will be all tax inclusive in line with Government of Uganda Laws.
- iii. ITB 18.2 on the Authority for exchange rate should not be applicable since ITB 18.1 states that the lump sum of or unit rates and prices quoted by the bidder shall be made in Uganda Shillings.

Implications

Gaps in the instructions to bidders (ITB) increase the risk of submission of non-responsive bids could deter potential bidders from participating in the procurement process.

Recommendation:

The HPDU should ensure that the above recommendations are implemented and an addendum issued to the bidders in line with the revisions made to the solicitation document.

3.2.2 Evaluation methodology and criteria

The Evaluation criteria under item 8 spells out the procedures for application of margin of preference yet this was not provided for in the bid data sheet and at the same time there was no requirement for the bidders to submit Curriculum vitae for their personnel to help in the assessment of their experience and qualifications.

Implication:

Lack of comprehensive evaluation criteria increases the risk of contract award to non-responsive firms.

Recommendation:

The Head, Procurement and Disposal Unit should make the evaluation criteria comprehensive to cover all requirements in the bidding document to avoid subjectivity during evaluation and also avoid stating requirements that are so unrealistic and unfair.

3.2.3 Failure to attach the drawings to the Solicitation document.

The Authority noted that well as the solicitation document had statements of requirements for the procurement for siting, drilling, pump testing and installation of five bores, the drawings were just on file but were not part of the document.

Implication;

Failure to provide drawings this procurement as part of the solicitation document may result into submission of nonresponsive bids by bidders and award of contracts to incompetent firms.

Recommendation:

The Contracts Committee and Head Procurement and Disposal Unit should ensure that the solicitation document approved for issue to bidders is complete with all statement of requirements, drawings and technical specifications that will guide technical evaluation.

General Recommendation:

The Head, Procurement and Disposal Unit and Contracts Committee should review the areas mentioned above in the bid data sheet, statement of requirements and the special conditions of contract so that they are improved as per the recommendations and an addendum is issued to this effect to this effect after Contracts Committee approval.

The purpose of this letter is to forward to you the findings from the bid preparatory audit exercise and recommendations 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.



Moses Ojambo

For: EXECUTIVE DIRECTOR

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