



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

**CONTRACT AUDIT INTO THE PROCUREMENT FOR UPGRADING OF KAPTUM
AND BENET HEALTH CENTRE II TO HEALTH CENTRE III IN KWEEN DISTRICT**

CONTRACTOR 1: KWIK BUILD CONTRACTORS AND ENGINEERING LIMITED

CONTRACTOR 2: WILJON ESTATES LIMITED

PROCUREMENT REF: MoH-UgIFT/WRKS/2020-2021/00097 Lot 3

OCTOBER 2023

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ACRONYMS

BOQ	-	Bills of Quantities
GCC	-	General Conditions of the Contract
GESI	-	Gender Equality and Social Inclusion
ESHS	-	Environmental, Social, Health and Safety
GCC	-	General Conditions of the contract
GOU	-	Government of Uganda
MOH	-	Ministry of Health
PPDA Act	-	Public Procurement and Disposal of Public Assets Act No. 1 of 2003
PPDA	-	Public Procurement and Disposal of Public Assets Authority
SCC	-	Special Conditions of the Contract
UGX	-	Uganda Shillings
UGIFT	-	Uganda Intergovernmental Fiscal Transfer Program
VAT	-	Value Added Tax

EXECUTIVE SUMMARY

The Government of Uganda appropriated funds worth UGX 1,383,427,690 to undertake the construction of the Upgrade of Kaptum and Benet Health Centre IIs to III. Funds were obtained from the World Bank under the Uganda Inter-Governmental Fiscal Transfer program (UGIFT). The implementing Ministry was the Ministry of Health 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 25th November 2019, Kween District Local Government entered into a contract with Kwik Build contractors and engineering limited to undertake the construction with an intended completion date of 30th June 2020 and a defects liability period of 12 months. The overall management of the contractual obligations and payment of rewards to the contractor was a responsibility of the District that was represented by the Project Manager who reported to the Accounting Officer.

On 7th February 2022, the Entity terminated its contract with Kwik Build Contractors and Engineering Limited due to delayed completion and abandonment of site. At the time of termination of the contract, the physical progress of the works was at UGX 543,375,334 (39%) against a financial progress of UGX 779,326,343 (56%).

On 14 June 2022, the Entity contracted M/s Wiljon Estates Limited through a competitive bidding process to undertake the completion of the Upgrade of Kaptum and Benet Health Centre IIs to III worth UGX 414,417,623 with a start date of 27th June 2022.

In view of Section 7 (j) (ii) of the PPDA Act, 2003, the Authority conducted a contract audit into the above mentioned contract.

Key findings of the Authority

The Authority noted the following:

1. The Authority noted that in both contracts with Kwik Build Contractors and Engineering Limited as well as Wiljon Estates Limited, there was no evidence that the Accounting Officer formally appointed a contract management team which led to poor contract management and might have contributed to the delays and eventual abandonment of site by both contractors. This was contrary to Circular No. 3 of 2019 on the implementation of procurements under the Uganda Intergovernmental Fiscal Transfer Program for Results issued by the Authority on 24th July 2019.
2. Kwik Build Contractors and Engineering Limited breached GCC 52 of the special conditions of contract in regard to submission of the 10% performance security as the Contractor did not submit a performance security within twenty-one (21) days of contract signing as required in GCC 52.1 of the contract.
3. In the completion of the Upgrade of Kaptum and Benet Health Centre IIs to III by Wiljon Estates Limited worth UGX 414,417,623, the Entity did not require the contractor to submit a performance security despite the magnitude of the project and the history of the project i.e. the

project had already been abandoned by the previous contractor, Kwik Build Contractors and Engineering Limited which makes it a high risk project.

4. The Entity failed to conduct due diligence on the advance payment guarantee submitted by the contractor, Kwik Build Contractors and Engineering Limited from Stanbic Bank Limited dated 28th November 2019, despite it not being on headed paper with no company logo that made its authenticity doubtful. 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.
5. Acceptance of an invalid advance payment guarantee. The Guarantee presented by Kwik Build Contractors and Engineering Limited was conditional and included a clause that stated that; "Stanbic Bank Limited's liability becomes effective on this guarantee after advance payment proceeds are received at our counters on account number 031000UGX5203002". Which was unclear and effectively made the guarantee unenforceable since it was contingent on an unascertained condition.
6. Failure to extend the validity of the advance payment guarantee. Whereas, the advance payment Guarantee worth UGX 415,028,307 submitted by the contractor; Kwik Build Contractors and Engineering Limited expired on 30th June 2020, there was no attempt by the Entity to have it renewed yet the contractor was allowed on site up to 30th June 2021 when they eventually abandoned the project. This was contrary to Regulation 116 (6) of the Local Governments (PPDA) Regulations 2006.
7. An overpayment of UGX 235,951,009 was made to Kwik Build Contractors and Engineering Limited, resulting in a financial loss for the Government. As of 4th June, 2021, the total value of work completed by the contractor, as indicated in Payment Certificate No. 2, amounted to UGX 543,375,334. However, it was observed that the payments disbursed to the contractor totaled UGX 779,326,343. This included an advance payment of UGX 415,028,307, Payment Certificate No. 1 amounting to UGX 249,516,026, and Payment Certificate No. 2 totaling UGX 114,782,010.
8. The contract for the Upgrade of Kaptum and Benet Health Centre II to III by Kwik Build Contractors and Engineering Limited contained contradictory terms and conditions. The special conditions of contract provided that the works shall commence seven (7) days after contract signature, the letter of bid acceptance stated that works shall commence immediately after contract signature, the bid document stated that the works were to commence 14 days from the date of site handover. Such inconsistencies affect contract implementation and subsequently may delay service delivery to the intended beneficiaries.
9. Incomplete contract document. The Authority noted that whereas the Entity used the standard contract form issued by the Authority in the procurement for completion and Upgrade of Kaptum and Benet Health Centre IIs to III by Wiljon Estates Limited worth UGX 414,417,623. Several key terms and conditions provided in the form such as, the intended completion date, site possession date, defects liability period and the schedule of key personnel were not filled, an indicator of lack of capacity and or negligence by the Entity's procurement personnel.
10. The Authority noted that whereas the Entity terminated its contract with Kwik Build Contractors and Engineering Limited on 2nd August 2021 due to delayed completion and abandonment of site, there were no formal procedures followed. Specifically: There was no evidence that the Solicitor General's approval was obtained before termination of the contract, no evidence of Contracts Committee's approval of the termination and there was no proper

recommendation of the termination from the Contract Manager to the Accounting Officer with clear grounds for the termination.

11. Delayed completion and abandonment of site. The intended completion date for the first contract by Kwik Build Contractors and Engineering Limited was 30th June 2020, however, by 29th May 2021 only UGX 265,442,584 (19%) worth of works had been done against a time lapse of 300% and the site was subsequently abandoned shortly afterwards on 30th June 2021, despite numerous contract extensions granted to the provider.

Audit Conclusion

Both contracts made by the Entity, the one with Kwik Build Contractors and Engineering Limited terminated on 7th February 2022, and the subsequent contract entered into with Wiljon Estates Limited on 14th June 2022, were characterized by inadequate contract management, resulting in site abandonment in both instances. Poor handling of the advance payment and performance security meant that the Entity had no recourse when Kwik Build Contractors and Engineering Limited abandoned the site, causing a financial loss of UGX 235,951,009. Moreover, Wiljon Estates Limited displayed a lack of capability when they also abandoned the site on 30th June 2022, shortly after the contract was signed on June 14, 2022, having completed only UGX 110,912,153, which equates to 27% of the total contract value of UGX 414,417,623.

The Accounting Officer should therefore strengthen contract management of this project by ensuring regular site meetings and in case of breach of contract, appropriate and timely action should be taken against the contractor such as caution letters and termination of the contract in accordance with Regulation 120 (15) of the Local Governments (PPDA) Regulations 2006. Furthermore, The Accounting Officer should forward Kwik Build Contractors and Engineering Limited to the Authority for suspension proceedings for abandoning the site and causing a financial loss of UGX 235,951,009 to the Entity.

Key Recommendations

In light of the above findings arising from the contract audit exercise and in accordance with Section 9 of the PPDA Act, 2003 the Authority recommends the following measures:

1. The Accounting Officer should:
 - i. Ensure that a contract management team is formally appointed in accordance with the PPDA circular no 3 of 2019 on the implementation of procurements under the UGIFT program for results.
 - ii. In future enforce the performance security clause through causing the contractor to submit an acceptable performance security as required in the contract.
 - iii. Ensure that due diligence is always 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.
 - iv. Ensure that advance payment is handled in accordance with Regulation 115 (1 to 5) of the Local Governments (PPDA) Regulations 2006 and made against a valid advance payment guarantee with clear provisions in the contract on how recovery will be made against the works certificates.
 - v. Ensure that all contract terminations are conducted in accordance with Regulation 120 (14) of the Local Governments (PPDA) Regulations 2006.

- vi. Strengthen contract management of this project by ensuring regular site meetings and in case of persistent breach of contract, appropriate action should be taken against the contractor such as caution letters and termination of the contract in accordance with Regulation 120 (15) of the Local Governments (PPDA) Regulations 2006.
2. The Accounting Officer and the officers involved in the administration of the irregular payments to Kwik Build Contractors and Engineering Limited should be held personally liable for the financial loss of UGX 235,951,009 inflicted on the Entity through their actions.
3. The Entity should in future proceed to award the contract to the next best evaluated bidder in case the Best Evaluated Bidders fails to submit a performance security as required.
4. The Contracts Committee should ensure that contract documents are thoroughly scrutinized before contract signature to iron out any discrepancies that may arise.
5. The Head Procuring and Disposing Entity should in future tighten financial evaluation criteria to ensure that the providers contracted have the financial capacity to execute the projects.

CHAPTER 1: INTRODUCTION

1.1. Background

The Government of Uganda appropriated funds worth UGX 1,383,427,690 to undertake the construction of the Upgrade of Kaptum and Benet Health Centre IIs to III. Funds were obtained from the World Bank under the Uganda Inter-Governmental Fiscal Transfer program (UGIFT). The implementing Ministry was the Ministry of Health 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 25th November 2019, Kween District Local Government entered into a contract with Kwik Build contractors and engineering limited to undertake the construction with an intended completion date of 30th June 2020 and a defects liability period of 12 months. The overall management of the contractual obligations and payment of rewards to the contractor was a responsibility of the District that was represented by the Project Manager who reported to the Accounting Officer.

On 7th February 2022, the Entity terminated its contract with Kwik Build Contractors and Engineering Limited due to delayed completion and abandonment of site. At the time of termination of the contract, the physical progress of the works was at UGX 543,375,334 (39%) against a financial progress of UGX 779,326,343 (56%).

On 14 June 2022, the Entity contracted M/s Wiljon Estates Limited through a competitive bidding process to undertake the completion of the Upgrade of Kaptum and Benet Health Centre IIs to III worth UGX 414,417,623 with a start date of 27th June 2022.

In view of Section 7 (j) (ii) of the PPDA Act, 2003, the Authority conducted a contract audit into the above mentioned contract.

1.2. Laws applicable

The applicable laws and legal framework were:

- i. The Public Procurement and Disposal of Public Assets Act, 2003;
- ii. The Local Governments (PPDA) Regulations, 2006;
- iii. The Local Governments (PPDA) Guidelines, 2008; and
- iv. The circular No. 3 of 2019 on the implementation of procurements under the Uganda Intergovernmental Fiscal Transfers Program for results dated 24th July 2019.

1.3. Objectives

The overall objective of the contract audit was to assess the status of contract implementation for the Upgrade of Kaptum and Benet Health Centre IIs to III with emphasis on verification that all parties to the contract had complied with the requirements and standards set forth in the contract and the provisions of the PPDA law above.

The specific objectives of the contract audit were:

- i. To establish the level of achievement of value for money during contract implementation (economy, efficiency and effectiveness);
- ii. To assess the overall management of the project in accordance with each party's obligations; and
- iii. To assess the adherence to Environmental, Social, Health and Safety (ESHS) requirements.

1.4. Scope of the Audit

The contract audit covered the review of the procurement action file, contract management file any other correspondences related to the procurement for the Upgrade of Kaptum and Benet Health Centre IIs to III by Kwik Build Contractors and Engineering Limited that was terminated on 7th February 2022 and the subsequent contract signed by M/s Wiljon Estates Limited on 14th June 2022 to complete the project. The contract by Wiljon Estates Limited covered completion of maternity ward to roof, completion of staff house and construction of a placenta pit and medical waste pit.

1.5. Audit Methodology

The Authority adopted the following methodology during the contract audit:

- i. Request and review of documentation in the procurement action and the contract management files including:
 - a) Original issued bidding document and original submitted bid of the contractor;
 - b) Signed contract and contract management plan;
 - c) Contract monthly progress reports and contract program updates;
 - d) Contract variations/amendments and change orders, where applicable;
 - e) Contracts Committee decisions on contract proceedings; and
 - f) Payment records and related contract correspondences.
- ii. Physical verification of the site.
- iii. Debriefing the Entity's management on the preliminary findings from the contract audit.
- iv. Issuing a management letter to the Entity for an official management response.
- v. Reporting on findings from the contract audit and providing recommendations where applicable.

CHAPTER 2: FINDINGS AND RECOMMENDATIONS

This section presents the findings arising from the contract audit based on the objectives of the exercise:

2.1 Level of achievement of value for money during contract implementation (economy, efficiency and effectiveness)

2.1.1 Financial loss of UGX 235,951,009

The Authority noted that the Entity did not exercise due vigilance and caution necessary over payments leading to a financial loss of UGX 235,951,109 in the Upgrade of Kaptum and Benet Health Centre IIs to III. As of 4th June, 2021, the total value of work completed by the contractor, Kwik Build Contractors and Engineering Limited as indicated in Payment Certificate No. 2, amounted to UGX 543,375,334. However, it was observed that the payments disbursed to the contractor totaled UGX 779,326,343. This included an advance payment of UGX 415,028,307, Payment Certificate No. 1 amounting to UGX 249,516,026, and Payment Certificate No. 2 totaling UGX 114,782,010.

Implication

The Entity incurred a financial loss of UGX 235,951,009, resulting from payment in excess of work done.

Management Response

It is true that the value of works done was UGX 543,375,334, however, the District made an advance payment of UGX 415,028,307 to Kwik Build Contractors and Engineering Limited out of which, we recovered UGX 135,981,973 from two certificates paid to the contractor. As the work progressed we assumed we would continue recovering the remaining balances of the advanced payment of UGX 279,046,334. However, the contractor abandoned site before we could make those recoveries and attempts to get him were futile as he even moved away from his known official address. However, we have also written to the Solicitor General seeking guidance on how to recover the loss.

Recommendation

The Authority deemed the Entity's response as inadequate because the financial loss resulted from the Entity's failure to ensure the prompt renewal of the advance payment guarantee and performance security. In light of this, the Authority makes the following recommendations:

- The Accounting Officer at the time and the officers involved in the administration of these irregular payments to Kwik Build Contractors and Engineering Limited should be held personally liable for the financial loss of UGX 235,951,009 inflicted on the Entity through their actions.
- The Accounting Officer should forward Kwik Build Contractors and Engineering Limited to the Authority for suspension proceedings for abandoning the site and causing a financial loss of UGX 235,951,009 to the Entity.

2.1.2 Delayed completion and abandonment of site by the first contractor (by Kwik Build Contractors and Engineering Limited)

The intended completion date for the first contract by Kwik Build Contractors and Engineering Limited was 30th June 2020, however, by 29th May 2021 only UGX 265,442,584 (19%) worth of works had been done against a time lapse of 300% and the site was subsequently abandoned shortly afterwards on 30th June 2021, despite numerous contract extensions granted to the provider.

2.1.3 Delayed completion and abandonment of site by the second contractor (Wiljon estates Limited)

Whereas the Entity terminated its contract with the first contractor due to abandonment of site and delayed completion and entered into another contract worth UGX. 414,417,623 with Wiljon estates Limited on 14th June 2022 to complete the project. The Authority noted that by 28th June 2022, only UGX 110,912,153 equivalent to 27% of the total contract value had been executed and payments equivalent to UGX. 105,306,545 had been disbursed to the contractor when they abandoned site at the end of June 2022 which shows that the root cause of the problem had not been addressed.

The Authority noted that the persistent abandonment of site was likely because of awarding contracts to providers without financial capacity who have to rely on the advance payment and the Interim Payments as a source of funds to execute the project.

Implication

The Entity failed to enforce execution of the contract leading to delayed service delivery.

Management Response

It is true that the project was delayed and abandoned. The project evaluation of UGIFT Projects is done at the national level and the District has little say over the selection of the contractor and Kwik Build Contractors and Engineering Limited fell under this arrangement. However, Wiljon Estates Limited was awarded the contract by the District two weeks before the closure of the Financial Year. He would not therefore do much within the short time. He was therefore not willing to invest his resources on the project yet the experience is that money is revoted back in quarter IV of the Financial Year.

Recommendations

The Authority deemed the Entity's reply unacceptable because the evaluation process under the UGIFT scheme is carried out collaboratively and involves representatives from the District. Additionally, the District independently managed the procurement process for the second contractor, Wiljon Estates Limited, but despite this, delays were still encountered. The Authority therefore recommends as follows:

- The Head PDU should in future tighten its financial evaluation criteria to ensure that the providers contracted have the financial capacity to execute the projects.
- The Accounting Officer should strengthen contract management of this project by ensuring regular site meetings and in case of persistent breach of contract, appropriate timely action should be taken against the contractor such as caution letters and termination of the contract in accordance with Regulation 120 (15) of the Local Governments (PPDA) Regulations 2006.

2.2 Overall management of the project in accordance with each party's obligation

2.2.1 Failure to formally appoint a contract management team

The Authority noted that in both contracts with Kwik Build Contractors and Engineering Limited as well as Wiljon Estates Limited, there was no evidence that the Accounting Officer formally appointed a contract management team consisting of the:

- i. District Engineer
- ii. District Health Officer,
- iii. District Environmental Officer
- iv. District Community Officer
- v. Sub County Chief
- vi. Clerk of Works
- vii. Representative from the line ministry

This was contrary to the circular No. 3 of 2019 on the implementation of procurements under the UgIFT program for results issued by the Authority on 24th July 2019.

Implication

This led to poor contract management and might have contributed to the delays and eventual abandonment of site by the contractors.

Management Response

At the start of the implementation of UGIFT projects, there was inadequate guidance on the formation of the project management team and the said circular was never received in the District. However, we appointed a contract manager and contract supervisor who worked closely to manage these projects. However, we have appointed project implementation teams for the current Financial Year.

Recommendation

The Authority found the Entity's Response unsatisfactory since the said circular by the Authority was issued on 24th July 2019 way before the procurement was initiated.

The Accounting Officer should ensure that a contract management team is formally appointed in accordance with the PPDA circular no 3 of 2019 on the implementation of procurements under the UGIFT program for results. The Circular can be obtained on the PPDA Website.

2.2.2 Mismanagement of performance security

i. Failure to fulfil the performance security requirements

In the upgrade of Kaptum and Benet Health Centre II to III, Kwik Build Contractors and Engineering Limited violated GCC 52 of the special contract conditions regarding the submission of a 10% performance security. The Contractor failed to provide the required performance security within the stipulated twenty-one (21) days of signing the contract, as mandated by GCC 52.1 of the contract terms and consequently abandoned site without any form, recourse by the Entity.

ii. Failure to require providers to furnish performance securities

Additionally, in the procurement for completion of Upgrade of Kaptum and Benet Health Centre IIs to III by Wiljon estates Limited worth UGX 414,417,623, the Entity did not require the contractor to submit a performance security despite the magnitude of the project and the history of the project i.e. the project had already been abandoned by the previous contractor, Kwik Build Contractors and Engineering Limited which makes it a high risk project.

Implication

Failure to have performance security cover implies that the Entity is not protected from non-performance or failure to execute the contract by the contractor.

Management Responses

- i. It is true the contractor (Kwik Build Contractors and Engineering Limited) in the upgrade of Kaptum and Benet Health Centre II to III delayed to submit a performance security which they did after 21 days. This seems to have arisen from delays by the contractor's banker. However, we shall endeavor to ensure in future that there is strict adherence to the General Conditions of the contract.
- ii. It is true the contractor Wiljon Estates Limited, did not submit a performance security for the Upgrade of Kaptum and Benet Health Centre II to III due to inadequate time to process the performance security. This is because the project was cleared by the Solicitor General on the 14th of June 2022 and the agreement was also signed on the same day. The period that was left to the end of the Financial Year was very short, and while the contractor was trying to process the performance security, the funds were automatically returned to the Treasury. These made it difficult for the District to commit the Contractor to process a performance security and continue with the execution of works before funds are revoked.

Recommendations

- The Accounting Officer should enforce the performance security clause through causing the contractor to submit an acceptable performance security as required in the contract.
- The Entity should in future proceed to award the contract to the next best evaluated bidder in case the Best Evaluated Bidders fails to submit a performance security as required.

2.2.3 Mismanagement of advance payment guarantee in the Upgrade of Kaptum and Benet Health Centre IIs to III by Kwik Build Contractors and Engineering Limited

i. Failure to conduct due diligence on the advance payment guarantee

There was no evidence that the Entity conducted due diligence on the advance payment guarantee submitted by the contractor, Kwik Build Contractors and Engineering Limited from Stanbic Bank Limited dated 28th November 2019, despite it not being on headed paper with no company logo that makes its authenticity doubtful. 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.

ii. Acceptance of an invalid advance payment guarantee

Additionally, the Guarantee was conditional and included a clause that stated that; “Stanbic Bank Limited’s liability becomes effective on this guarantee after advance payment proceeds are received at our counters on account number 031000UGX5203002”. Which was unclear and effectively makes the guarantee unenforceable since it is contingent on an unascertained condition.

iii. Failure to provide for advance payment recovery

The contract did not provide for the format of recovery of advance payment. There was no mode of recovery and by what percentage per certificate which exposed the Entity to the risk of financial loss.

iv. Failure to extend the validity of the advance payment guarantee

The Authority noted that whereas the advance payment Guarantee worth UGX 415,028,307 submitted by the contractor; Kwik Build Contractors and Engineering Limited expired on 30th June 2020, there was no attempt by the Entity to have it renewed yet the contractor was allowed on site up to 30th June 2021 when they eventually abandoned the project. This was contrary to Regulation 116 (6) of the Local Governments (PPDA) Regulations 2006 that provides that “*the validity period for a payment security for procurement for works shall be for three to six months after the final expected transaction date*”.

Implication

This leaves the Entity without recourse in case of non-performance of the contract by the contractor and could lead to financial loss.

Management Responses

- i. It is true that the District failed to conduct due diligence on the advance payment guarantee. However, we shall ensure that we conduct due diligence on all advance payment guarantee in all projects implemented in the District.
- ii. It is true that we accepted an invalid advance payment guarantee presented to us. This was an oversight, however, we promise in future to study any advance payment guarantee critically and carry out due diligence on all advance payment guarantee presented to us before we affect any payments.
- iii. It is true, that we failed to provide for advance payment recovery mode, however, we effected the recovery basing on the 30% of the value of works done as indicated in the special conditions of contract. However, in future, the mode of recovery shall be included in the contract document.
- iv. On the extension of the validity of advance payment guarantee, the Accounting Officer communicated to the contractor bringing to his attention the expiry of the advance payment Guarantee and performance security, however, we did not follow this up with the bank, extra caution will be taken in the future when handling similar payments.

Recommendations

- The Accounting Officer should caution the contract manager who also doubles as the District Engineer in writing for accepting an invalid advance payment guarantee, failing to provide for the mode of recovery of advance payment and failing to ensure extension of the advance payment guarantee.

- 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.
- The Accounting Officer should ensure that advance payment is handled in accordance with Regulation 115 (1 to 5) of the Local Governments (PPDA) Regulations 2006 and made against a valid advance payment guarantee with clear provisions in the contract on how recovery will be made against the works certificates.

2.2.4 Inadequate contract documents

i. **Conflicting terms of contract.**

The Authority noted that the contract for the Upgrade of Kaptum and Benet Health Centre IIs to III by Kwik Build Contractors and Engineering Limited contained contradictory terms and conditions. The special conditions of contract provided that the works shall commence seven days after contract signature, the letter of bid acceptance stated that works shall commence immediately after contract signature, the bid document stated that the works were to commence 14 days from the date of site handover. Such inconsistencies affect contract implementation and subsequently may delay service delivery to the intended beneficiaries.

ii. **Incomplete contract document**

The Authority noted that whereas the Entity used the standard contract form issued by the Authority in the procurement for completion and Upgrade of Kaptum and Benet Health Centre II to III by Wiljon estates Limited worth UGX 414,417,623. Several key terms and conditions provided in the form were not filled, an indicator of lack of capacity and or negligence by the Entity's procurement personnel. The incomplete terms included:

Table 1: Showing incomplete contract terms

S/No	Reference	Details
1.	GCC 14.1	Schedule of key personnel
2.	GCC 22	Intended completion date
3.	GCC 26	Site possession date

Implication

Inadequate contract documents cause challenges and confusion during contract implementation.

Management Responses

- It is true that there were some inconsistencies on the commencement dates of the projects. However, this arose from the delay in clearance by the Office of the Solicitor General. We shall ensure that these kinds of inconsistencies are avoided in the contract documents in future.
- It is true that there was incomplete contract document provided. This is because of an oversight by the procurement personnel in providing the information required in GCC 22 and GCC 26. However, this will be handled keenly in the future when preparing contract documents in the future.

Recommendation

The Contracts Committee should ensure that contract documents are thoroughly scrutinized before contract signature to iron out any discrepancies that may arise.

2.2.5 Failure to follow proper procedures for contract termination

Regulation 120 (14) of the Local Governments (PPDA) Regulations 2006 provides that; “where the contract supervisor believes that a contract should be terminated, the contract supervisor shall submit a recommendation for termination to the Accounting Officer with a copy of the contract to a contracts committee”. The Authority noted that whereas the Entity terminated its contract with Kwik Build Contractors and Engineering Limited on 2nd August 2021 due to delayed completion and abandonment of site, there were no formal procedures followed as detailed below:

- i. No evidence that the Solicitor General’s approval was obtained before termination of the contract.
- ii. No evidence of Contracts Committee’s approval of the termination.
- iii. There was no proper recommendation of the termination from the Contract Manager to the Accounting Officer with clear grounds for the termination.

Implication

This implies that the termination could be challenged in the courts of law.

Management Responses

- i. It is true that we terminated Kwik Build Contractors and Engineering Limited without approval of the Solicitor General. We shall ensure that in future we seek approval of the Solicitor General to terminate any contract.
- ii. It is true there was no approval for termination of the Contracts Committee.
- iii. It is true there was no recommendation from the Contract Manager to terminate the contract. However, we shall ensure the contract manager prepares a recommendation to terminate the contract in case such scenario occurs.

Recommendation

The Accounting Officer should ensure that all contract terminations are conducted in accordance with Regulation 120 (14) of the Local Governments (PPDA) Regulations 2006.

2.2.6 Missing contract management records

Regulation 119 (1) of the LG PPDA Regulations, 2006 provides that after a contract has been placed, contract management, except the capacity to amend or terminate, shall pass from the Accounting Officer to the User Department. Regulation 119 (10) (f) of the same regulations further provides that one of the functions of a contract supervisor is to submit reports on the progress or completion of a contract to the Procurement and Disposal Unit or Accounting Officer.

The Authority noted that the Entity did not maintain the following contract management records on file for both contracts i.e. Kwik Build Contractors and Engineering Limited and Wiljons Estates Limited.

- a. Contract extensions
- b. Site meeting minutes

- c. Contract implementation plan
- d. Land title

Implication

This indicates non transparency and failure by the Entity to account for public funds.

Management Response

During the time of audit, most of these documents had been filed in various files which were not easy to access at that time. Some of the documents have been attached for verification, however, there are no site meeting minutes, contract implementation plan and the land title is in the process.

Recommendation

The Accounting Officer should ensure that the contract management system in the Entity is strengthened through holding regular site meetings, ensuring that a contract implementation plan is in place and ensuring that contractors are held liable in accordance with the terms and conditions stipulated in the contract.

2.3 Adherence to Environmental, Social, Health and Safety (ESHS) requirements

2.3.1 Failure to obtain an insurance cover

The contractor Kwik Build Contractors and Engineering Limited did not obtain an insurance cover contrary to GCC 13.1 which stated that the contractor shall provide insurance cover for the workers (Workman's compensation policy).

Implication

This exposes the workers to risk of injury without any form of compensation.

Management Response

It is true the contractor did not provide the insurance cover for the workers, however, we shall task the contract supervisors in subsequent procurements to ensure that insurance cover is obtained when provided for.

Recommendation

The Accounting Officer should task the contract supervisors in subsequent procurements to ensure that insurance cover is acquired by the contractors, when provided for in the contract.

2.4 Conclusion

Both contracts made by the Entity, the one with Kwik Build Contractors and Engineering Limited terminated on 7th February 2022, and the subsequent contract entered into with Wiljon Estates Limited on 14th June 2022, were characterized by inadequate contract management, resulting in site abandonment in both instances. Poor handling of the advance payment and performance security meant that the Entity had no recourse when Kwik Build Contractors and Engineering Limited abandoned the site, causing a financial loss of UGX 235,951,009. Moreover, Wiljon Estates Limited displayed a lack of capability when they also abandoned the site on 30th June 2022, shortly after the contract was signed on June 14, 2022, having completed only UGX 110,912,153, which equates to 27% of the total contract value of UGX 414,417,623.

2.5 Overall recommendations

The Accounting Officer should:

- Strengthen contract management of the contract with Wiljon Estates Limited by ensuring regular site meetings and in case of breach of contract, appropriate and timely action should be taken against the contractor such as caution letters and termination of the contract in accordance with Regulation 120 (15) of the Local Governments (PPDA) Regulations 2006.
- The Accounting Officer should forward Kwik Build Contractors and Engineering Limited to the Authority for suspension proceedings for abandoning the site and causing a financial loss of UGX 235,951,009 to the Entity.

CHAPTER 3 APPENDICES

APPENDIX 1 current status of the project

Table 2: Pictures showing the status of the Upgrade of Kaptum HC II to III

Maternity ward



Site abandoned

Placenta pit incomplete



Pit latrine



Pictures showing the status of the Upgrade of Kaptu HC II to III

Maternity ward (site abandoned)



Placenta pit



Pit latrine and bathroom



The pit hall had been excavated, however the foundation base had not been completed