



**PUBLIC PROCUREMENT AND DISPOSAL
OF PUBLIC ASSETS AUTHORITY**
"Procurement That Delivers"

**CONTRACT AUDIT INTO THE CONSTRUCTION OF TWO SEED SCHOOLS
KAPTUM AND MOYOK IN KWEEN DISTRICT LOCAL GOVERNEMENT UNDER
UGIFT PROGRAM**

CONTRACTOR: TRINITY TECHNICAL SERVICES LIMITED

PROCUREMENT REF: MoES/UgIFT/WRKS/20-21/0005

AUGUST 2024

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ACRONYMS

ESHS	-	Environmental, Social, Health and Safety
PPDA Act	-	Public Procurement and Disposal of Public Assets Act Cap. 205
PPDA	-	Public Procurement and Disposal of Public Assets Authority
UGX	-	Uganda Shillings
UGIFT	-	Uganda Intergovernmental Fiscal Transfer Program
VAT	-	Value Added Tax

EXECUTIVE SUMMARY

The Government of Uganda appropriated funds worth UGX 5,703,072,142 to undertake the construction of Kaptum and Moyok Seed Secondary Schools in Kween District Local Government. Funds were obtained from the World Bank through the Uganda Intergovernmental Fiscal Transfer Program (UGIFT), the implementing Ministry was the Ministry of Education and Sports that was responsible for developing the Bills of Quantities, the bidding document and advertising for the tender. Kween District Local Government was responsible for approving the bidding document, conducting evaluation, signing of the contract as well as contract management.

On 19th September 2022, Kween District Local Government entered into a contract with Trinity Technical Services Limited to construct Kaptum and Moyok Seed Secondary Schools at a cost of UGX. 5,703,072,142 with an intended completion date of 7th December 2024 and a defects liability period of 180 days.

In view of Section 7 (1) (j) (ii) of the PPDA Act Cap. 205, the Public Procurement and Disposal of Public Assets Authority (hereinafter “PPDA or the Authority”) conducted a contract audit into the contract with an overall objective of assessing the status of contract implementation. The specific objectives of the contract audit were:

- i. To assess the timelines of contract implementation;
- ii. To assess the effectiveness of the time, cost and quality controls; and
- iii. To assess adherence to Environmental, Social, Health, and Safety (ESHS) requirements.

Key Findings of the Authority

The Authority found that:

1. There was non-adherence to environmental, social, health and safety safeguards including; failing to acquire a land title for the school land, failure to ensure hoarding of the site, absence of a grievance redress mechanism at the project level, failure to register the site as a work place, failure to ensure proper waste management and failure to maintain a first aid kit on the site. This puts the health and safety of the workers and the communities where the projects are located at risk;
2. Delayed payment of the contractor. Payment claim No. 0003 worth UGX 570,307,217 was made and certified on 13th November 2023. However, it was paid on 9th April 2024, a delay of five months contrary to Regulation 117 (6) of the Local Governments (PPDA) Regulations 2006 which provided that the period for payment shall be within thirty days from certification of the invoices. Failure to pay the contractor on time may lead to delayed execution of the works and could compromise the quality of the works;
3. Failure to conduct regular site meetings and inspections. There was no evidence that the contract management team consisting of the District Engineer, District Educational Officer, District Community Development Officer, District Environmental Officer among others conducted monthly joint site inspections and meetings which was contrary to circular No. 3 of 2019 on the implementation of projects under the Uganda Intergovernmental Fiscal Transfer Program for Results issued by the Authority on 24th July 2019. A weak contract management system could compromise the efficiency and effectiveness of the project;
4. Failure to conduct due diligence on securities. The Entity did not conduct due diligence on the advance payment guarantee worth UGX 1,710,921,643 referenced EBL/1071/APG10000041/PK submitted by the contractor, Trinity Technical Services Limited. This was contrary to the circular referenced FAD 154/308/01 from the Ministry of Finance Planning and Economic Development on conducting due diligence on the

- information submitted by bidders dated 7th August 2014. The Entity risks relying on fraudulent documents thus exposing it to the risk of financial loss;
5. The members of the contract management team did not prepare individual contract implementation plans to aide in the management of the works yet this was a requirement in their letter of appointment. This was also contrary to circular No. 3 of 2019 on the implementation of projects under the Uganda Intergovernmental Fiscal Transfer Program for Results issued by the Authority on 24th July 2019; and
 6. The special conditions of contract (Section 8) of the bidding document was not adequately filled in with several clauses left blank. This was contrary to Regulation 88 (1) and (2) of the Local Governments (PPDA) Regulations 2006. This may lead to challenges and conflicts during contract implementation.

Conclusion

The payment certificate No. 2, dated 13th November 2023, indicated that the project was 70% complete against a time progress of 67%. This suggests that the contractor was on track to finish the project on time, provided they remained active and fully mobilized on site. However, special attention must be given to the implementation of Environmental, Social, Health, and Safety Safeguards, as these were found to be deficient according to the report.

Recommendations

1. The Accounting Officer should:
 - i. Task the Head Procurement and Disposal Unit to ensure that complete contract documents including detailed special conditions of contract are prepared in future projects;
 - ii. Ensure that the contractor is given timely payment after certification by the contract management team in line with the terms stipulated in the contract and in accordance with Regulation 40 (1) of the PPDA (Contracts) Regulations 2023;
 - iii. Task the contract management team to prepare and share monthly progress reports to the Accounting Officer and the Procurement and Disposal Unit in accordance with Regulation 52(3)(g) of the PPDA (Contracts) Regulations, 2023;
 - iv. Ensure that due diligence is conducted on all the securities submitted by bidders in accordance with the circular referenced FAD 154/308/01 from the Ministry of Finance Planning and Economic Development on conducting due diligence on the information submitted by bidders dated 7th August 2014; and
 - v. Task all members of the contract management team to prepare contract implementation plans that will aide in the management of contract execution. This will also ensure that cross cutting issues are not ignored.
2. The Contracts Committee should prior to approval check contract documents for completeness in accordance with Section 28 (1) (c) of the PPDA Act Cap. 205.

CHAPTER ONE: INTRODUCTION

1.1 Contract summary

The key information about the contract is summarized in Table 1 below:

Table 1: Contract Summary

Contract Title	Construction of two seed schools, kaptum and moyok P/S in Kween District Local Government
Contract Scope	2 classroom blocks (3) 2 Unit Science laboratory block Administration block 2 -unit teachers' houses (3) 2 stance lined VIP latrine block for Administration block 2 stance lined VIP latrine block for teachers' house 5 stance lined VIP latrine for Boys 5 stance lined VIP latrine for Girls ICT – Library block Multi-purpose hall Sports field
Name of Contractor	Trinity Technical Services Limited
Method of procurement	Open National bidding
Type of Contract	Lumpsum
Contract Price (UGX)	5,703,072,142
Contract Signing Date	19 th September 2022
Site hand over date	7 th December 2022
Original Contract end date	7 th December 2024
Defects Liability Period	180 days

1.2 Laws applicable

- i. The Public Procurement and Disposal of Public Assets Act Cap. 205
- ii. The Local Governments (PPDA) Regulations, 2006;
- iii. The Local Governments (PPDA) Guidelines, 2008;
- iv. The bidding document issued to bidders;
- v. The signed contract between Kween District Local Government and Trinity Technical Services Limited; and
- vi. The circular on contract management and safeguard requirements under Uganda Intergovernmental Fiscal Transfer (UGIFT) program dated 16th March 2021 issued by the Permanent Secretary/Secretary to the Treasury.

1.3 Scope of the Audit

The audit covered the contract implementation and management of the construction of Kaptum and Moyok Seed Secondary Schools. Specifically, the scope included; assessing the contract management system, obligations of the provider, obligations of the Entity and status of implementation of the project.

1.4 Audit Methodology

The Authority adopted the following methodology:

- i. Review of documentation in the procurement action file;

- ii. Physical verification of the site;
- iii. Debriefing the Entity management on the preliminary findings;
- iv. Issuing a management letter to the Entity for official management response; and
- v. Reporting on findings of the audit and providing recommendations where applicable

1.5 Limitation of Scope

The contract audit was undertaken by the audit team who did not have professional competence in engineering and building construction. The audit team could not therefore conclusively give an opinion on the technical quality of the works undertaken.

CHAPTER 2: FINDINGS AND RECOMMENDATIONS

This chapter details the findings and recommendations out of the contract audit

2.1 Timeliness of contract implementation

2.1.1 Delayed response to a request for a no objection

The request for a no objection to the Ministry was made on 1st April 2022 but the response was received on 10th August 2022 thus a delay of four months.

Implication

Delays at contract execution lead to delayed service delivery and could lead to escalation of project costs thus inhibiting the achievement of value for money.

Management Response

Management was in agreement with the observation and pledged to comply with the recommendation.

Recommendation

The Accounting Officer should in future projects follow up requests for no objections with the Ministry of Education and Sports to avoid project delays.

2.2 Effectiveness of the time, cost and quality controls

2.2.1 Incomplete special conditions of contract

The Authority noted that the special conditions of contract (Section 8) of the bidding document was not adequately filled in with several clauses left blank. This was contrary to Regulation 88 (1) and (2) of the Local Governments (PPDA) Regulations 2006. The details are provided in Table 2 below:

Table 2: Clauses that were not filled in the special conditions of contract

GCC Reference	Clause	Special Conditions
GCC 10.2		The PDE's specific approval is required for
GCC 12.1		GCC 12.1 on subcontracting is modified as
GCC 12.2		The following conditions shall apply to sub-contracting
GCC 13		The Schedule of other contractors
GCC 14.1		The Schedule of key personnel
GCC 18.1		The minimum insurance covers shall be
GCC 19		The investigation reports
GCC 34.1		The procedure for settling disputes shall be
GCC 35		The appointing authority for the adjudicator is
GCC 58.1		Regarding liquidated damages

Implication

Inadequate contract documents imply a lack of checks & balances in the process and could result in poor contract execution by the contractor leading to shoddy works.

Management Response

Management noted the observation and stated that the Head Procurement Unit had been cautioned to ensure that complete contracts documents are prepared with all conditions

appropriately filled and pledged to also advise the Contracts Committee to check on the completeness of the contract documents before approval.

Recommendations

- i. The Accounting Officer should task the Head Procurement and Disposal Unit to ensure that complete contract documents including detailed special conditions of contract are prepared in future projects.
- ii. The Contracts Committee should prior to approval check contract documents for completeness in accordance with Section 28 (1) (c) of the PPDA Act Cap. 205.

2.2.2 Delayed payment

Payment claim No. 0003 worth UGX 570,307,217 was made and certified on 13th November 2023. However, it was paid on 9th April 2024, a delay of five months contrary to Regulation 117 (6) of the Local Governments (PPDA) Regulations 2006 which provided that the period for payment shall be within thirty days from certification of invoices, except where this is varied in the special conditions of contract.

Implication

Failure to pay providers in time delays execution of contracts, compromises quality and discourages them from participation in public procurement.

Management Response

Management refuted the audit observation and pledged to avail the necessary documentation.

Recommendation

The Authority noted the Entity's response, however, there was no documentary evidence availed. The Accounting Officer should ensure that the contractor is given timely payment after certification by the contract management team in line with the terms stipulated in the contract and in accordance with Regulation 40 (1) of the PPDA (Contracts) Regulations 2023.

2.2.3 Failure to conduct regular site meetings and inspections

Whereas, the Accounting Officer appointed a contract management team, consisting of the District Engineer, District Educational Officer, District Community Development Officer, District Environmental Officer among others that was tasked with submitting monthly progress reports to the Accounting Officer, there was no evidence that joint site inspections consisting of the contract management team were held. This was contrary to circular No. 3 of 2019 on the implementation of projects under the Uganda Intergovernmental Fiscal Transfer Program for Results issued by the Authority on 24th July 2019.

Implications

- i. Site meetings present an opportunity to engage the community and receive any grievances. These were potentially not undertaken since the meetings did not take place.
- ii. Without regular meetings, there's a risk that important progress updates, milestones, or issues might not be communicated effectively, which can lead to uninformed decision-making and potential setbacks.

Management Response

Management noted the observation and stated that some joint site meetings were held but not on a monthly basis.

Recommendation

The Authority noted the Entity's response and recommends that the Accounting Officer should task the contract management team to prepare and share monthly progress reports with the Accounting Officer and the Procurement and Disposal Unit in accordance with Regulation 52(3)(g) of the PPDA (Contracts) Regulations, 2023.

2.2.4 Failure to conduct due diligence on securities

The Entity did not conduct due diligence on the advance payment guarantee worth UGX 1,710,921,643 referenced EBL/1071/APG10000041/PK submitted by the contractor, Trinity Technical Services Limited. This was contrary to the circular referenced FAD 154/308/01 from the Ministry of Finance Planning and Economic Development on conducting due diligence on the information submitted by bidders dated 7th August 2014.

Implication

This Entity risks relying on fraudulent documents thus exposing it to the risk of financial loss.

Management Response

Management noted the observation and pledged to instruct the Head of Finance to ensure that due diligence is done prior to making any payments as guided in the circular referenced FAD 154/308/01 from the Ministry of Finance Planning and Economic Development.

Recommendation

The Accounting Officer should ensure that due diligence is conducted on all the securities submitted by bidders in accordance with the circular referenced FAD 154/308/01 from the Ministry of Finance Planning and Economic Development on conducting due diligence on the information submitted by bidders dated 7th August 2014.

2.2.5 Failure to prepare contract implementation plans

The members of the contract management team did not prepare individual contract implementation plans to aide in the management of the works yet this was a requirement in their letter of appointment. This was also contrary to circular No. 3 of 2019 on the implementation of projects under the Uganda Intergovernmental Fiscal Transfer Program for Results issued by the Authority on 24th July 2019.

Implication

Failure to prepare contract implementation plans makes it difficult to effectively monitor contract execution.

Management Response

Management agreed that individuals on the contract management team did not prepare contract implementation plans, though one general implementation plan was prepared.

Recommendation

The Accounting Officer should task all members of the contract management team to prepare contract implementation plans that will aide in the management of contract execution in accordance with Regulation 50 (3) of the PPDA (Contracts) Regulations 2023.

2.2.6 Lack of a land title for the schools

The Authority did not find evidence of land titles for the land on which both Kaptum and Moyok Seed schools were situated as at 18th April 2024. The Authority was only provided

with land agreements with the previous owners of the land which is risky for such investments.

Implication

The investment in the schools is not fully protected if the District does not guarantee full legal ownership of the land on which it sits.

Management Response

Management agreed with the observation and pledged to comply with the recommendation.

Recommendation

The Accounting Officer should urgently fast track the process of acquiring the title for the school land and seek support from competent authorities such as the Ministry of Lands where the district encounters challenges.

2.3 Adherence to the environmental, social, health and safety safeguard requirements

2.3.1 Non adherence to Environmental, Social, Health, and Safety (ESHS) safeguards

The physical verification conducted on 18th April 2024 revealed that both the contractor and the Entity's contract management team put little emphasis on Environmental, Social, Health and Safety issues. Specifically, the following issues were noted on both Moyok and Kaptum sites:

- i. The sites generally had poor drainage and there was no proper storm water management at the site;
- ii. The ramp to one of the classroom blocks was too steep and thus ineffective and needed guard rails;
- iii. There was no talking compound on both sites;
- iv. Hoarding of the sites had not been done which meant the sites were not protected from intruders and could jeopardise the safety of the local community;
- v. There was no evidence that HIV aids awareness had been done by the contractor on both sites;
- vi. Poor waste management as construction debris was scattered all over the structures;
- vii. There was no evidence that the contractor maintained a first aid box on both sites thus jeopardising the health and safety of the workers on site;
- viii. Pit latrines for worker were not labelled and separate for men and women on both sites;
- ix. There was no site Grievance Redress Mechanism constituted for both sites to handle disputes and complaints that may arise during the execution of the works;
- x. There were no workers' attendance sheet and evidence of employment or engagement contracts of the workers on site for both sites. Thus the employments terms for the workers were not stipulated yet the project is intended to last two years; and
- xi. The site had not been registered as a work place.

Implication

This puts the health and safety of the workers and the communities at risk.

Management Response

Management was in agreement with audit finding and pledged to comply with the recommendation.

Recommendation



The Accounting Officer should task the contract management team to ensure that the contractor adheres to Environmental, Social, Health and Safety requirements in accordance with the circular on safeguard requirements under the Intergovernmental Fiscal Transfer Program for results (UgIFT) referenced BPD 86/107/01 issued by the Ministry of Finance Planning and Economic Development dated 26th May 2020.

CHAPTER 3: CONTRACT CLOSURE AND AUDIT CONCLUSION**Audit conclusion**

The payment certificate No. 2, dated 13th November 2023, indicated that the project was 70% complete against a time progress of 67%. This suggests that the contractor was on track to finish the project on time, provided they remained active and fully mobilized on site. However, special attention must be given to the implementation of Environmental, Social, Health, and Safety Safeguards, as these were found to be deficient according to the report.

ANNEXES

Annex 1: Showing status of the sites as at 8th April 2024

Status for Moyok Seed School	Status for Kaptum Seed School
<p data-bbox="188 376 618 411">ICT block for Moyok Seed School</p> 	<p data-bbox="1016 376 1469 411">ICT block for Kaptum Seed School</p> 

Classroom block for Mayok



Classroom block for Kaptum



Teachers staff house for Moyok



Teachers staff house for Kaptum



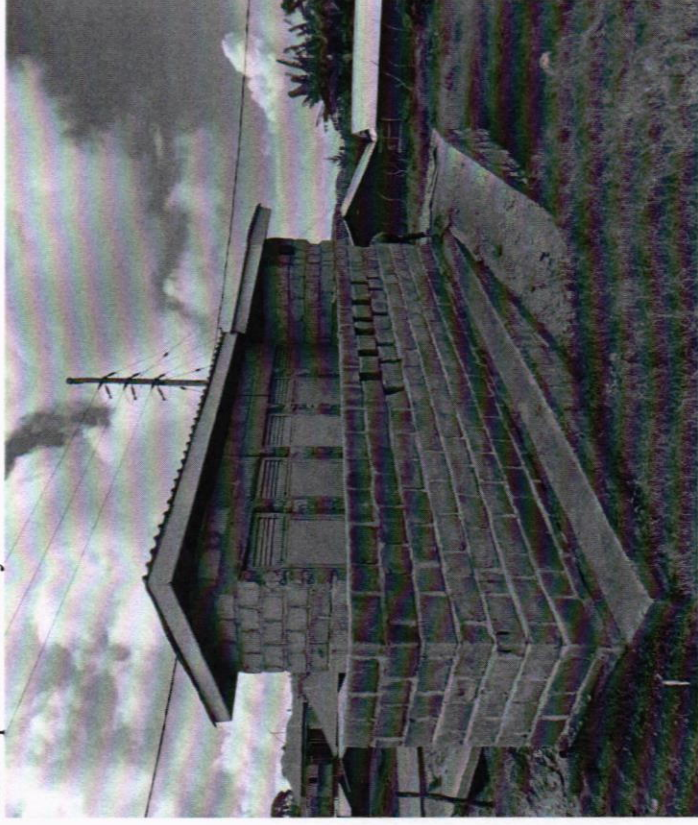
ICT block for Moyok



ICT block Kaptum



stance pit latrine Moyok



4 stance pit latrine Kaptum



Administration block Moyok

