



PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS AUTHORITY

**INVESTIGATION REPORT INTO ALLEGED IRREULAR AWARD OF CONTRACT
TO COLLECT REVENUE FROM KABUNDEIRE MARKET DURING THE
FINANCIAL YEAR 2017/18**

ENTITY: FORT PORTAL MUNICIPAL COUNCIL

COMPLAINANT: INSPECTORATE OF GOVERNMENT

JUNE 2018

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ACRONYMS

Authority	-	Public Procurement and Disposal of Public Assets Authority
EC	-	Evaluation Committee
HPDU	-	Head Procurement and Disposal Unit
MC	-	Municipal Council
PPDA Act	-	Public Procurement and Disposal of Public Assets Act No. 1 of 2003
PPDA	-	Public Procurement and Disposal of Public Assets Authority

1.0 SUMMARY OF FACTS

1. On 15th May 2017, the procurement for collection of revenue from Kabundaire Market was initiated by the User Department with an estimated total revenue of UGX 97,800,000 for 12 months.
2. On 18th May 2017, the open domestic procurement method, bid notice and solicitation document were approved by the Contracts Committee.
3. On 30th May 2017, the bid notice was published in the New Vision Newspaper and the deadline for bid submission was 23rd June 2017.
4. According to the record of issue of the solicitation document, seven (7) bidders responded to the advertisement.
5. On 23rd June 2017, seven (7) bidders submitted bids which were opened on the same day and recorded as indicated below:

Table 1: Record of bid opening

S/n	Bidders	Amount (UGX)
1.	MK-RIB Investments Ltd	12,000,000
2.	Mr. Blasio Nyakebwa	9,630,000
3.	Rugumayo Traders	11,139,600
4.	Mr. Edward Mugume	9,420,000
5.	Goodwill Stones Workshop	9,500,000
6.	Kabundeire Traders Association	9,160,000
7.	Muyamba Vincent Traders	9,505,200

6. On 12th July 2017, during the evaluation 2 firms namely, MK-RIB Investments Ltd and Goodwill Stones Workshop were requested to submit the following original documents – Identity Cards, Memorandum and Articles of Association, Special Resolution, Powers of Attorney and Bank Statements by 25th July 2017.
7. On 12th July 2017, an evaluation report was signed by 3 members out of 5 members and submitted to the Procurement and Disposal Unit. The report recommended award of the tender for collection of revenue from Kabundaire Market to MK-RIB Investments Ltd at a total contract sum of UGX 12,000,000, taxes inclusive, for 12 months.
8. On 25th July 2017, another evaluation report was signed by all five (5) members of the Evaluation Committee recommending MK-RIB Investments Ltd for award of the tender for collection of revenue from Kabundaire Market. The report however indicated that two members of the Evaluation Committee were in disagreement of the decision.
9. On 26th July 2017, a minority report signed by 2 members of the Evaluation Committee was submitted to the Procurement and Disposal Unit. They disagreed with the majority decision recommending award of tender for revenue collection from Kabundaire Market to MK-RIB

Investments Ltd citing discrepancies between the Powers of Attorney submitted in the bid document and the original copy submitted for verification on 25th July 2017. They recommended a re-evaluation of the bids.

10. On 16th August 2017, the Contracts Committee awarded the tender to MK-RIB Investments Ltd basing on the majority decision of the Evaluation Committee on condition that a due diligence is conducted by an independent person who was not involved in the evaluation of bids.
11. On 29th August 2017, the contract for revenue collection in Kabundeire market was signed between the Entity and MK-RIB Investments Ltd at a total sum of UGX 120,000,000 per year.
12. On 24th January 2018, the Authority received a complaint from the Inspector General of Government citing irregularities in the award of tender for collection of revenue from Kabundeire Market by MK-RIB Investments Ltd.
13. On 7th March 2018, the Authority instituted an investigation into the matter in accordance with Section 8 (c) of the PPDA Act, 2003 and requested for the procurement action file that was submitted on 4th April 2018.

2.0 LAW APPLICABLE

- i. The Public Procurement and Disposal of Public Assets Authority Act, 2003;
- ii. The Local Governments (the Public Procurement and Disposal of Public Assets Authority) Regulations, 2006; and
- iii. The Public Procurement and Disposal of Public Assets Guidelines, 2008.

3.0 OBJECTIVE OF THE INVESTIGATION

The objective of the investigation was to establish whether the procurement process for the tender for collection of revenue from Kabundeire Market to MK-RIB Investments Ltd was marred with irregularities.

4.0 METHODOLOGY

The Authority adopted the following methodology:

- 4.1 Review of the following documentation on the procurement process:
 - i. The invitation to bid;
 - ii. Solicitation document issued to bidders;
 - iii. Record of issue and receipt of bids;
 - iv. Record of bid opening;
 - v. Evaluation report;
 - vi. Contracts Committee minutes;
 - vii. The contract document; and
 - viii. All correspondences related to this matter.

4.2 The Authority held a meeting with the following persons:

Table 2: Officials met.

S/No	NAME	DESIGNATION	ENTITY
1.	Mr. Deo Ndimbo	Town Clerk	Fort Portal MC
2.	Mr. Clovis Kalenzi	Senior Assistant Town Clerk, Chairman Evaluation Committee	Fort Portal MC
3.	Mr. Raymond Alinaitwe	Accountant, EC Member	Fort Portal MC
4.	Mr. Gilbert Matsiko	Accounts Assistant/Member Evaluation Committee	Fort Portal MC
5.	Ms. Lillian Kajumba	Treasurer, EC Member	Fort Portal MC
6.	Ms. Christine Kanda	Senior Procurement Officer, EC Member	Fort Portal MC
7.	Ms. Susan Manimake	Chairperson Contracts Committee	Fort Portal MC
8.	Ms. Ruth Komuntale	Director	MK-RIBS Investments Ltd
9.	Ms. Rose Mary Asimwe	Managing Director	MK-RIBS Investments Ltd

5.0 FINDINGS OF THE AUTHORITY

5.1 Whether the procurement process for the tender for collection of revenue from Kabundeire Market to MK-RIB Investments Ltd was marred with irregularities

1. The complainant alleged that the procurement process leading to the award of tender for the collection of revenue from Kabundeire Market to MK-RIB Investments Ltd was marred with irregularities.
2. The Authority noted that the Entity had two (2) evaluation reports generated by the majority and minority teams and the two evaluation reports had different recommendations.
3. The evaluation criteria in the solicitation document specified at preliminary stage, that bidders were required to submit the following documents:
 - i. Trading Licence;
 - ii. Certificate of Registration;
 - iii. Original Tax Clearance addressed to Fort Portal Municipal Council;
 - iv. Evidence of TIN number Registration Certificate;
 - v. Power of Attorney
 - vi. Bid validity period of 6 months;
 - vii. Signed copy of Bid Submission Sheet;
 - viii. Passport photographs;
 - ix. Photocopy of the National Identity Card or Driving Permit or Passport;
 - x. Bid security in form of Bank Guarantee or a bank draft;
 - xi. Receipt of the non-refundable fees;

- xii. Bank Statement for the months of January to May 2017;
 - xiii. Memorandum and Articles of Association; and
 - xiv. Clearance letter of payment from the Senior Assistant Town Clerk.
4. During evaluation, with exception of Goodwill Stones Workshop, the remaining 6 firms were found to be compliant at preliminary stage. However, the Chairperson of the Evaluation Committee wrote to MK-RIB Investments Ltd on 4th July 2017 requesting for original copies of the National Identification Cards for both Directors (Asiimwe Mary and Ruth Komuntale, original Memorandum and Articles of Association, original Powers of Attorney/special resolution by 6th July 2017).
 5. The Evaluation report signed by the majority on 12th July 2017, recommended award of the tender to MK-RIB Investments Ltd at UGX 12,000,000 per annum.
 6. According to the minority evaluation report signed on 26th July 2017, documentation for verification was submitted on 25th July 2017 and the deadline for submission was 6th July 2017. The report further indicated that the Powers of Attorney initially submitted by MK-RIB Investments Ltd at the time of bid submission were different from those presented for verification.

The Evaluation Committee members who signed the minority report insisted that the Powers of Attorney in the original bid were removed and replaced with a new one. They, therefore, recommended re-evaluation of bids for the collection of revenue from Kabudaire Market by another team.

7. According to a letter attached to the minority report by the EC Chairperson to the Town Clerk, he recommended that the Evaluation Committee re-evaluates the bidder and makes a decision on the matter to avoid loss of revenue on the part of the Council and any legal action that may arise from the discrepancy.
8. On 26th July 2017, the Town Clerk received and forwarded the minority evaluation report to the Procurement and Disposal Unit. The Town Clerk requested that the Contracts Committee, in the meantime, should extend the contract for collection of Kabudaire Market.
9. The HPDU submitted that the contract for Kabudaire Market with the previous tenderer, Muyamba Vincent Traders was extended for 2 months effective 1st July to 31st August 2017 pending verification of documents requested by the Evaluation Committee. Later, the contract was awarded to MK-RIB Investments Ltd after verification of documents.

The HPDU further explained that the original documents were verified and returned to the bidders.

10. On 16th August 2017, the Contracts Committee awarded the tender to MK-RIB Investments Ltd for collection of revenue from Kabudaire Market. The award decision was based on the majority report but they also recommended that due diligence should be undertaken on the best evaluated bidder.

11. The Authority found that the Procurement and Disposal Unit and the Evaluation Committee mismanaged the evaluation process. Three (3) evaluation reports were produced and the major source of contention was the Powers of Attorney enclosed in the bid of MK-RIB Investments Ltd, the best evaluated bidder. The following omissions were noticed:

- i. One evaluation report was signed by all members of the Evaluation Committee but on different dates i.e. on 12th July and 25th July 2017 respectively. This implied that all members of the Evaluation Committee had unanimously agreed on the recommendation to award the tender for revenue collection from Kabudaire Market to MK-RIB Investments Ltd. However, other 2 evaluation reports were produced where one was signed by only 3 members on 12th July 2017 recommending MK-RIB Investments Ltd without disregarding the evaluation report earlier signed.
- ii. While awarding the tender by the Contracts Committee on 16th August 2017, the decision was based on the majority report signed by 3 members. However, they recommended due diligence based on the fact that the minority report signed by 2 members of the Evaluation Committee on 25th July 2017 had recommended a re-evaluation of bids. However, the due diligence was never undertaken.
- iii. MK-RIB Investments Ltd failed to submit the original copy of the Powers of Attorney for verification on 6th July 2017 as requested by the Entity. The Powers of Attorney were submitted on 10th July 2017. Failure to submit the Powers of Attorney within the required timeframe should have been a red flag to the Entity about the provider.
- iv. The Authority reviewed a copy of the Powers of Attorney from the minority Evaluation Committee in comparison with that purportedly inserted in the bid document during evaluation and noted the following differences:
 - a) The Powers of Attorney in the bid indicate that Rosemary Asimwe was a resident of **Maguru Cell, Fort Portal Municipality Kabarole District** yet a copy availed by the minority members indicated that Rosemary Asimwe was a resident of **Makindye Division Kampala District**.
 - b) The font and size of the words '**Rosemary Asimwe**,' in the Powers of Attorney provided by the minority members was smaller compared to the remaining letters in the document. One would assume that the letters were cut from somewhere and pasted on the document.
 - c) The Powers of Attorney in the bid separated the word Rosemary to read as **Rose Mary** yet the Power of Attorney provided by the minority members had it as one word **Rosemary**.
 - d) The first page of the Powers of Attorney provided by the minority members was not endorsed and/or stamped and those in the bid document were endorsed.

- e) All the pages in the bid submitted by MK-RIB Investments Ltd were stamped/endorsed (MK-RIB Investments Ltd official seal) with a blue coloured ink with exception of the 2 pages containing the Powers of Attorney.

Given the above discrepancies and delayed submission of the Powers of Attorney, there is a possibility that the bid was tampered with while in the custody of the Procurement and Disposal Unit where records were kept during evaluation.

6.0 RECOMMENDATIONS

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

1. The Head Procurement and Disposal Unit should take responsibility for the anomalies noted at evaluation since the bids were in his custody during evaluation.
2. The Head Procurement and Disposal Unit should conduct due diligence on MK-RIB Investments Ltd as recommended by the Contracts Committee.
3. The contract supervisor should monitor contract implementation and ensure that the terms and conditions to the contract are adhered to.

