



**Public Procurement and Disposal of Public Assets Authority**

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Our Ref: .....PPDA/GUC/754

Your Ref: .....

8<sup>th</sup> January 2021

The City Town Clerk  
Gulu City Council  
P. O. Box 140  
**GULU**

**RE: BID PREPARATORY AUDIT EXERCISE FOR THE CONSTRUCTION OF ONE BLOCK OF TWO UNIT STAFF HOUSE AT LAYIBI TECO HC III BY GULU CITY COUNCIL - FY 2020/21**

Reference is made to the above subject.

The Public Procurement and Disposal of Public Assets Authority (PPDA) conducted a bid preparatory audit for the construction of one block of two unit staff house at Layibi Teco HC III University which is to be undertaken this financial year (2020/21). The audit exercise involved a review of the procurement planning, requisition/initiation and solicitation document issued to bidders following the Public Procurement and Disposal of Assets Act, 2003, the PPDA Regulations and relevant guidelines.

The objectives of the audit were to:

1. Ensure that public procurement planning and requisition was conducted in a manner which promotes transparency, accountability and fairness in accordance with the PPDA Act, 2003, the Local Governments (PPDA) Regulations, 2006 and attendant guidelines; and
2. Establish whether the solicitation document issued to bidders was prepared in accordance with the provisions of the PPDA Act 2003, the Local Governments (PPDA) Regulations, 2006 and attendant guidelines.

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 attention and action.

HK/dl/ck

**"PROCUREMENT THAT DELIVERS"**

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**1.0 Whether the public procurement planning and requisition was conducted in a manner which promotes transparency, accountability and fairness in accordance with the PPDA Act, 2003, the Local Governments (PPDA) Regulations, 2006 and attendant guidelines**

**1.1 Lack of proof of recommendation of Statements of Requirements to the Procurement and Disposal Unit**

The Authority found that there was no evidence that the User Departments recommended Statements of Requirements (SORs) to the Procurement and Disposal Unit clearly detailing specifications, the objectives and intended beneficiaries of the procurement with insight into the operation and maintenance aspects.

Initiating procurements without clear indication of the works', supplies' or services' requirements might result in acquisition of procurements which do not serve the intended procurement objectives.

The Authority recommends that the Accounting Officer tasks the responsible User Department to provide an explanation on why clear SoRs were not recommended at initiation of the procurement requirement and further confirm that the specifications and drawings prepared by the Engineer are in line with their requirement.

**1.2 Delay in commencing the procurement process**

According to the City Council's procurement plan for FY 2020/2021, bidders were to be invited on 2<sup>nd</sup> November 2020 and the contract signed by 16<sup>th</sup> December 2020. However, the procurement was initiated on 15<sup>th</sup> December 2020.

Delay in undertaking the procurement process delays service delivery by the government of Uganda.

The Authority recommends that the City Town Clerk should prevail over User Departments and in this case the Health Department to monitor its procurement work plan so as to avoid delay in service delivery.

**1.3 No proof of monitoring the User Department budget**

The User Department did not complete the funds availability section of the procurement requisition LG Form 1 implying that the Health Department does not monitor its budget.

This exposes the Council to the risk of returning funds to the central pool at the end of the financial year.

The Authority recommends that the Head of the Health Department at the City Council should be tasked by the City Town Clerk to institute mechanisms for budget monitoring and include budget details on all requisitions.

**2.0 Whether the solicitation document issued to bidders was prepared in accordance with the provisions of the PPDA Act 2003, the Local Governments (PPDA) Regulations, 2006 and attendant guidelines**

**2.1 Use of an inappropriate bidding document**

The Authority found that the solicitation document used was the Standard Bidding Document for works under Central Governments issued by the Authority in September 2019 instead of the one issued by the Authority in September 2020 for works undertaken by Local Governments using open bidding method.

This exposes the Entity to the risk of stringent requirements hence deterring potential bidders and also makes reference to Central Government Regulations which are not relevant for Local Governments.

The Authority recommends that the Head, PDU should prepare solicitation documents using the latest standard solicitation documents issued by the Authority.

**2.2 Making provisions for adherence to Standard Operating Procedures (SOPs) issued by Ministry of Health**

Following the outbreak of the Covid-19 pandemic in Uganda, the Ministry of Health issued guidelines on SOPs to be followed by all institutions/organisations in the country in the conduct of their duties. It was observed that provisions for pre-bid meetings, receipt of bids, bid opening, site visiting and visiting the Entity premises to inspect the bidding document did not make emphasis of adherence to Covid-19 SOPs such as wearing masks, social distancing, hand washing, sanitizing & limiting number of attendees.

This could deter some potential bidders from attending key meetings and further expose staff of the Entity and members of the public (bidders) to infections.

The Authority recommends that the Accounting Officer tasks the Head, Procurement and Disposal Unit in collaboration with the Council's Health Officer to make provisions for adherence to Covid-19 SOPs in the bidding document for both the bidding process and the contract execution.

**2.3 Bid Data Sheet**

The following gaps were observed in the Bid Data Sheet:

- i. ITB 1.1; the name of the Entity was stated as Gulu City instead of Gulu City Council.
- ii. ITB 1.1; description of the works did not include the geographical location of the works.
- iii. ITB 9.3; did not include a requirement for adherence to SOPs issued by Ministry of Health.
- iv. ITB 9.5; was not clear on whether or not the site visit was a mandatory requirement.
- v. ITB 12.1; Street Address, Floor/Room number were interchanged.
- vi. ITB 12.1; request for clarification date was stated as 24<sup>th</sup> January 2021, this date was after the date of bid closing of 22<sup>nd</sup> January 2020. Clarification cannot be sought after bid closing.

- vii. ITB 181.3; 20.1, 21.1; were not filled in correctly using either of the provisions in the brackets i.e. shall or shall not.
- viii. ITB 20.2; 20.3; were not indicated as applicable or not applicable.
- ix. ITB 27.1; did not emphasize adherence to Covid-19 SOPs during bid opening.
- x. ITB 46.1; we note this was indicated as N/A. However, there was no confirmation from the Environmental Officer & Community Development Officer that Environmental & social risks were not significant.

Gaps in the instructions to bidders (ITB) increase the risk of submission of non-responsive bids and deterring potential bidders.

The Authority recommends that the Head, Procurement and Disposal Unit should address the gaps in the bid data sheet with the help of relevant officers of the Council to avoid causing ambiguity and lack of clarity to potential bidders.

#### **2.4 Local Content reservation schemes**

ITB 10; whereas reservation schemes apply to this procurement, they were not provided for as required under the guideline by the Authority on Local Content i.e. Guideline 1/2018 on Reservation Schemes to promote local content in public procurement.

Failure to make provisions on reservation schemes to promote local content defeats government efforts to encourage the local business community to do business with the government.

The Authority advises the Head, Procurement and Disposal Unit to make consideration for provisions for reservation schemes in the bidding document in line with Guideline 1/2018 on Reservation Schemes to promote local content in public procurement.

#### **2.5 Section 3: Evaluation methodology and criteria**

1. The evaluation criteria did not draw emphasis to assessment of requirements in the bid data sheet and assessment of responsiveness to requirements such as the Environmental, Social, Health and Safety (ESHS) Code of Conduct as detailed under Section 4 Bidding Forms and Environment and Social Management Plan.
2. The bidding document did not provide for the qualifications and experience required for the bidders' personnel including the Environmental and Social Officers' of the bidder.

Lack of comprehensive evaluation criteria increases the risk of contract award to non-responsive firms.

The Authority recommends that the Head, Procurement and Disposal Unit should make the evaluation criteria comprehensive to cover all requirements in the bidding document to avoid subjectivity during evaluation.

#### **2.6 Under Section 6: Statement of Requirements**

The bidding document lacked the scope of works, technical specifications, ESHS requirements, drawings and Bills of Quantities.

Note: Bills of Quantities should have provisions for environmental, social, health and safety requirements based on screening undertaken by the Environmental Officer and Community Development Officer.

Lack of a statement of requirements based on certified scope of works, technical specifications, drawings, ESHS requirements and BoQs increases the risk of miss-procurement.

The Authority recommends that the Accounting Officer tasks the User Department, City Engineer, Head, Procurement and Disposal Unit, Environmental Officer and the Community Development Officer to ensure that the Statement of Requirements are based on input from all their offices.

## 2.7 Section 8: Special Conditions of Contract

The following gaps were observed in the bid data sheet:

- i. GCC 1.1 (cc) on site location was incomplete.
- ii. GCC 3.8 on sectional completion was incomplete.
- iii. GCC 7.1 on notices, floor/room number was left blank.
- iv. GCC 9.1 on what the works consist of did not have adequate description of the works.
- v. GCC 12.1 & 12.2, 13.1 were not clear on whether sub-contracting was applicable or not and the conditions that would apply.
- vi. GCC 14.1 on schedule of key personnel was incomplete i.e. blank.
- vii. GCC 18.1 on minimum insurance covers was incomplete i.e. blank.
- viii. GCC 19.1 on site investigation report was incomplete i.e. blank.
- ix. GCC 26.1 on site possession date was incomplete.
- x. GCC 34.1 on procedure for settling disputes was incomplete.
- xi. GCC 35.1 on the appointing authority for the adjudicator did not state the appointing authority.
- xii. GCC 36.3 on the amount to be withheld for late submission of an updated program was incomplete.
- xiii. GCC 50.1 on statements of estimated value of works executed was incomplete
- xiv. GCC 53.1 on compensation events was incomplete.
- xv. GCC 56.1 on price adjustment was incomplete
- xvi. GCC 57.1 on proportion of payments retained was incomplete
- xvii. GCC 58.1 on liquidated damages was incomplete.
- xviii. GCC 59.1 on the bonus for the whole of works was incomplete
- xix. GCC 61.1 on performance security was incomplete.
- xx. GCC 67.1 on date of receipt of as built drawings & amounts to be withheld was incomplete.

Gaps in the Special Conditions of Contract (SCC) increase the risk of disputes during contract execution.

The Authority recommends that the Head, Procurement and Disposal Unit should address the gaps in the Special Conditions of Contract with the help of relevant officers of the Council to avoid causing disputes during contract execution.

## 2.8 Formatting table of contents/clauses

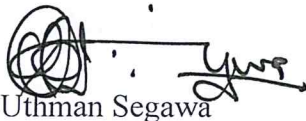
- i. There was no table of contents in the bidding document.
- ii. PART 1 –Bidding procedures; table of clauses had incorrect numbering.
- iii. Section 7: General Conditions of Contract; table of clauses had incorrect numbering.
- iv. Section 9: Contract Forms; table of forms had incorrect numbering.

The table of contents, table of clauses and table of forms ease ability of potential bidders to find different information requirements within the bidding document hence reduce the risk of preparation of non-response bids.

The Authority recommends that the Head, Procurement and Disposal Unit should correct the numbering in all reference tables within the bidding document. The numbering in the tables should preferably be automated.

### **Conclusion:**

The purpose of this letter is to forward to you the results of the bid preparatory audit exercise. In order to administer and enforce compliance with the provisions of the PPDA Act 2003, Regulations and Guidelines, the Entity is required to implement the recommendations of the Authority contained in this letter.



Uthman Segawa

**FOR: EXECUTIVE DIRECTOR**

- cc: Chairperson Contracts Committee  
cc: Head Procurement and Disposal Unit