



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

APPLICATION NO: 42 OF 2018/2019

**DECISION OF THE AUTHORITY ON APPLICATION FOR
ADMINISTRATIVE REVIEW IN RESPECT TO THE PROCUREMENT
OF CONSTRUCTION OF COUNCIL CHAMBERS PHASE V – PROC.
REF. No. AMUN/565/WRKS/18-19/00004**

APPLICANT: UK GENERAL SERVICES LIMITED

ENTITY: AMURIA DISTRICT LOCAL GOVERNMENT

MARCH 2019

DECISION OF THE AUTHORITY

1.0 BRIEF FACTS

1. On 4th September 2018, Amuria District Local Government initiated the procurement for construction of Council Chambers Phase V at an estimated cost of UGX 220,000,000.
2. On 20th December 2018, the Entity published the bid notice in the New Vision Newspaper with a bid closing date of 21st January 2019 at 12:00 pm.
3. The bidding documents were issued to two (2) bidders as indicated in Table 1 below:

Table 1: Bidders Issued with the Bidding Document

No.	Name of Bidder
1.	Team Technologies Limited
2.	U.K General Services Limited

4. On 20th January 2019, two (2) firms submitted bids which were opened and prices read out as indicated in Table 2 below:

Table 2: Bid Prices Read Out

No.	Name of Bidder	Price Read Out (UGX)
1.	U.K General Services Limited	195,540,219
2.	Team Technologies Limited	197,201,364

5. The Evaluation Report dated 25th January 2019 indicated that U.K General Services Limited failed at the preliminary examination and assessment of eligibility because it attached an invalid PPDA Register of Provider's Certificate of 2018 leaving only one bidder to proceed to the detailed technical and commercial evaluation.
6. On 28th January 2019, the Contracts Committee awarded the contract to Team Technologies Ltd at UGX 197,201,364.
7. On 28th January 2019, the notice of best evaluated bidder was displayed with a removal date of 8th February 2019.
8. On 29th January 2019, the Applicant applied for Administrative Review to the Accounting Officer.
9. On 12th January 2019, the Accounting Officer issued the decision rejecting the application for Administrative Review.

2.0 APPLICATION FOR REVIEW BY THE AUTHORITY

1. On 22nd January 2019, the Applicant applied for Administrative Review to the Authority.

2. The grounds for the Application to the Authority were stated as follows:
 - i. The Entity erroneously disqualified his bid for submission of an invalid PPDA Register of Provider's certificate of 2018 yet it could have sought for clarification; and
 - ii. The Applicant quoted UGX. 195,540,219 which was lower than the best evaluated bidder at UGX. 197,201,364.

3.0 DISPOSAL OF APPLICATION

1. In investigating the application for Administrative Review, the Authority analysed the following documents:
 - i) Bidding document;
 - ii) Record of bid opening;
 - iii) Bids submitted by the bidders;
 - iv) The evaluation report and minutes;
 - v) Minutes of the Contracts Committee;
 - vi) Notice of Best Evaluated Bidder;
 - vii) Application for Administrative Review by UK General Services Limited; and
 - viii) Correspondences with respect to the Administrative Review.
2. On 6th March 2019, the Authority convened an Administrative Review hearing which was attended by the following persons indicated in Table 3:

Table 3: Representation at the Administrative Review Hearing

No.	Name	Designation
Amuria District Local Government		
1.	Mr. Martin Kiplangati	Chief Accounting Officer
2.	Mr. Julius Eonya Elolu	Ag. District Engineer
3.	Mr. Richard Egobu	Ag. Senior Procurement Officer
U.K General Services Ltd		
1.	Mr. William Ekosike	Director

4.0 ISSUES

The Applicant submitted one ground at the hearing from which the Authority raised the following issue:

Whether the Entity should have sought clarification from the bidder with respect to the submission of an expired PPDA providers' certificate.

5.0 SUBMISSIONS BY THE APPLICANT

- i. The Applicant stated that the Entity's bidding document for the procurement had a requirement of submission of a valid PPDA Certificate. On 16th January 2019, the

company paid for renewal of its certificate however PPDA was not able to issue the certificate on time due to technical problems at the Authority.

- ii. The Applicant further contended that the Applicant received its PPDA Register of Providers' Certificate on 21st January 2019, the deadline for submission and was not able to submit it with its bid and hence submitted the old certificate which expired in December 2018. The Entity disqualified the bid for submission of an invalid PPDA Register of Providers' certificate.
- iii. The Applicant submitted that upon receipt of the valid PPDA Register of Providers' certificate, it submitted the same to the Entity the day after bid opening and it was formally received by the Entity.
- iv. The Applicant argued that submission of an expired PPDA Register of Providers' certificate should not have been a reason to disqualify its bid because as a good procurement practice the Entity should have called the Applicant to find out about the missing documents in accordance with PPDA Regulations 73 (1-4), 74 (1-6) and 78 on detailed evaluation of bids.
- v. The Applicant contended that the Entity should have sought clarification in accordance with the law.
- vi. The Applicant further stated that the Entity advised the company to pay UGX. 1 Million Administrative Review fees which seemed too high and thus required an explanation at how the fee was determined.

6.0 SUBMISSIONS BY THE ENTITY

- i. The Entity submitted that during the evaluation process, the Applicant was found to have submitted an invalid PPDA Register of Providers' Certificate. The Entity further submitted that the challenges raised by the Applicant at the hearing before the Authority were never brought to the attention of the Entity at bid opening.
- ii. The Entity denied receipt of the alleged valid PPDA Register of Providers' Certificate as stated by the Applicant and requested for proof of submission of the valid PPDA Register of Providers' Certificate by the Applicant.
- iii. With respect to the Administrative review fees charged being too high, the Entity stated that it consulted the PPDA Regional office in Mbale and was provided with a copy of the Guidelines on payment of fees.

7.0 REJOINDER

In rejoinder to the Entity's submissions, the Applicant argued that it submitted the a copy of the valid PPDA Register of Providers' Certificate on 22nd January 2019 after closure of bid submission and the Entity should have sought clarification.

8.0 RESOLUTION BY THE AUTHORITY

- i. In determining the matter, the Authority inquired from the Applicant as to whether the alleged payment receipt for the renewal of the PPDA Register of Providers' Certificate had been submitted in the bid to which the Applicant stated it had not been part of the bid.
- ii. The Authority further requested the Applicant to submit proof of submission of its valid PPDA Register of Providers' Certificate to the Entity as alleged and a copy of the payment slip for the renewal of PPDA Register of Providers' Certificate to the Authority by close of business on Thursday 7th March 2019.
- iii. The Authority established that Part 2: Section 3 (5) Evaluation Methodology and Criteria under preliminary Examination Criteria section 3.2(m) of the bidding document required bidders to provide evidence of eligibility as '*Valid registration by Public Procurement and Disposal of Public Assets Authority*'.
- iv. The Authority found that the Applicant submitted a Certificate of Registration of Providers that was valid up to December 2018. The Evaluation Committee failed the Applicant on this requirement since it was not a valid Certificate at the time of submission. The Entity thus properly evaluated the Applicant's bid with respect to submission of a valid PPDA Register of Providers' Certificate as required in the solicitation document.
- v. The Entity could not seek a clarification on the document that was in the bid from the Applicant since the attached PPDA Register of Providers' certificate clearly indicated expiry as December 2018.

9.0 DECISION OF THE AUTHORITY

In accordance with Section 91 (4) of the PPDA Act, 2003 and in light of the findings during the Administrative Review process, the application for Administrative Review U.K General Services Limited is **rejected**.

The Authority advises the Entity to proceed with the procurement after 10 working days from the receipt of the communication where no appeal is lodged before the PPDA Appeals Tribunal.