



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

"Procurement That Delivers"

PPDA/NAMC/725

19th September 2023

The Town Clerk
Nansana Municipal Council
P.O Box 7218
KAMPALA

**MANAGEMENT LETTER ON THE PROCUREMENT AND DISPOSAL COMPLIANCE
AUDIT OF NANSANA MUNICIPAL COUNCIL FOR FINANCIAL YEAR 2021/2022**

Reference is made to the above subject.

The Public Procurement and Disposal of Public Assets Authority (PPDA) conducted a procurement and disposal compliance audit of your Entity that covered ten (10) sampled procurement transactions under the Financial Year 2021/22.

The overall objective of the procurement and disposal compliance audit was to assess and establish the degree of compliance of Nansana Municipal Council procurement system, process and disposal process with the provisions of the PPDA Act, 2003 and Local Governments (PPDA) Regulations, 2006 and assess the level of procurement and disposal performance over the audit period.

The specific objectives of the compliance of Nansana Municipal Council were:

1. To establish the level of compliance by the PDE with the general provisions of the PPDA Act, 2003 and the Local Governments (PPDA) Regulations, 2006;
2. To establish the level of compliance with the PPDA Act, 2003, Local Governments (PPDA) Regulations, 2006 in the conduct of procurement and disposal activities; and
3. To assess the level of efficiency and effectiveness in contract implementation.

During the course of the audit, the Authority identified a number of exceptions for the attention of management. The purpose of this letter therefore is to communicate the following findings and recommendations for your management response.

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1.1 COMPLIANCE BY THE PDE WITH THE GENERAL PROVISIONS OF THE PPDA ACT, 2003 AND THE LOCAL GOVERNMENTS (PPDA) REGULATIONS, 2006.

1.1.1 Procurement structures

The Entity had a substantive Accounting Officer, a Procurement and Disposal Unit with one staff for the period under review, a Contracts Committee consisting of five members and adhoc Evaluation Committees appointed for each procurement transaction. The Entity's substantive Accounting Officer during the Financial Year was the Town Clerk Mr. Tandeka Festo.

i. Composition and tenure of Contracts Committee

During the year under compliance, the Entity's Contracts Committee was fully constituted and tenure not expired for any of the members.

Table 1: Composition of Contracts Committee

S/N	Name	Position	Job Title
1.	Hajjati Hadijah Sengendo Mukasa	Chairperson	Principal Assistant Town clerk
2.	Ms. Lilian Ndagire	Member	Principal Community development Officer
3.	Mr. Isaac Makanga	Member	Economic Planner
4.	Mr. Isaac Bugembe	Member	Municipal Health Officer
5.	Ms. Stella Nalumansi	Member	Senior Environment Officer

ii. Staffing of the Procurement and Disposal Unit

The Authority noted that at the time of audit, the Procurement and Disposal Unit had only one staff, a Senior Procurement Officer (Head Procurement and Disposal Unit) as indicated in table 2 below.

Table 2: Staff in the Procurement and Disposal Unit

No	Name	Position	Academic and professional qualifications
1.	Mr. Charles Lukwago	Senior Procurement Officer	PGD-PSCM

1.1.2 Failure to implement previous audit recommendations

The Entity was issued a previous audit report for the Financial Year 2018/19 in January 2019 and out of the four recommendations made, one (25%) was implemented, one (25%) was partially implemented and two (50%) were not fully implemented as indicated in Table 3 below.

No	Recommendation	Status
2.	The Head Procurement and Disposal unit should ensure that framework contracts are formally initiated in accordance with Regulation 65(5)(b) of the Local Government (PPDA) Regulations, 2006.	Implemented
3.	The Accounting Officer should desist from signing contracts above market price	Not Implemented
4.	All contract supervisors should prepare contract implementation plans in accordance with Regulation 119(3) of the Local Government (PPDA) Regulations, 2006	Not implemented

Implications

- Failure to fully implement the Authority's audit recommendations is a breach of Section 9 of the PPDA Act, 2003.
- This is also a red flag for weak internal controls and affects the performance of the procurement and disposal function in the Entity.

Recommendation

The Accounting Officer with support from Internal Audit should come up with a strong mechanism to ensure that all audit recommendations are regularly monitored and implemented so as to improve the Entity's performance.

Management Response

1.1.3 Failure to implement 46% of the procurement plan

Section 58 (4) of the PPDA Act, 2003) states that a procuring and disposing entity shall, on a quarterly basis and in any other case, wherever necessary, review and update its procurement plan. Table 4 below summarizes information about the procurement plan and budget for Financial year 2021/22, and utilization of funds. The procurement plan implementation rate was 54% while the implementation variance was worth UGX 5,073,901,779 (46%).

Table 4: Procurement plan Implementation

Total procurement plan value inclusive VAT (UGX)	10,939,241,506
Total procurement spend value inclusive VAT (UGX)	5,865,339,727
Implementation variance (UGX)	5,073,901,779
Implementation Rate (%)	54%

NB: This information was computed based on the quarterly reports submitted to the Entity against its updated procurement plan.

Implication

Failure to fully implement the procurement plan hinders service delivery to the intended beneficiaries and also exposes the Entity to risks of budgetary cuts for subsequent periods due to non-performance.

Recommendations

The Accounting Officer should provide justification for failure to implement the procurement plan in its entirety. In addition, the Accounting Officer together with Management should regularly review the implementation of the procurement plan and update it where necessary in accordance with Section 58 (4) of the PPDA Act, 2003 to ensure improved performance.

Management Response

1.2 LEVEL OF COMPLIANCE WITH THE PPDA ACT, 2003 AND LOCAL GOVERNMENTS (PPDA) REGULATIONS, 2006 IN THE CONDUCT OF PROCUREMENT AND DISPOSAL ACTIVITIES

1.2.1 Irregularities in the bidding process.

Regulation 25(1)(a) of the Local Governments (PPDA) Regulations, 2006 requires the Procurement and Disposal unit to manage/coordinate the procurement and disposal activities of all the departments of the procuring and disposing entity.

The Authority noted several irregularities in six procurements worth UGX 543,392,240 as indicated in Table 5 below;

Table 5: Procurements with irregularities at bidding

No	Subject of procurement	Contract Amount (UGX)	Findings	Management Response
1	Provision of renovation at Nabagereka Damalie Primary School by Famo Engineering Services Limited	36,524,540	<ul style="list-style-type: none">• Delay in submission of the approved form 1 to the PDU. The AO approved the requisition on 9th March 2022 but it was received by the PDU after 24 days on 1st April 2022• The attached empty BOQ were poorly prepared as it included items that were not quantified meaning that they were not going to be quoted for hence implying lack of transparency and wastage of government resources in form of paper and ink e.g. Element no. 12: Fixtures, Element no. 7 Floor Finishes and Element no. 2: Building Frame	

No	Subject of procurement	Contract Amount (UGX)	Findings	Management Response
2	Provision of enforcement of collection of revenue services from property rates in Nansana Division by Kiwanuka Gabriel	12% commission of 547,827,200	<ul style="list-style-type: none"> • This procurement was not in the procurement plan. • No bidding/solicitation document on file. 	
3	Provision of operational fuel for health activities. By Total Uganda Limited.	36,000,000	<ul style="list-style-type: none"> • No request for approval of procurement method, bidding document, bid notice and evaluation committee on file. • No copy of the bidding/solicitation document. • No copy of bid notice on file 	
4	Provision of asphaltic concrete 10/14mm with all construction materials for the phased upgrading of eastern ring road Ashinaga link	150,982,000 210,234,000	<ul style="list-style-type: none"> • The SBD of the framework contract was not on file. • Retrospective approvals. E.g. The procurement requisition was initiated on 6th May 2022. It was approved by the Accounting Officer on 6th May 2022 but Contracts committee approved this procurement on 29th April 2022. 	
5	Construction of staff quarters at Nabutiiti Health centre 111 under health department by Link Investments Ltd	109,651,700	<ul style="list-style-type: none"> • Use of Direct procurement without justification 	
Total		543,392,240		

Implications

- This implies lack of efficiency, transparency, fairness and competition in the procurement process.
- The Entity may not obtain competitive bid offers thus failure to achieve value for money.

Recommendations

- The Procurement and Disposal Unit should properly manage the bidding process within the Entity to avoid such irregularities negatively impacting on the reputation of the Entity and leading to low bidder participation thus impeding achievement of value for money.

Management response

1.2.2 Irregularities during evaluation of bids

Regulation 73(2) of the Local Governments (PPDA) Regulations, 2006 states that substantially compliant and responsive bid shall be one that conforms to all the instructions, requirements, terms and conditions of the bid documents without material deviation, or omission

The Authority noted irregularities in the evaluation of five (5) procurement transactions worth UGX 3,030,036,540 as indicated in the table below.

Table 4: Procurements with irregularities during evaluation.

No	Subject of procurement	Contract Amount (UGX)	Findings	Management Response
1	Construction works for Nansana-Wamala-Katooke-Jinja- Kalori road to paved standard (phase 1) 1.5 km under works department by Newton Construction Limited	2,993,512,000	i. Some requirements stated in the bidding document were not evaluated that is; valid National Social Security Fund clearance certificate and a copy of the Bidders VAT registration or equivalent; ii. Use of wrong evaluation form, The Evaluation Committee used form 42 instead of LGPP form 12. iii. No evidence of sending NOBEB to bidders	
2	Provision of renovation at Nabagereka Damalie Primary school by Famo Engineering Services Limited	36,524,540	iv. Use of wrong evaluation form. The Evaluation Committee used PP form 42 instead of LGPP form 12. v. Failure to evaluate some requirements as stated in the bidding document e.g. a completed price schedule containing the declaration of the origin of the supplies, a copy of the bidder's VAT registration or equivalent.	

No	Subject of procurement	Contract Amount (UGX)	Findings	Management Response
			<p>vi. Introduction of requirements that were not in the bidding document like bidder's TIN number.</p> <p>vii. The capacity of the concrete mixer in terms of m³/hr was not stated in the bidding document. The evaluation committee did not therefore evaluate the capacity of the machine as per their evaluation report.</p> <p>iii. The provided template for the bid submission sheet was different from the requirements that were evaluated under eligibility criteria at preliminary evaluation e.g. the template in the bidding document did not have clauses like the bidder has no conflict of interest, the bidder is not under suspension by PPDA etc.</p> <p>ix. No evidence of sending BEB as required.</p>	
3	Provision of operational fuel for health activities. By Total Uganda Limited.	36,000,000	<p>x. The evaluation committee waived off very important requirements such as power of attorney and income tax clearance certificate.</p> <p>Passed a non-qualifying bidder at bid evaluation. f Total Maganjo Service Station did not comply with the following requirements;</p> <ul style="list-style-type: none"> ➤ Did not submit a certificate of incorporation, ➤ Submitted an expired trading license/permit. The one submitted expired on 13th February 2021 before the bid 	

No	Subject of procurement	Contract Amount (UGX)	Findings	Management Response
			<p>submission date of 26th May, 2021. Did not submit powers of attorney and income tax clearance certificate.</p> <p>xi. Total Nabweru Service Station did not submit any document.</p>	
4	Provision of enforcement of collection of revenue services from property rates in Nansana Division by Kiwanuka Gabriel.	12% commission of 547,827,200	<p>xii. Evaluation committee irregularly recommended award of contract at 12% commission which was higher than the budgeted 10%.</p> <p>xiii. No minutes of evaluation committee on file</p>	
5	Consideration of contract extension for the provision of enforcement of revenue collection from property fees in wamala Nakyasanja wards in Nabweru division under finance department by B.S General Services Ltd.	244,065,380	xiv. No bidder expressed interest but, the Evaluation committee recommended for engagement of the Best evaluated bidder for enforcement of revenue collection from the property fees in Maganjo & Kawanda wards in Nabweru division	
Total		3,030,036,540		

Implications

- Irregularities during evaluation of bids expose the Entity to the risk of awarding contracts to contractors who lack the capacity to execute the contracts in adherence to all contract terms and conditions.
- There is a potential risk of collusion by the evaluation committee to award contracts to favored bidders.

Recommendations

- Evaluation Committee members should adhere to the criteria set out in the solicitation document during bid evaluation in accordance with Regulation 73 (1) of the Local Governments (PPDA) Regulations, 2006.

- Where a bid is not substantially compliant and responsive to the bid documents, it should be rejected by the Entity in accordance with Regulation 73 (3) of the Local Governments (PPDA) Regulations, 2006.

1.2.3 Signing a contract above market price

Section 26 (4) of the PPDA Act, 2003 states that an Accounting Officer shall not sign a contract for a procurement where the price quoted by the best evaluated bidder is higher than the price in the guidelines issued by the Authority.

The Authority observed variances between planned amounts, estimated market prices at initiation and contracted amounts in two (2) procurements worth UGX 184,495,699, which points towards poor planning and budgeting practices at the Entity as shown in table 6 below;

Table 7: Procurements where contracts were signed above the market price

No	Subject of procurement	Contract Amount (UGX)	Estimate (UGX)	Variation
1	Construction of staff quarters at Nabutiiti Health Center III under health department	109,651,700	99,921,000	9,730,700
2	Supply of 252 three seater desks with metallic stands and wooden tops to various schools in Nansana MC	74,843,999	74,503,000	340,999
Total		184,495,699	174,424,000	10,071,699

Implication

Poor planning and budgeting of procurement requirements causes budget distortions and affects implementation of other planned activities due to re-allocation of funds. Furthermore, the Entity is exposed to the risk of domestic arrears.

Recommendation

The Accounting Officer should use appropriate sources of information when determining the market price of each procurement requirement in order to establish realistic estimates to aid in planning and budgeting, in accordance with Section 26 (4) of the PPDA Act, 2003, as amended.

Management Response

1.3 TO ASSESS THE LEVEL OF EFFICIENCY AND EFFECTIVENESS IN CONTRACT IMPLEMENTATION.

1.3.1 Failure to nominate and appoint Contract Supervisors

Regulation 119 (2) of the Local Governments (PPDA) Regulations, 2006 states that a user department shall nominate an existing member of staff with appropriate skills and experience, or who is supervised by a member of staff with appropriate skills and experience, as a contract supervisor and inform the accounting officer in writing copied to the internal audit department, secretary contracts committee and any other relevant stakeholders informing them of the designated contract supervisor, who shall take full responsibility.

The Authority noted that in two procurements worth UGX 583,827,200 indicated in table 8 below, Heads of User Departments did not nominate contract supervisors for appointment by the Accounting Officer.

Table 8: Procurements without contract Managers/supervisors

No.	Subject of procurement	Contract Value (UGX)	Management response
1.	Provision of operational fuel for health activities. By Total Uganda Limited	36,000,000	
2.	Provision of enforcement of collection of revenue services from property rates in Nansana Division by Mr. Kiwanuka Gabriel	12% commission of 547,827,200	
	Total	583,827,200	

Implication

Failure to appoint a contact supervisor exposes the contracts to risks of non-performance due to limited supervision by the contract supervisor.

Recommendation.

The Accounting Officer should task Heads of User Departments to nominate contract supervisors for appointment in accordance with Regulation 119 (2) of the Local Governments (PPDA) Regulations, 2006.

1.3.2 Failure to prepare contract implementation plans

Regulation 119 (3) of the Local Governments (PPDA) Regulations, 2006 states that upon receipt of a copy of the contract, a contract supervisor shall prepare a contract implementation plan, and forward a copy to the head of the user department, secretary contracts committee, internal audit department and accounting officer for monitoring purposes.

There was no evidence that contract implementation plans were prepared in three procurements worth UGX 389,717,080 as indicated in table 9 below:

Table 9: Procurements without contract implementation plans

No.	Subject of procurement	Contract Value (UGX)	Management response
1	Provision of operational fuel for health activities. By Total Uganda Limited	36,000,000	
2	Construction of staff quarters at Nabutiiti Health centre 111 under health department by Link Investments Ltd	109,651,700	
3	Consideration of contract extension for the provision of enforcement of revenue collection from property fees in wamala Nakyesanja wards in Nabweru division under finance department by B.S General Services Ltd	244,065,380	
	Total	389,717,080	

Implication

Failure to prepare contract implementation plans hinders effective monitoring of contract execution / performance thus affecting service delivery.

Recommendation

The Accounting Officer should task Heads of User Departments to ensure that contract implementation plans are prepared by the contract supervisors in accordance with Regulation 119 (3) of the Local Governments (PPDA) Regulations, 2006 to enable effective monitoring of contract execution / performance thus affecting service delivery.

1.3.3 Payment for works not executed.

The Authority noted that in the procurement for the Construction of staff quarters at Nabutiiti Health centre 111 under health department by Link Investments Ltd worth UGX 109,651,700, the works were incomplete yet all the payments had been made as evidenced by receipt of the supplier, Link Investments Ltd on 23rd June 2022 yet the actual completion date was 31st December 2022.

Implications

Payment for works not yet completed exposes the Municipality to loss of public funds and fraud and hinders service delivery. In this case, the staff quarters are not useable due to incomplete works.

Recommendations

- The Accounting Officer should caution the Contract managers and Chief Finance Officer against payment for works not executed.
- User departments should ensure effective contract management in accordance with Regulation 119 of the Local Governments (PPDA) Regulations. 2006.

- The Accounting officer should recover or refund monies for payment of works not done.

Management Response.

1.3.4 Failure to maintain complete procurement action files.

Regulation 119 (1) of the LG PPDA Regulations, 2006 states that the functions of the contract supervisor are to ensure that all contract management records are kept and archived as required.

The Authority noted that for the following five (5) contracts worth UGX. 3,584,511,839 entered into by the Entity, there was no evidence of contract management records on file for the period under review as indicated in table 10 below;

Table 10: Procurements with missing records

No	Subject of Procurement	Amount (UGX)	Missing records	Management Response
1	Provision of asphaltic concrete 10/14mm with all construction materials for the phased upgrading of eastern ring road Ashinaga link by Bamja Investments Ltd	150,982,000 210,234,000	<ul style="list-style-type: none"> • No delivery note, Goods received note on file to confirm that the delivery was made • No payment records on file 	
2	Construction of 2 classroom block with 36 school desks at Kanyange primary school in Nabweru division under education department Nansana MC by P&D Traders and contractors	82,415,300	<ul style="list-style-type: none"> • No contract management records on file. 	
3	Provision of renovation at Nabagereka Damalie Primary School by Famo Engineering Services Limited	36,524,540	<ul style="list-style-type: none"> • No contract management records on file. 	
4	Provision of operational fuel for health activities. By Total Uganda Limited.	36,000,000	<ul style="list-style-type: none"> • No copies of framework contract documents on file. • No copies of call orders on file. 	

No	Subject of Procurement	Amount (UGX)	Missing records	Management Response
			<ul style="list-style-type: none"> No activity reports for each fuel order were attached on file. 	
5	Supply of 252 three seater desks with metallic stands and wooden tops to various schools in Nansana MC.(engraved) by Nexus u Ltd	74,843,999	<ul style="list-style-type: none"> No contract on file. 	
	Construction works for Nansana- Wamala-Katooke- Jinja Kallori road to paved standard (phase 1) 1.5 km under works department. Newton Construction Limited	2,993,512,000	<ul style="list-style-type: none"> No evidence of payment guarantee on file. 	
Total		3,584,511,839		

Implications

- Lack of contract management reports and other records casts doubt on whether contracts were executed in accordance with contractual requirements and terms and conditions.
- This indicates failure by the Entity to account for public funds.

Recommendations

- Heads of User Departments should charge all Contract Supervisors to submit progress reports/contract management reports and all contract implementation documentation in accordance with the Local Governments (PPDA) Regulations, 2006.

1.3.5 Failure by contracts Committee to approve the contract documents.

Regulation 17(2)(vii) of the Local Governments (PPDA) Regulations, 2006 states that a contracts committee shall authorize contract documentation in line with the authorized evaluation reports.

The Authority noted that contract documents in four (4) procurements worth UGX 3,613,863,740 were not approved by CC as indicated in table 11 below.

Table 11: Procurements where contract documents were not approved by CC.

No	Subject of Procurement	Contract Amount (UGX)	No evidence of cc approval	Management Response
1.	Provision of renovation at	36,524,540	No evidence of CC approval of the contract	

	Nabagereka Damalie Primary School by Famo Engineering Services Limited		document for this procurement	
2.	Construction works for Nansana-Wamala-Katooke-Jinja Kallori road to paved standard (phase 1) 1.5 km under works department. Newton Construction Limited	2,993,512,000		
3.	Provision of operational fuel for health activities. By Total Uganda Limited	36,000,000		
4.	Provision of enforcement of collection of revenue services from property rates in Nansana Division by Mr. Kiwanuka Gabriel	12% commission of 547,827,200		
Total		3,613,863,740		

Implication

This signifies unethical tendencies within the entity and may lead to signing contracts where alterations have been made.

Recommendation

The Head PDU should submit contract documentation to CC for approval in accordance with Regulation 17(2)(vii) of the Local Governments (PPDA) Regulations, 2006

Management Response

1.3.6 Irregularities noted during payment.

The Authority noted that in two procurements worth 326,480,680, the Entity had irregularities during payment as shown in table 12 below:

Table 12: Irregularities made during payment

No	Subject of Procurement	Contract Amount (UGX)	Irregularities during payment	Management Response
1.	Consideration of contract extension for the provision of enforcement of revenue collection from property fees in Wamala Nakyesanja wards in Nabweru division under finance department by B.S General Services Ltd	244,065,380	<ul style="list-style-type: none"> The Service provider was given a higher rate of 12% contrary to what was in the requisition of 10% commission without justification 	
1.	Construction of 2 classroom block with 36 school desks at Kanyange primary school in Nabweru division under education department Nansana MC by P&D Traders and contractors	82,415,300	<ul style="list-style-type: none"> Date of commencement on the interim payment certificate was dated as 8th March 2022(way before contract was signed i.e. 23/5/2022) and yet date of commencement in the contract was immediately after contact signing which was 23rd May 2022. Payment certificate was raised on 2nd June 2022, 10 days after contract signature (23/5/2022) and payment made on 24th June 2022 a month after contract signing with value of work valued at UGX 69,843,475. This is an indicator that payment could have been effected before works were complete. 	•
Total		326,480,680		

Implications

- The Entity faces risks as a result of paying for works not yet executed.
- The Entity is exposed to the risk of domestic arrears as a result of poor planning.

Recommendations

The Accounting Officer should caution the Contract managers and Chief Finance Officer against payment for works not executed.

Management Response.

1.3.7 Irregularities during contract management.

Regulation 119 of the Local Governments (PPDA) Regulations, 2006 states that User departments should ensure effective contract management.

The Authority noted several irregularities during contract management in four (4) procurements worth UGX 457,027,620 as indicated in table below

Table 13: Indicating procurements with irregularities during contract management

No	Subject of Procurement	Contract Amount (UGX)	Irregularities during contract management.	Management Response
1.	Provision of renovation at Nabagereka Damalie Primary School by Famo Engineering Services Limited	36,524,540	<ul style="list-style-type: none"> Poorly drafted conditions of contract e.g. The project manager under SCC GCC1.1 is not mentioned in the contract document. The contract start date is not mentioned under SCC GCC1.3 hence rendering the completion date of 31/8/2022 doubtful (SCC GCC 17.1) No evidence of payment of retention. Delay in issuance of contract document. It was noted that the contractor received their copy of the contract on 7th June 2022, 20 days after contract signing date of 19th May 2022. 	
2.	Consideration of contract extension for the provision of enforcement of revenue collection from property fees in wamala Nakyesanja wards in Nabweru division under finance	244,065,380	<ul style="list-style-type: none"> Contract was awarded to a bidder who didn't participate in the bidding process instead of re-advertising. Contract extension not provided for in the contract however the Contract was 	•

	department by B.S General Services Ltd		<p>extended for 1yr which is beyond the initial contract period.</p> <ul style="list-style-type: none"> Contract terms changed to include "Collection from 50% & above of the tax objects on the valuation roll/list qualifies a respective service provider to earn a ceiling of 12% commission on the total collection. Below 50% collection of the tax objects on the valuation roll/list qualifies a respective service provider to earn 10% of the total collection 	
.	Construction of 2 classroom block with 36 school desks at Kanyange primary school in Nabweru division under education department Nansana MC by P&D Traders and contractors	82,415,300	<ul style="list-style-type: none"> Delay between evaluation and contract signature. The evaluation report was signed on 2nd December 2021 and yet the contract was signed on 23rd May 2022. 	•
.	Construction of one unit of staff quarters, two stance lined latrine and supply of one of 1000 liters capacity of HDPE water tank at Kabonge COU primary school under Education department by Sky light general services Ltd.	94,022,400	<ul style="list-style-type: none"> Changes in contract details bid GCC 3.7 of the contract says Lump sum contract as per the contract signed while the issued document says admeasurement contract as per GCC 3.7 	•
Total		457,027,620		

Implications

- changes in contract details signifies un ethical tendencies.
- Any delays deny the intended beneficiaries timely services.
- Awarding a contract to a contractor that didn't participate in the bidding process poses risks to the entity. The entity may award the contract to a non-compliant bidder.

Recommendations

- The Head PDU should caution the Head PDU for awarding the contract to a contractor that did not participate in the bidding process.
- The Authority recommends that User departments should ensure effective contract management in accordance with Regulation 119 of the Local Governments (PPDA) Regulations, 2006.

Management Response

1.3.8 Findings noted during physical verification of projects.

The compliance team physically verified ten (10) of the sampled procurements worth UGX 3,752,185,939 and noted some irregularities in one (1) project worth UGX 109,651,700 as shown below

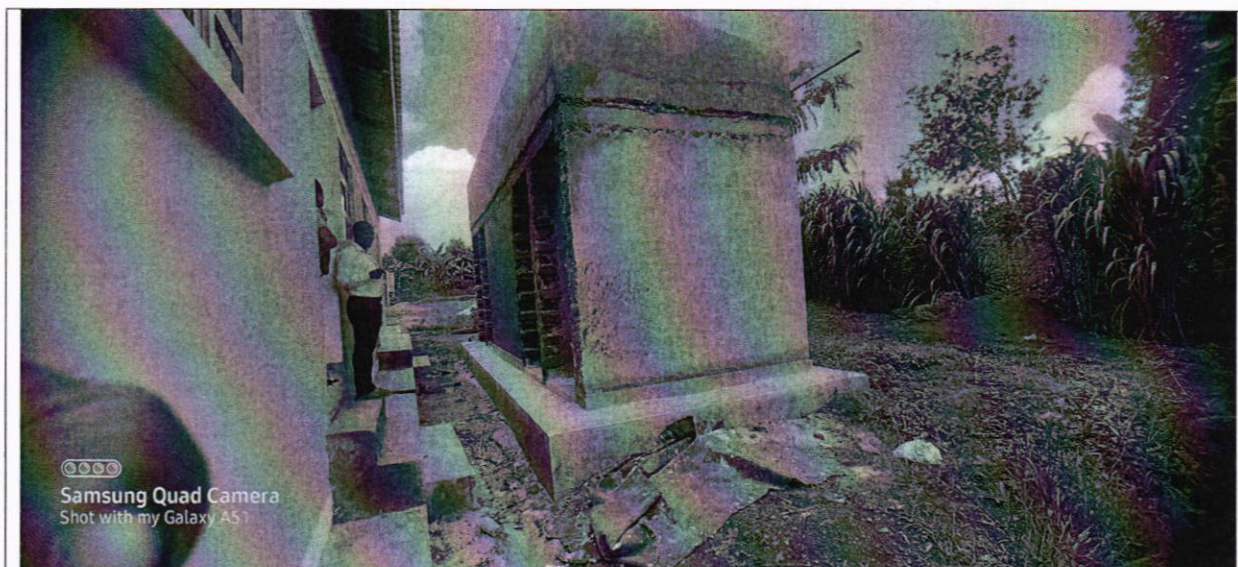
Construction of staff quarters at Nabutiiti Health centre 111 under health department

Contract price: UGX 109,651,700

Contractor: Link Investments Ltd

1. Slow progress of works

The Authority noted a delayed contract completion which has deprived the community of the needed medical services. The intended completion date was 31st December 2022 which was not the case as seen on ground.





Issues noted

- Construction incomplete
Unfinished works include
 - ✓ Internal doors
 - ✓ Internal finishes
 - ✓ Fittings & fixtures
 - ✓ Mechanical Installations
 - ✓ Electrical installations

2. Site abandonment

The Authority noted that The Clerk of Works wasn't on site during physical verification which could explain why there was delayed contract implementation

3. Delayed handover of site.

The Authority also noted a delay in hand over of site by one month & 11 days The site was handed over on 8th July 2022 and yet in the the contract document, the site was to be handed over one day after contract signing i.e 26th May 2022.

Implications

- Slow progress of works and delays denies services to the to the intended beneficiaries
- There was no achievement of value for money.

Recommendations

- The Accounting Officer should provide evidence of measures taken to ensure that works are completed so that the Entity does not incur financial loss.
- The Authority recommends that User departments should ensure effective contract management in accordance with Regulation 119 of the Local Governments (PPDA) Regulations, 2006.

Management response

4. Change of contract terms & conditions of the advance payment.

Regulation 115(5) of the Local Governments (PPDA) Regulations, 2006 stated that an advance payment shall be recovered from subsequent payments made to a provider, which shall be subject to a percentage deduction equal to the percentage paid as advance payment.

The Authority noted that according to the SCC of the SBD there wasn't any provision for Advance payment however 100% Advance payment security was included in the contract agreement contrary to the 30% maximum threshold. This was irregular and there was no evidence on file to show that it was recovered.

Implication.

This signifies unethical tendencies within the entity and may lead to financial loss due to non-execution of the contract.

Recommendation.

The Accounting Officer should recover the advance payment guarantee that was paid in accordance with Regulation 115(5) of the Local Governments (PPDA) Regulations, 2006

Management Response

Acknowledgement

The Authority would like to express its appreciation for the co-operation and assistance which was received during the course of the compliance from your staff.

The management response should be submitted to the Authority not later than **Friday 22nd September 2023.**

This communication is prepared solely for the information of management and is not intended for any purpose. The Authority accepts no responsibility to a third party who uses this communication.



Moses Ojambo
FOR EXECUTIVE DIRECTOR

- c.c. Chairman, Contracts Committee
- c.c. Head Procurement and Disposal Unit

Annex A: Findings and rating on the individual contracts reviewed

No	HIGH RISK CONTRACTS	REASONS FOR HIGH RISK
1.	<p>NANS779/WRKS/21-22/00035 Provision of Renovation at Nabagereka Damalie Primary School Contract amount: 36,524,540 Contractor: Famo Engineering Services Limited Procurement Method: Open National Bidding</p>	<ul style="list-style-type: none"> • Delay in submission of the approved form 1 to the PDU • The attached empty BOQ were poorly prepared • Use of wrong evaluation form. • Failure to evaluate some requirements as stated in the bidding document eg a completed price schedule containing the declaration of the origin of the supplies, a copy of the bidder's VAT registration or equivalent. • Introduction of requirements that were not in the bidding document like bidder's TIN number. • The capacity of the concrete mixer in terms of m3/hr was not stated in the bidding document The evaluation committee did not therefore evaluate the capacity of the machine as per their evaluation report. • The provided template for the bid submission sheet was different from the requirements that were evaluated under eligibility criteria at preliminary evaluation e.g. the template in the bidding document did not have clauses like the bidder has no conflict of interest, the bidder is not under suspension by PPDA etc • No evidence of sending BEB as required. • No evidence of CC approval of the contract document for this procurement. • Poorly drafted conditions of contract e.g. The project manager under SCC GCC1.1 is not mentioned in the contract document. • The contract start date is not mentioned under SCC GCC1.3 hence rendering the completion date of 31/8/2022 doubtful (SCC GCC 17.1). • No contract management report on file. • No evidence of payment of retention • Delay in issuance of contract document. It was noted that the contractor received their copy of the contract on 7th June 2022, 20 days after contract signing date of 19th May 2022.
2.	<p>NANS779/SRVCS/21-22/00004 Provision of operational fuel for health activities. By Total Uganda Limited. Procurement method: Open domestic bidding Contractor: Total Uganda Limited Contract value:</p>	<ul style="list-style-type: none"> • No request for approval of procurement method, bidding document, bid notice and evaluation committee on file. • No copy of the bidding/solicitation document. • No copy of bid notice on file • The evaluation committee waived off very important requirements such as power of attorney and income tax clearance certificate.

No	HIGH RISK CONTRACTS	REASONS FOR HIGH RISK
		<ul style="list-style-type: none"> 1. Passing of non-qualifying bidders at evaluation for example Total Maganjo Service Station did not comply with the following requirements; certificate of incorporation, valid trading license/permit. The one submitted expired on 13th February, 2021 before the bid submission date of 26th May, 2021. Did not submit powers of attorney and income tax clearance certificate. 1. Total Nabweru Service Station did not submit any document. 1. NO NOBEB on file. 1. No evidence of the contract document being approved by CC. 1. No copies of framework contract documents on file. 1. No copies of call orders on file. 1. No appointment letter for Contract manager on file. 1. No activity reports for each fuel order were attached on file.
3.	<p>NANS779/WRKS/21-22/00006</p> <p>Subject: Construction of staff quarters at Nabutiiti Health centre 111 under health department</p> <p>Procurement method: Open Domestic bidding</p> <p>Contractor: Link Investments Ltd</p> <p>Contract value: UGX 109,651,700</p>	<ul style="list-style-type: none"> 1. Use of Direct procurement without justification 1. Signing a contract above market price with no evidence of additional funding 1. Irregular advance payment of Ugx. 109,651,700 which is over the 30% threshold. 1. Change of contract terms & conditions, According to the SCC of the SBD there wasn't any provision for Advance payment however 100% Advance payment security was included in the contract agreement contrary to the 30% maximum threshold. 1. Delayed handover of site by one month & 11 days. The site was handed over on 8th July 2022 and yet the contract was to be handed over one day after contract signing i.e 26th May 2022. 1. Full payment made before execution of works. 1. No records of contract implementation on file.

No	HIGH RISK CONTRACTS	REASONS FOR HIGH RISK
		<p>Delayed contract completion which has deprived the community of the needed medical services. The intended completion date 31st December 2022 which was not the case.</p> <p>The Clerk of Works wasn't on site during physical verification which could explain why there was delayed contract implementation.</p>
4.	<p>NANS779/SRVCS/20-21/00037 LOT 3 Subject: Consideration of contract extension for the provision of enforcement of revenue collection from property fees in wamala Nakyesanja wards in Nabweru division under finance department by B.S General Services Ltd Procurement method: Open domestic bidding Contractor: B.S General Services Ltd Contract value: 12% of actual rate</p>	<ul style="list-style-type: none"> • No bidding forms such as record of issue, receipt & opening on file • No SBD on file • Some requirements stated in the bidding document were not • No bidder expressed interest but, the Evaluation committee recommended for engagement of the Best evaluated bidder for enforcement of revenue collection from the property fees in Maganjo & Kawanda wards in Nabweru • Contract was awarded to a bidder who didn't participate in the bidding process instead of re-advertising • The Service provider was given a higher rate of 12% contrary to what was in the requisition of 10% commission without justification • Implementation plan not on file. • Contract extension not provided for in the contract however the Contract was extended for 1yr which is beyond the initial contract period. • Contract terms changed to include "Collection from 50% & above of the tax objects on the valuation roll/list qualifies a respective service provider to earn a ceiling of 12% commission on the total collection. Below 50% collection of the tax objects on the valuation roll/list qualifies a respective service provider to earn 10% of the total collection
5.	<p>Nans779/WRKS/21-22/00001 Subject: Construction of 2 classroom block with 36 school desks at Kanyange primary school in Nabweru division under education department Nansana MC by Procurement method: Open domestic bidding Contractor: P&D Traders and contractors</p>	<ul style="list-style-type: none"> • Payment certificate was raised on 2nd June 2022, 10 days after contract signature (23/5/2022) with value of work valued at UGX 69,843,475. How much work could have been done in 10 days • Date of commencement on the interim payment certificate was dated as 8th March 2022 (way before contract was signed) and yet date of commencement in the contract was immediately after contact signing which was 23rd May 2022. • Payment made on 24th June 2022, a month after the contract had been signed, an indicator that payment could have been effected before works were complete.

No	HIGH RISK CONTRACTS	REASONS FOR HIGH RISK
	Contract value: 82,415,300	<ul style="list-style-type: none"> • Delay between evaluation and contract signature. The evaluation report was signed on 2nd December 2021 and yet the contract was signed on 23rd May 2022 • No contract management records on file

No	MEDIUM RISK CONTRACTS	REASONS FOR MEDIUM RISK
6.	<p>NANS779/SRVCS/20-21/00037 Provision of Enforcement of Collection of Revenue Services from Property Rates in Nansana Division.</p> <p>Contract Amount: Contractor: Kiwanuka Gabriel Procurement method: Open National Bidding</p>	<ul style="list-style-type: none"> • This procurement was not in the procurement plan. • No bidding/solicitation document on file • Evaluation committee irregularly recommended award of contract at 12% commission which was higher than the budgeted 10%. • No minutes of evaluation committee on file • No evidence that the contract document was approved by CC. • No contract implementation plan • No contract management report by the contract manager.
7.	<p>NANS779/SUPLS/2021-22/00006 Provision of asphaltic concrete 10/14mm with all construction materials for the phased upgrading of eastern ring road Ashinaga link</p> <p>Contract Amount: 150,982,000 210,234,000</p> <p>Contractor: Bamja Investments Ltd Procurement Method: Framework contract</p>	<ul style="list-style-type: none"> • SBD of the framework contract not on file. • Retrospective approvals. E.g. The procurement requisition was initiated on 6th May 2022. It was approved by the Accounting Officer on 6th May 2022 but Contracts committee approved this procurement on 29th April 2022. • No delivery note, Goods received note on file to confirm that the delivery was made • No payment records on file
8.	<p>NANS779/WRKS/21-22/00004 Subject: Construction works for Nansana- Wamala-Katooke- Jinja Kallori road to paved standard (phase 1)</p>	<ul style="list-style-type: none"> • Some requirements stated in the bidding document were not evaluated e,g valid National Social Security Fund clearance certificate and a copy of the Bidders VAT registration or equivalent • Use of wrong evaluation form. The Evaluation Committee used form 42 instead of LGPP form 12. • No evidence of sending BEB to bidders

No	MEDIUM RISK CONTRACTS	REASONS FOR MEDIUM RISK
	<p>1.5 km under works department. Newton Construction Limited Procurement method: Open Domestic Bidding</p> <p>Contractor: Newton Construction Limited Contract value: UGX 2,993,512,000</p>	<ul style="list-style-type: none"> • No evidence of CC approval of the contract document for this procurement. • No evidence of advance payment guarantee on file
9.	<p>Nans779/supls/21-22/00019 Subject: Supply of 252 three seater desks with metallic stands and wooden tops to various schools in Nansana MC.(engraved) by Nexus U Ltd</p> <p>Procurement method: Open Domestic Bidding Contractor: Nexus U Ltd Contract value: UGX 74,843,999</p>	<ul style="list-style-type: none"> • The NOBEB was displayed from 23rd May 2022 to 27th May 2022 which is less than ten working days • Signing a contract above market price. • No contract on file.

No	LOW RISK	REASONS FOR LOW RISK
10	<p>Nans779/supls/21-22/00019</p> <p>Construction of one unit of staff quarters, two stance lined latrine and supply of one of 1000 liters' capacity of HDPE water tank at Kabonge COU primary school under Education department by Sky light general services Ltd.</p> <p>Procurement method: Open Domestic bidding Contractor: Sky light general services Ltd Contract Value: UGX 94,022,400</p>	<ul style="list-style-type: none"> • Changes in contract details bid GCC 3.7 of the contract says Lump sum contract as per the contract signed while the issued document says admeasurement contract as per GCC 3.7.

ANNEX B: NANSANA MUNICIPAL COUNCIL SAMPLE LIST FOR FINANCIAL YEAR 2021/2022

No.	Reference Number	Subject of Procurement	Method of Procurement	Provider	Contract Amount (UGX)	Rating
1.	NANS779/WRKS/21-22/00035	Provision of Renovation at Nabagereka Damalie Primary School	Selective National Bidding	Famo Engineering Services Limited	36,524,540	High
2.	NANS779/SRVCS/21-22/00004	Provision of operational fuel for health activities	Open National Bidding	Total Uganda Limited		High
3.	NANS779/WRKS/21-22/00006	Construction of staff quarters at Nabutiiti Health centre 111 under health department	Open National bidding	Link Investments Ltd	109,651,700	High
4.	NANS779/SRVCS/20-21/00037 LOT 3	Consideration of contract extension for the provision of enforcement of revenue collection from property fees in wamala Nakyesanja wards in Nabweru division under finance department	Open National bidding	B.S General Services Ltd	12% of actual rate	High
5.	Nans779/WRKS/21-22/00001	Construction of 2 classroom block with 36 school desks at Kanyange primary school in Nabweru division under education department Nansana MC	Open National Bidding	P&D Traders and contractors	82,415,300	High
6.	NANS779/SRVCS/20-21/00037	Provision of Enforcement of Collection of Revenue Services from Property Rates in Nansana Division	Open National Bidding	Kiwanuka Gabriel		Medium

7.	NANS779/SUPLS/2021-22/000006	Provision of asphaltic concrete 10/14mm with all construction materials for the phased upgrading of eastern ring road Ashinaga link	Framework contract	Bamja Investments Ltd	150,982,000 210,234,000	Medium
8.	NANS779/WRKS/21-22/000004	Construction works for Nansana-Wamala-Katooke- Jinja Kallori road to paved standard (phase 1) 1.5 km under works department	: Open Domestic Bidding	Newton Construction Limited	2,993,512,000	Medium
9.	Nans779/supls/21-22/00019	Supply of 252 three seater desks with metallic stands and wooden tops to various schools in Nansana MC.(engraved)	Open Domestic Bidding	Nexus U Ltd	74,843,999	Medium
10.	Nans779/supls/21-22/00019	Construction of one unit of staff quarters, two stance lined latrine and supply of one of 1000 liters' capacity of HDPE water tank at Kabonge COU primary school under Education department	Open Domestic bidding	Sky light general services Ltd	94,022,400	Low