



**INVESTIGATION INTO ALLEGED CORRUPTION, FINANCIAL LOSS AND
FRAUD IN THE PROCUREMENT OF PROVISION OF LEGAL SERVICES TO
ENTEBBE MUNICIPAL COUNCIL**

ENTITY: ENTEBBE MUNICIPAL COUNCIL

COMPLAINANT: WHISTLE BLOWER

NOVEMBER 2024

TABLE OF CONTENTS

TABLE OF CONTENTS	i
LIST OF TABLES	ii
ACRONYMS	iii
1.0. SUMMARY OF FACTS	1
2.0 OBJECTIVES OF THE INVESTIGATION	2
3.0 LAW APPLICABLE	2
4.0 SCOPE OF INVESTIGATION	2
5.0 METHODOLOGY	2
5.1 Document review	2
5.2 Interviews	3
6.0 FINDINGS BY THE AUTHORITY	3
7.0 RECOMMENDATIONS	5

LIST OF TABLES

Table 1: Membership of the Evaluation Committee	1
Table 2: Record of Issue of Bidding Documents	1
Table 3: List of Persons Interviewed.....	3
Table 4: Summary of Procurement Processes for Financial Years 2015/16 to 2022/23	3

ACRONYMS

BEB	-	Best Evaluated Bid
CC	-	Contracts Committee
HPDU	-	Head Procurement and Disposal Unit
LPO	-	Local Purchase Order
MC	-	Municipal Council
NoBEB	-	Notice of Best Evaluated Bidder
PPDA	-	Public Procurement and Disposal of Public Assets Authority
PDE	-	Procuring and Disposing Entity
PDU	-	Procurement and Disposal Unit
TC	-	Town Clerk
UGX	-	Uganda Shillings
VAT	-	Value Added Tax

1.0. SUMMARY OF FACTS

1. On 15th June 2023, the Personal Secretary to the Town Clerk Ms. Joan Balibaawo Namuyiga of Entebbe Municipal Council initiated the procurement for provision of legal services with a cost estimate of UGX 18,000,000 which was approved by the Accounting Officer on the same day.
2. On 19th June 2023, the Contracts Committee approved Open Domestic Bidding procurement method, the bidding document and the Evaluation Committee for the service. The approved members of the Evaluation Committee are indicated in Table 1 below:

Table 1: Membership of the Evaluation Committee

No.	Name	Title	Department	Reason for selection
1.	Mr. Stephen Mulindwa	Principal Commercial Officer	Trade, LED and Industry	Representative of the User Department & Technical Expertise
2.	Mr. Charles Mpalanyi	Finance Officer	Finance	Representative of the User Department & Technical Expertise
3.	Dr. John Kalyesubula	Municipal Health Officer	Health	Representative from User Department
4.	Ms. Belinda Namuddu	Procurement Officer	PDU	Procurement knowledge

3. On 22nd June 2023, the Accounting Officer advertised an invitation for bids in the New Vision with a bid submission closing date of 12th July 2023. Three bidders were issued with the bidding document as indicated in Table 2 below:

Table 2: Record of Issue of Bidding Documents

No.	Name & address of Bidder	Document issued date
1.	Shonubi Musoke & Co. Advocates	26 th June 2023
2.	Lule Godfrey & Mulumba Co. Advocates	5 th July 2023
3.	Osilo & Company Advocates	6 th July 2023

4. On 12th July 2023, the Procurement Officer Ms. Belinda Namuddu and Ms. Irene Mpamulungi member of the Contracts Committee received and opened one bid from Osilo & Company Advocates. Shonubi Musoke & Co. Advocates and Lule Godfrey & Mulumba Co. Advocates did not submit bids.
5. On 28th July 2023, the Evaluation Committee completed bid evaluation and recommended Osilo & Company Advocates for award of contract at a monthly retainer fee of UGX 1,200,000
6. On 3rd August 2023, the Contracts Committee under minute no. 015/CC/001/23-24 approved the evaluation report and awarded the contract for provision of legal services on retainer basis to Osilo & Company Advocates at UGX 1,200,000 inclusive of taxes.
7. On 4th August 2023, the Town Clerk issued a Best Evaluated Bidder Notice with removal date of 17th August 2023.

8. On 28th August 2023, the Town Clerk Mr. Emmanuel Mugisha Gacharo signed a contract and appointed Ms. Juliet Nakate, the Senior Enforcement Officer the Contract Manager for provision of legal services on retainer basis with Osilo and Company Advocates at a monthly retainer fee of UGX 1,200,000 for a contract period of 12 calendar months.
9. On 6th June 2024, the Authority received a complaint from a whistle blower alleging that:
 - i. The Entity had been contracting Osilo & Co. Advocates a private law firm for provision of legal services on a retainer basis since 2013 without following the procurement process;
 - ii. Entebbe Municipal Council had made payments to Osilo & Co. Advocates without any justification/ no work done; and
 - iii. The Attorney General had not cleared any contract between Entebbe Municipal Council and Osilo & Co. Advocates.

2.0 OBJECTIVES OF THE INVESTIGATION

The objectives of the investigation were:

- i. To establish whether Entebbe Municipal Council has been contracting Osilo & Co. Advocates for provision of legal services on a retainer basis since 2013 without following the procurement procedures;
- ii. To establish whether Entebbe Municipal Council had made payments to Osilo & Co. Advocates without any justification/ no work done; and
- iii. To establish whether the Attorney General had not cleared any contract between Entebbe Municipal Council and Osilo & Co. Advocates.

3.0 LAW APPLICABLE

1. The Constitution of the Republic of Uganda, 1995.
2. The Public Procurement and Disposal of Public Assets Act, Cap 205.
3. The Local Governments (Public Procurement and Disposal of Public Assets) Regulations, 2006.
4. Attorney General issued an advisory circular to local governments Ref: ADM/7/141/01 dated 29th August 2023

4.0 SCOPE OF INVESTIGATION

The investigation covered the procurement process for provision of legal services on a retainer basis at a monthly pay of UGX 1,200,000 from procurement initiation to contract management.

5.0 METHODOLOGY

5.1 Document review

1. The Authority undertook a review of the following documents:
 - a) The procurement plan
 - b) Procurement requisition;
 - c) The bid notice;
 - d) Record of issue of bidding documents;
 - e) Record of bid receipt and opening;
 - f) Contracts Committee decisions;
 - g) The contract;
 - h) Payment records; and
 - i) Other relevant correspondences on file.

5.2 Interviews

On 26th July 2024, an interview was held with staff from Entebbe Municipal Council as indicated in Table 3 below:

Table 3: List of Persons Interviewed

No.	Name	Designation
01.	Mr. Emmanuel Mugisha Gacharo	Town Clerk/Accounting Officer
02.	Mr. Charles Mpalanyi	Finance Officer
03.	Ms. Juliet Nakate	Senior Law Enforcement Officer
04.	Ms. Anne Nannyombi	Senior Procurement Officer

6.0 FINDINGS BY THE AUTHORITY

6.1 Whether Entebbe Municipal Council had been contracting Osilo & Co. Advocates for provision of legal services on a retainer basis since 2013 without following the procurement procedures.

1. The Complainant alleged that Entebbe Municipality had been contracting Osilo & Co. Advocates for provision of legal services on retainer basis since 2013 without following the procurement process.
2. Section 28 (1) of the PPDA Act Cap 205 provides that the Accounting Officer of a Procuring and Disposing Entity shall have overall responsibility for the execution of the procurement and disposal process in the Procuring and Disposing Entity.
3. The Authority noted that Entebbe Municipal Council during financial years 2013/2014 and 2014/2015 engaged the Attorney General's Office and a private legal firm by the names of Mutabingwa and Co. Advocates for the provision of legal services. The Entity in the subsequent financial years embarked on advertising for provision of legal services where in which Mutabingwa and Co. Advocates never participated.
4. The Authority reviewed the procurement process for procurement of legal services since financial year 2015/2016 and noted that the Entity was undertaking a procurement process for legal services every financial year using Open Domestic Bidding method save for financial year 2021/2022 in which a contract time extension was granted as summarized in Table 4 below:
5. Osilo and Co. Advocates would emerge as the best evaluation bidders every financial year after following the due procurement process.

Table 4: Summary of Procurement Processes for Financial Years 2015/16 to 2022/23

Financial year	Date of advert	Evaluation report date	Date of award	Date of No BEB	Contract date	Retainer fees in UGX
2015/2016	22 nd May 2015	12 th August, 2015	31 st August, 2015	17 th August, 2015	1 st September, 2015	1,500,000
2016/2017	22 nd August, 2016	16 th September, 2016	14 th October, 2016	29 th September, 2016	19 th October, 2016	1,500,000

Financial year	Date of advert	Evaluation report date	Date of award	Date of No BEB	Contract date	Retainer fees in UGX
2017/2018	22 nd May, 2017	26 th June, 2017	31 st July, 2017	17 th July, 2017	1 st August, 2017	1,500,000
2018/2019	22 nd May, 2018	21 st June, 2018	20 th July, 2018	5 th July, 2018	1 st August, 2018	2,370,000
2019/2020	21 st May, 2019	26 th June, 2019	15 th July, 2019	1 st July, 2019	22 nd July, 2019	1,000,000
2020/2021	21 st May, 2019	26 th June, 2019	15 th July, 2019	1 st July, 2019	22 nd July, 2019	1,000,000
2021/2022 (Extension)	21 st May, 2019	26 th June, 2019	15 th July, 2019	1 st July, 2019	1 st August, 2021	1,000,000
2022/2023	14 th June, 2022	5 th August, 2022	26 th August, 2022	12 th August, 2022	31 st August, 2022	1,200,000
2023/2024	22 nd June, 2023	28 th July, 2023	3 rd August, 2023	4 th August, 2023	28 th August, 2023	1,200,000

The Authority did not find merit in the allegation that Osilo and Co. Advocates were awarded the contracts for provision of legal services every financial year since 2013 without following the procurement process.

6.2 Whether Entebbe Municipal Council made payments to Osilo & Co. Advocates with no work done

1. The whistle blower alleged that Entebbe Municipal Council has been making payments to the law firm without justification or work done.
2. A review of the special conditions of contract GCC 24.2 for provision of legal services signed between Entebbe Municipal Council and Osilo & Co. Advocates on 28th August 2023 for the financial year 2023/2024 provided that certification of work done shall be required to support invoices requesting for payments. The Authority was not provided with contracts of previous financial years.
3. The Authority noted that during the financial year 2023/2024, Osilo & Co. Advocates were paid UGX 33,000,000. This included retainer fees of UGX 32,000,000 for 32 months from September 2021 to April 2024 and UGX 1,000,000 being partial payment for court facilitation for the months of March and April 2022.
4. The Authority noted that the provider submitted a report on the status of court cases and legal issues handled on behalf of Entebbe Municipal Council indicating 23 cases handled, however, the report was not certified by the Accounting Officer.

5. The Authority further noted that the Contract Manager Ms. Juliet Nakate prepared and submitted quarterly reports to the Accounting Officer detailing the court cases that were handled or being handled by the provider.

The Authority found no merit in the allegation that Osilo & Co. Advocates was paid for no work done

6.2 Whether the Attorney General did not clear any contract between Entebbe Municipal Council and Osilo & Co. Advocate

1. The Complainant alleged that the Attorney General did not clear any contract between Entebbe Municipal Council and Osilo & Co. Advocates.
2. On 28th August 2023, the Town Clerk Mr. Emmanuel Mugisha Gacharo signed a contract and appointed Ms. Juliet Nakate, the Senior Enforcement Officer the Contract Manager for provision of legal services on retainer basis with Osilo and Company Advocates at a monthly retainer fee of UGX 1,200,000 for a contract period of 12 calendar months.
3. On 29th August 2023, Attorney General issued an advisory circular to local governments Ref: ADM./7/141/01 dated **29th August 2023** guided that:
 - i) The Attorney General reserves the right to represent Government in all courts of law and other tribunals as by law established. The Attorney General may, however, elect or authorize a Local Government to engage the services of a private law firm to provide legal services, albeit through a legally established and acceptable procedure; and
 - ii) Any subsisting retainer agreements between Local Governments and private law firms as at the time of the advisory circular should be terminated in accordance with their terms.
4. In an interview with the Accounting Officer revealed that the Municipality became aware of the circular after they had already signed the contract.
5. The Entity did not seek further guidance from the Attorney General for use of a private law firm as per his advisory circular Ref: ADM./7/141/01 dated 29th August 2023. In an interview, the Accounting Officer asserted that the Entity has since sought for clearance of the contract, however, no evidence was provided.
6. The Authority noted that the Entity did not adhere to Attorney General's guidance on termination of the running retainer contract for the provision of legal services.

The Authority found merit in the allegation that the Attorney General did not clear any contract between Entebbe Municipal Council and Osilo & Co. Advocates.

7.0 RECOMMENDATIONS

- i) The Accounting Officer should comply with the Attorney General's guidance circular Ref: ADM./7/141/01 of 29th August 2023 in the procurement of legal services.
- ii) The Accounting Officer should always be vigilant on matters of guidance, updates and any information issued by competent authorities.