



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

**INVESTIGATION REPORT INTO ALLEGED IRREGULAR SELECTION OF BIDDERS
FOR THE CONSTRUCTION OF 5 STANCE LATRINE AT PAMADOLO PRIMARY
SCHOOL**

ENTITY: TORORO DISTRICT LOCAL GOVERNMENT

COMPLAINANT: WHISTLEBLOWER (INSPECTORATE OF GOVERNMENT)

JULY 2017

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ACRONYMS

AO	-	Accounting Officer
BEB	-	Best Evaluated Bidder
CC	-	Contracts Committee
DLG	-	District Local Government
FY	-	Financial Year
NOBEB	-	Notice of Best Evaluated Bidder
PDD	-	Procurement and Disposal Department
PDU	-	Procurement and Disposal Unit
PPDA	-	Public Procurement and Disposal of Public Assets Authority
UGX	-	Uganda Shillings

1.0 SUMMARY OF FACTS

1. On 4th October 2016, the Contracts Committee approved the following members of the Evaluation Committee for the construction of a 5 Stance Pit Latrine at Pamadolo Primary School:

Table 1: Members of the Evaluation Committee

No.	Name	Designation
1.	Mr. Simon Peter Omare	Senior Accounts Assistant
2.	Mr. David Wanghoka	Engineering Assistant
3.	Mr. Don James Were	Senior Assistant Secretary/Sub County Chief, Osukuru

2. On 25th October 2016, the Accounting Officer approved confirmation of funding of UGX17,500,000 for the construction of a 5 Stance pit latrine at Pamadolo Primary School under funding from the Peace, Recovery and Development Programme (PRDP).
3. On 9th November 2016, the Contracts Committee approved the selective bidding method and the bidding document for the procurement.
4. On 9th November 2016, Tororo DLG invited the following three bidders with a deadline for bid submission of 22nd November 2016.
- Buyela Building Contractors Ltd;
 - Ateki Investments Ltd; and
 - Ketho Kineni Enterprises

5. The invitation to bid indicated the following:

Table 2: Proposed Procurement Schedule

ACTIVITY	DATE
Issue of request for quotations	9/11/2016
Bid Closing	22/11/2016
Evaluation Process	23/11/2016 – 25/11/2016
Display of Best Evaluated Bidder	6/12/2016
Contract Award Notice	13/12/2016

6. The record of issue indicated that the following four (4) bidders were issued with letters of invitation to bid:
- Buyela Building Contractors Ltd;
 - Ateki Investments Ltd
 - Ketho Kineni Enterprises
 - Osira Timber Construction Ltd

7. The record of issue of bidding documents indicates that the following bidders were issued with the bidding document:
 - i. Buyela Building Contractors Ltd;
 - ii. Ketho Kineni Enterprises
8. The record of receipt of bids indicates that the following two bidders submitted bids on 22nd November 2016:
 - i. Buyela Building Contractors Ltd;
 - ii. Ketho Kineni Enterprises

9. The record of bid opening dated 22nd November 2016 indicated as follows:

TABLE 3: Record of Bid Opening

No.	Bidders	Amount (UGX)
1.	Buyela Building Contractor Ltd	17,450,015
2.	Ketho Kineni Enterprises	17,350,400

10. According to the Evaluation Report dated 28th November 2016, the Evaluation Committee recommended award to Buyela Building Contractors at UGX 17,161,015.
11. On 1st December 2016, the Contracts Committee approved the Evaluation Report.
12. The Notice of Best Evaluated Bidder was displayed on 1st December 2016 and removed on 16th December 2016.
13. On 19th December 2016, the Entity issued a Letter of Bid Acceptance to Buyela Building Contractors Ltd and the bidder responded in acceptance on 22nd December 2016.
14. On 19th December 2016, a contract was signed. The commencement date indicated was 4th January 2017 and intended completion date was 30th May 2017.

2.0 OBJECTIVES OF THE INVESTIGATION

The objectives of the investigation were to establish:

- i. Whether the bid opening and evaluation were conducted before the bid submission deadline;
- ii. Whether key documents in the prequalification bidding document were intentionally removed; and
- iii. Whether the procurement closed out competent bidders.

3.0 LAWS APPLICABLE

- i. The Public Procurement and Disposal of Public Assets Act, 2003
- ii. The Local Government (PPDA) Regulations 2006;
- iii. The bidding document for Construction of a 5 Stance Latrine at Pamadolo Primary School.

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. Invitation to bid letters;
 - iv. Records of bid closing and bid opening;
 - v. Bids submitted by bidders;
 - vi. Evaluation Report;
 - vii. Contracts Committee minutes and decisions on the matter;
 - viii. Letter of bid acceptance
 - ix. Contract
- 4.2 Conducted physical verification of the 5 Stance Latrine located at Pamadolo Primary School
- 4.3 Met the following persons from the Entity indicated in Table 4:

Table 4: Persons met by the Authority:

Tororo DLG		
	Name	Designation
1.	Mr. Sande Kyomya	Chief Administrative Officer
2.	Ms. Pauline Epodoi Opio	Deputy Chief Administrative Officer
3.	Mr. Patrick Okware	Chairperson Contracts Committee
4.	Mr. Simon Peter Omare	Senior Accounts Assistant
5.	Mr. Don James Were	Senior Assistant Secretary
6.	Mr. David Wangokho	Engineering Assistant
7.	Mr. Richard Mangeni	Senior Procurement Officer
8.	Mr. David Amolo	Procurement Officer
9.	Mr. Alex Okware	Assistant Procurement Officer
Osira Timber Company		
No.	Name	Bidder
1.	Mr. Hillary Okello	Director
2.	Mr. Paul Osira	Managing Director
3.	Mr. Mathias Owinyo	Member

5.0 FINDINGS

5.1 Whether the bid opening and evaluation were conducted before the bid submission deadline

1. Tororo DLG invited the following three bidders and the deadline for bid submission was 22nd November 2016.
 - i. Buyela Building Contractors Ltd;
 - ii. Ateki Investments Ltd
 - iii. Ketho Kineni Enterprises

2. The Authority noted that although the Record of Issue indicated that the following four (4) bidders were issued with letters of invitation to bid, the invitation letter for Osira Timber Construction Ltd was not on file:
 - i. Buyela Building Contractors Ltd;
 - ii. Ateki Investments Ltd
 - iii. Ketho Kineni Enterprises
 - iv. Osira Timber Construction Ltd

3. During the meeting with the Authority, the complainant submitted an invitation letter addressed to Osira Timber Company, dated 9th November 2016. However the deadline for submission of bids indicated in the letter was 29th November 2016 which differed from the date indicated in other bidders' invitation letters of 22nd November 2016. The complainant informed the Authority that it was on this basis that it submitted a bid on 29th November 2016, which was rejected on grounds that their firm was not on the shortlist approved by the Contracts Committee.

1. The Authority established that a member of the Procurement and Disposal Unit, Mr Alex Okware invited Osira Timber Company Ltd to collect a letter of invitation to bid. Mr. Alex Okware informed the Authority that he received the letters of invitation to bid, including the one addressed to Osira Timber Company Ltd, from the Procurement Officer, Mr. David Amolo. Mr. David Amolo informed the Authority that he had erroneously prepared the invitation letter addressed to Osira Timber Company.

2. The Authority finds that bid opening and evaluation of bids were conducted after the deadline for submission of bids. However, the invitation to bid issued to Osira Timber Construction Ltd had the following anomalies:
 - i. It was issued to Osira Timber Construction Ltd which was not on the shortlist of bidders approved by the Contracts Committee;
 - ii. It indicated a bid closing date of 29th November 2016 instead of 22nd November 2016 which was in the invitation to bid issued to the shortlisted bidders;

- iii. It indicated that the evaluation process would be conducted from 30th November 2016 to 2nd December 2016 instead of 23rd November 2016 to 25th November 2016, indicated in the invitation to bid issued to the shortlisted bidders.
3. In light of the above, the Authority finds that the complaint has merit.

5.2 Whether key documents in the prequalification bidding document were intentionally removed

1. The complainant informed the Authority that following publication of a prequalification notice, the complainant submitted their bid. However, the complainant established from the NoBEB that their firm was not prequalified. Upon inquiry, the complainant established that their bid was missing and was not evaluated.
2. The Authority established that the Senior Procurement Officer invited the complainant for a meeting at which their bid was availed. The Authority further established that the matter was brought to the attention of the Accounting Officer who conducted an investigation and directed that the company is prequalified for FY2016/2017 according to a letter dated 30th September 2016.
3. The Senior Procurement Officer and Procurement Officer informed the Authority that Osira Timber Company submitted a company profile which did not indicate the category being applied for. It is on this basis that its bid was rejected.
4. In light of the above, the Authority found no evidence to substantiate the allegation made by the complainant.

5.3 Whether Procurement has closed out competent bidders

1. During the investigation, the Authority was informed that there were several complaints about the procurement function of the Entity and the anomalies in the invitation to bid issued to Osire Timber Construction Ltd indicate that the principles of fairness and transparency in Regulation 43(3) of the Local Governments (Public Procurement and Disposal of Public Assets) Regulations 2006 were undermined.

6.0 Observations

During the investigation, the Authority observed the following:

1. **Irregular correction of arithmetic errors:** During financial evaluation, the Evaluation Committee made arithmetic corrections amounting to UGX 289,000 which altered the bid price from UGX 17,450,015 to UGX 17,161,015. The Authority found no arithmetic errors in Buyela Building Contractor's bid. The corrections were irregular and reduced

Buyela Buliding Contractor's bid price and hence emerged as the best evaluated bidder. The award was therefore improper.

2. **Uninstalled doors:** During physical verification the Authority noted that the construction of the 5 stance latrine was complete. However the doors were not installed. The Authority established that the wooden doors which were contained in the specifications in the bidding document had been fixed but were rejected since they were vulnerable to termites. The users requested for metal doors which had not yet been fixed.
3. **Caution of the Procurement and Disposal Unit:** The Accounting Officer cautioned the Procurement Officer, Mr. David Amolo on malpractice in procurements including the procurement for construction of a 5 stance latrine at Pamadolo Primary School according to a letter dated 12th April 2017.

7.0 Recommendations:

In light of the findings, the Authority recommends that:

1. The Accounting Officer should take disciplinary action against the following members of the Evaluation Committee for irregular correction of arithmetic errors during evaluation of bids for construction of a 5 stance latrine at Pamadolo Primary School:
 - i. Mr. Don Were Makada – Senior Assistant Secretary/Sub County Chief, Osukuru
 - ii. Mr. Simon Peter Omare – Senior Accounts Assistant
 - iii. Mr. David Wangoka – Engineering Assistant
2. The Contracts Committee should ensure proper adjudication of evaluation reports prior to their approval in accordance with Regulation 17(1) (a) of the Local Governments (Public Procurement and Disposal of Public Assets) Regulations 2006.
3. The following members of the Procurement and Disposal Unit should ensure that procurements are conducted in a fair, competitive and transparent manner in accordance with Section 45 and 46 of the PPDA Act 2003:
 - i. Mr. Richard Mangeni – Senior Procurement Officer
 - ii. Mr. David Amolo – Procurement Officer
 - iii. Mr. Alex Okware – Assistant Procurement Officer
4. The Head Procurement and Disposal Unit should ensure that Evaluation Committees comply with the PPDA Act, PPDA Regulations and Guidelines during the evaluation in accordance with Section 32 (c) of the PPDA Act.

