



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

**INVESTIGATION REPORT INTO THE UNSATISFACTORY EXPLANATION FOR
DISQUALIFICATION OF THE COOPER MOTOR CORPORATION (U) LTD BID ON LOT
1: PROCUREMENT REFERENCE NUMBER; URA/CSD/SUPPLIES/2015-2016/01689**

ENTITY: UGANDA REVENUE AUTHORITY

COMPLAINANT: THE COOPER MOTORS COOPERATION (U) LTD

JULY 2017

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ACRONYMS

AO	-	Accounting Officer
BEB	-	Best Evaluated Bidder
CC	-	Contracts Committee
FY	-	Financial Year
PDU	-	Procurement and Disposal Unit
PPDA	-	Public Procurement and Disposal of Public Assets Authority
UGX	-	Uganda Shillings

1.0 BACK GROUND

1. On 22nd March 2016, Uganda Revenue Authority initiated the procurement of ninety two (92) vehicles under finance lease arrangement at an estimated cost of UGX 25,828,091,937.
2. On 7th April 2016, the Contracts Committee approved open international bidding procurement method, the bidding document and an Evaluation Committee as follows:

Table 1: Evaluation Committee Members

No	Name of Bidder	Designation
1.	Mr. Ceaser Labeja	Manager Financial Accounting
2.	Mr. Richard Kariisa	Assistant Commissioner Administration
3.	Mr. Jibril Kinyiri	Supervisor Procurement Disposal Unit
4.	Mr. Samuel Rumunya	Supervisor Fleet
5.	Mr. Noah Mugisha	Officer Legal

3. On 11th April 2016 and 14th April 2016, adverts for open international bidding were placed in the New Vision newspaper and Daily Monitor respectively with a bid submission deadline of 23rd May 2016.
4. Eight (8) bidders were issued with the bidding document as shown below:

Table 2: Record of Sale or Issue of Bidding Document

No.	Provider
1.	Capital Ventures International Limited
2.	Victoria Motors Ltd
3.	Nakimo Emmanuel
4.	Vehicle & Equipment Leasing (U) Ltd
5.	Motorcare (U) Ltd
6.	MAC East Africa Ltd
7.	The Cooper Motor Corporation
8.	Centenary Bank

5. On 29th April 2016, a pre-bid meeting was held at the Entity.
6. On 2nd May 2016, The Cooper Motor Corporation (U) Ltd wrote to the Entity citing immaterial deviations that precluded other competitors from bidding.
7. On 5th May 2016, Victoria Motors Ltd wrote to the Entity requesting for a revision of specification as they found the specifications restrictive and effectively locking out their brands which have a proven local performance track record.
8. On 16th May 2016, The Cooper Motor Corporation (U) Ltd requested the Authority to intervene in the matters raised in the letter written to the Entity.
9. On 23rd May 2016, three (3) bidders submitted bids and these were opened as indicated below:

Table 3: Record of Bid opening

No.	Name of Bidder	Currency and price as read out
1.	Capital Ventures International Limited	UGX 37,756,445,738
2.	Centenary Bank and MAC East Africa Ltd	Lot 1 USD 2,695,000 Lot 2 USD 239,000 Lot 3 USD 72,000
3.	Stanbic Bank	Double Cabin: USD 2,695,000 Bus: USD 239,700 Lot5: USD 72,000 Option 2 Lot 1: UGX 12,806,029,197.50 Lot 2: UGX 571,776,332.50 Lot 3: UGX 963,600,000 Lot 4: UGX 1,202,310,219 Lot 5: UGX 12,048,332,450

10. The Evaluation Report dated 1st June 2016 indicated that the Evaluation Committee recommended award of contract to:
- i) M/S Capital Ventures International Ltd to supply and deliver the following Motor Vehicles under finance leasing for a period of five years:-
 - a) Lot 1: Seventy Seven (77) Double Cabins Hilux Pickups at a unit cost of UGX 178,159,150 totalling to UGX 13,718,254,550.
 - b) Lot 2: Five (5) Saloon Toyota Corolla Sedan Manual Cars at a unit cost of UGX 122,159,400 totalling to UGX 610,797,000
 - c) Lot 3: Three (3) Toyota Coaster 30 Seater Buses at a unit cost of UGX 346,096,200 totalling to UGX 1,038,288,600
 - d) Lot 4: Six (06) Toyota Hiace 14- Seater mini Buses at a unit cost of UGX 214,659,000 totalling to UGX 1,287,954,000
 - ii) M/S Mac East Africa Ltd in Joint Venture with Centenary Bank is recommended to supply one (1) unit of Cargo delivery truck at a total cost of UGX 243,360,000 subject to some aspects.
11. On 2nd June 2016, the Contracts Committee deferred the recommendations of the Evaluation Committee to award Capital Ventures International Ltd Lot 1, Lot 2, Lot 3 and Lot 4 requiring the PDU to consult with PPDA and the Accounting Officer on the prices. In the same meeting the Contracts Committee deferred and the recommendation to award Lot 5 to Mac East Africa Ltd in Joint venture with Centenary Bank as well as the negotiation team and plan for the Procurement of Motor Vehicles Under leasing scheme.
12. On 8th June 2016, the Manager Procurement and Disposal Unit, URA informed Chairperson Evaluation Committee of the decision of the Contracts Committee in writing.
13. On 21st June 2016, the Chairperson Evaluation Committee wrote to the Manager Procurement Disposal Unit after consultation to confirm the availability of the extra funding of UGX 12,509,216,603 as recommended by Contracts Committee and recommended that:

- i) MAC East Africa Ltd in joint venture with Centenary Bank be awarded to supply one (1) unit of cargo delivery truck at a total cost of UGX 429,527,712 inclusive of financing cost and VAT.
- ii) Re-tender for Lot 1 Double Cabin Pick-Ups, Lot 2 Saloon Cars, Lot 3 30- Seater Buses and Lot 4 14 Seater Buses since they were far above the estimates due to higher cost per unit and interest rates/financing costs as compared to budget /estimated costs.
14. On 23rd June 2016, the Contracts Committee deferred the Evaluation Committee's recommendation to re-tender the procurement for supply and delivery of Motor Vehicles under finance leasing scheme and advised the PDU to consult the user on specifications.
15. On 7th July 2016, the Contracts Committee deferred the Evaluation Committee's recommendation to re-tender the procurement for supply and delivery of Motor Vehicles under finance leasing scheme as they needed to seek further clarification from the Head of Department
16. On 20th July 2016, the Contracts Committee approved the request to retender the procurement for supply vehicles under Finance leasing scheme and approved the open international bidding as the procurement method, bidding document, bid invitation notice and an Evaluation Team comprised of:

Table 4: Evaluation Committee Members

No	Name of Bidder	Designation
1.	Mr. Richard Kariisa	Assistant Commissioner Administration
2.	Mr. Ceaser Labeja	Manager Financial Accounting
3.	Mr. Jibril Kinyiri	Supervisor Procurement and Disposal Unit
4.	Mr. Samuel Rumunya	Supervisor Fleet
5.	Mr. Noah Mugisha	Officer Legal

17. On 28th July 2016, the Entity published an advert for the procurement of motor vehicles under finance leasing scheme in the New Vision newspaper with deadline for bid submission on 16th September 2016.
18. On 19th August 2016, the Entity held a pre-bid meeting.
19. On 2nd September 2016, the Entity an addendum published in the Daily Monitor and on 5th September 2016, the same was published in the New Vision newspaper.
20. On 16th September 2016, the Entity opened the bids received as follows:

Table 5: Record of Bid opening

No.	Name of Bidder	Currency and bid price as read out
1.	Capital Ventures International Limited	UGX 29,475,223,935
2.	Centenary Bank and MAC East Africa	Lot 2 USD 2,841,300

No.	Name of Bidder	Currency and bid price as read out
	Ltd	Lot 3 USD 155,800
3.	DFCU Bank	UGX 14,490,743,469
4.	Stanbic Bank	Toyota: UGX 22,076,340,389 Victoria: UGX 19,687,761,915 MAC East Africa: UGX 17,031,403,849 Cooper Motors: UGX 17,172,279,144

21. On 21st September 2016, the Evaluation Committee failed to reach a unanimous decision as three members of the were of the view that the procurement be retendered on grounds that the bidding document issued to bidders had some gaps which could not enable bidders to provide substantive responses while two members were of the view that the procurement be awarded since what is termed as gaps in solicitation document clarifications, were sought and responses were provided which guided the Evaluation Committee in decision making up to the last stage of evaluation.
22. On 24th November 2016, the Contracts Committee approved the request to retender the procurement on grounds that the solicitation document issued to the bidders had gaps and could not provide sufficient information to bidders to provide substantive bid responses. Contracts Committee also approved the bidding document.
23. On 1st December 2016, the Contracts Committee approved the following to constitute a new Evaluation Committee:

Table 6: Evaluation Committee Members

No	Name of Bidder	Designation
1.	Mr. Richard Kariisa	Assistant Commissioner Administration
2.	Mr. Ceaser Labeja	Manager Financial Accounting
3.	Ms. Ruth Chebet	Supervisor Procurement and Disposal Unit
4.	Mr. Samuel Rumunya	Supervisor Fleet
5.	Mr. Denis Nono	Officer Legal

24. On 30th November 2016, the Entity published an advert in Daily Monitor the procurement of motor vehicles under finance leasing scheme.
25. On 20th December 2016, a pre-bid meeting was held at the Entity.
26. On 13th January 2017, the Entity opened the bids received as follows:

Table 7: Record of Bid opening

No.	Name of Bidder	Currency and price as read out
1.	Capital Ventures International Limited	Lot 1 USD 3,791,095 Lot 2 USD 187,050 Lot 3 USD 351,900 Lot 4 USD 263,452 Lot 5 USD 131,725 Total in Bid Submission; USD

No.	Name of Bidder	Currency and price as read out
		8,515,220
2.	Centenary Bank and MAC East Africa Ltd	Lot 1 & Lot 3 UGX 17,174,837,240
3.	Stanbic Bank	Lot 1 UGX 21,984,580,961 Lot 2 UGX 1,031,716,758 Lot 3 UGX 1,257,490,432 Lot 4 UGX 2,129,214,137 Lot 5 UGX 469,411,563
4.	Cooper Motors Cooperation	Lot 1 USD 5,679,670.92 Lot 3 USD 124,864
5.	DFCU Bank	Lot 1 USD 3,436,108 (75M/V) USD 102,556 (2M/V) Lot 2 USD 166,433 Lot 3 USD 204,000 Lot 4 USD 294,542 (5M/V) USD 50,144 (1 M/V)

27. The evaluation report dated 23rd January 2017 indicated that the Evaluation Committee recommended:
- i. DFCU Bank Ltd for award of contract to finance leasing of Lot 1: 77 (Seventy Seven) Double Cabin Pickups, Lot 2: 5 (Saloon cars), Lot 3 2(Two) 30 Seater Buses and 6 (Six) 14 Seater Van at a total contract price of UGX 25,625,284,543 inclusive of finance cost and VAT.
 - ii. Stanbic Bank (U) Ltd for award of contract for Lot 5: 2 (Two) 14 Seater Vans at a total contract price of UGX 467,982,847 VAT Inclusive.
28. On 2nd February 2017, the Contracts Committee approved the awards of contracts as recommended by the Evaluation Committee above.
29. On 6th February 2017, the Entity displayed a Best Bidder Notice was displayed with a removal date of 20th February 2017.

2.0 OBJECTIVE OF THE INVESTIGATION

The objectives of the investigation was to establish whether:

1. *The Cooper Motors Corporation was responsive to the technical requirements on Displacement, Maximum Power and Maximum Torque.*
2. *The bids would be properly evaluated by considering the above three mentioned technical requirements in isolation of other parameters.*

3.0 LAW APPLICABLE

- i. The Public Procurement and Disposal of Public Assets Act, 2003;
- ii. The Public Procurement and Disposal of Public Assets Regulations, 2014;

- iii. The Public Procurement and Disposal of Public Assets Guidelines 2014; and
- iv. The bidding document.

4.0 METHODOLOGY

The Authority adopted the following methodology:

4.1 Reviewed the following documentation:

- i. Procurement Requisition;
- ii. Solicitation document issued to bidders;
- iii. Records of bid received and bid opening;
- iv. Bids submitted by bidder;
- v. Evaluation Reports; and
- vi. Contracts Committee minutes.

4.2 On 1st June 2017, the Authority held a meeting with the following persons:

Table 8: Persons met by the Authority

No	Name	Designation
1.	Mr. Richard Kariisa	Assistant Commissioner Administration
2.	Mr. Ceaser Lubega	Ag. Assistant Commissioner Finance
3.	Ms. Ruth Chebet	Ag. Manager Procurement and Disposal Unit
4.	Mr. Samuel Rumunya	Supervisor Fleet
5.	Ms. Fiona Akullo	Supervisor Legal Services

5.0 FINDINGS BY THE AUTHORITY

5.1 Whether Cooper Motors Corporation's bid was responsive to the technical requirement on displacement, maximum power and maximum torque.

1. The Cooper Motors Corporation Limited submitted that their bid was technically responsive to the minimum requirements on displacement, maximum power and maximum torque.
2. The Authority established the following:
 - i. The bidding document required bidder on Lot 1 for Double Cabins to have the following specifications:
 - a) Displacement of 2400cc to 2500cc
 - b) Maximum Power not less than 70kw @ between 3500-3600 RPM
 - c) Maximum Torque not less than 260Nm @ between 1600-2400 RPM
 - ii. Cooper Motors Corporation quoted for an Engine Displacement of 2200cc, Maximum power of 88kw @ 3600 RPM and a Maximum Torque of 285Nm @ 2500 RPM.
 - iii. On 1st June 2017 the Entity informed the Authority in a meeting that the specifications were made by their technical team basing on the experience and the

nature of the work for which the motor vehicles (Double Cabin Pickups) were being purchased.

- iv. The Authority sought expert opinion and in a letter dated 10th May 2017 the Chief Mechanical Engineer informed the Authority that the complainant's bid had met the minimum requirements of the Entity's needs since there was no technical justification for capping the lower limits on vehicle engine capacity since it has no limitation on engine performance.
- v. The Chief Mechanical Engine further informed the Authority that the engine power given off at rated Revolutions per Minute is not a functional but rather a design parameter which varies from a manufacturer to another and therefore would be restrictive if used as an evaluation criterion.
- vi. The Authority found that The Cooper Motors Corporation's bid met the minimum requirements on technical specifications since the Revolutions Per Minute are a design feature of the vehicle and vary from one manufacturer to another and capping of engine displacement at the lower limit is not necessary with advancements in technology.

5.2 Whether bids would be properly evaluated by considering the displacement, maximum power and maximum torque in isolation of other parameters.

1. The Complainant alleged that technically the displacement, maximum power and maximum torque should not be evaluated in isolation of other parameters.
2. The Evaluation Criteria in the bidding document required bidders to quote for the displacement, maximum power and maximum torque separately. The Evaluation Committee considered each of these features as separate parameters at bid evaluation.
3. The Chief Mechanical Engineer advised the Authority that the displacement, power and torque collectively describe the vehicle engine performance and cannot be considered in isolation of the other.
4. The Authority found that the Evaluation Committee evaluated the requirements of displacement, power and torque as separate parameters in accordance with the bidding document and found the complainant's bid non-responsive.

6.0 RECOMMENDATIONS

1. The Entity should avoid capping the lower limit on vehicle engine capacity since it has no limitation on engine performance.
2. The Entity should in future procurements of vehicles seek the Chief Mechanical Engineer's technical guidance while preparing specifications and evaluation criteria.