

PPDA/URA/141

Your Ref:

Our Ref:

18th August 2022

Commissioner General
Uganda Revenue Authority
P.O. Box 7279
KAMPALA

**BID PREPARATORY AUDIT INTO THE PRE-QUALIFICATION OF
MANUFACTURER(S) OF ELECTRONIC FISCAL DEVICES & ELECTRONIC
DISPENSER CONTROLLERS (URA/PREQ/EFDS/ECD/2022/23-00001)**

Reference is made to the above subject.

On 15th August 2022, the Public Procurement and Disposal of Public Assets Authority (PPDA) in accordance with Section 7 (j) (i) of the PPDA Act 2003 as amended conducted a bid preparatory audit for the pre-qualification of manufacturer(s) of Electronic Fiscal Devices (EFDs) and Electronic Dispenser Controllers (EDCs).

The objectives of the audit were to:

1. Establish whether the public procurement planning and requisitioning processes were conducted in a manner which promotes transparency, accountability and fairness in accordance with the PPDA Act 2003 as amended, PPDA Regulations 2014 and PPDA Guidelines; and
2. Establish whether the solicitation document issued to the bidders was prepared in accordance with the provisions of the PPDA Act 2003 as amended, PPDA Regulations 2014 and PPDA Guidelines.

The scope of the bid preparatory audit entailed a review of the procurement requisition form, solicitation document and bid notice as well as the approvals of the Contracts Committee of the procurement method, Evaluation Committee and solicitation document. The areas of the

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Head Office

PPDA - URF Towers, Plot 39
Nakasero Road
P.O.Box 3925, Kampala Uganda
Tel: +256-414-311100
Email: info@ppda.go.ug

Western Regional Office

RDC's Building, Bishop Stretcher Road,
Opposite BOU Currency Centre, Mbarara-Kabale Road
P.O. Box 1353, Mbarara, Uganda.
Tel: +256-417-733800
Email: mbararaoffice@ppda.go.ug

Northern Regional Office

Plot 1, Lower Churchill Drive
P.O. Box 999, Gulu, Uganda
Tel: +256-417-432010
Email: guluoffice@ppda.go.ug

Eastern Regional Office

Oval Plaza, Plot 1, Court Road
P.O. Box 2173, Mbale, Uganda
Tel: +256-417-890100
Email: mbaleoffice@ppda.go.ug

solicitation document analyzed were - Instructions to Bidders, Bid Data Sheet, Evaluation Methodology and Criteria, Bidding Forms and the Special and General Conditions of Contract.

The Authority identified the following exceptions for the attention of management:

Objective 1: Establish whether the public procurement planning and requisitioning processes were conducted in a manner which promotes transparency, accountability and fairness in accordance with the PPDA Act 2003 as amended, PPDA Regulations 2014 and PPDA Guidelines

The Authority noted that the planning and requisition processes were conducted in accordance with the PPDA Act, 2003 as amended, PPDA Regulations 2014 and PPDA Guidelines.

Objective 2: To establish whether the solicitation document issued to bidders was prepared in accordance with the provisions of the Public Procurement and Disposal of Public Assets Act, 2003 as amended, the PPDA Regulations 2014 and relevant guidelines

2.1 Errors in the documentation required to prove legal status

2.1.1 Powers of Attorney

Item 3 of Form A7 in the solicitation document issued to bidders provided that bidders should enclose a copy of Powers of Attorney granted to the signatory of the short-listing document registered by the Registrar of Companies or written authorization to submit the application.

The Authority found that given the fact that the procurement is being undertaken using the Open International Bidding method, the requirement that Powers of Attorney should be registered by the Registrar of Companies is restrictive as not all countries require company documents such as Powers of Attorney to be registered by the Registrar to become effective. Further the provision of “written authorization to submit the application” amounts to a Power of Attorney and therefore serves no purpose.

The Authority recommends that the requirement on Powers of Attorney should be modified to include notarized Powers of Attorney to cater for any potential foreign bidders.

2.1.2 Trading License

Section 8 (1) of the Trade (Licensing) Act provides that subject to Section 8 (1) no person shall trade in any goods or carry on any business specified in the Schedule to this Act unless he or she is in possession of a trading license granted to him or her for that purpose under this Act.

Item 5 of Form A7 in the solicitation document issued to bidders provided that bidders should enclose a copy of a trading license for the previous year certified by an issuing authority.

The Authority found that the requirement of submission of a trading license for the previous year would imply that at the time of submission of the short-listing documents, the required trading licenses would be expired which would contravene Section 8 (1) of the Trade (Licensing) Act.

The Authority recommends that the requirement is amended to require the submission of current trading licenses.

2.2 Ambiguous or restrictive device features

2.2.1 Data Encryption

Item DF02 of the device features provided that the devices shall have the capability to encrypt and authenticate data, record and store data in a text format in real time and sign it with a unique electronic signature by EFRIS or the device for every transaction.

The Authority noted that the protocols for encryption and authentication of the aforementioned data were not mentioned.

The Authority recommends that the protocols for encryption and authentication of the data be provided to the bidders for avoidance of ambiguity.

2.2.2 USB Latches

Item DF13 of the device features provided that the USB cables must have latches to hold them on the device in a firm place if the tax payer desires to do so.

The Authority found that the requirement should not be considered as mandatory as the choice on use of latches will be solely based on the preferences of respective tax payers and does not affect the functional capability of the device.

The Authority recommends that the requirement under DF13 should be considered as an optional extra and not a mandatory requirement and should thus not form a part of the device capability evaluation.

2.2.3 Battery casing

Item DF17 of the device features provided that the battery casing should be black or grey engraved or printed with OCR/barcode technology with device model, serial number, power voltage and battery life (rechargeable).

The Authority however notes that the colour of the battery casing has no functional impact of the device and therefore limiting its colour to either black or grey is restrictive.

The Authority recommends that the colour of the battery casing be left open to bidders as it has no functional impact on the EFDs and would only serve to restrict competition.

2.2.4 Alpha-numeric keyboard

Item DF20 of the device features provided that the devices must have alpha-numeric spill-proof keyboards which are easy to use.

The Authority found that the requirement would eliminate bidders whose devices are touch-screen in nature due to the mandatory requirement of alpha-numeric spill-proof keyboards.

The Authority recommends that the requirement be left open to bidders as some devices may be touch screen in nature but with alpha-numeric keyboards.

2.2.5 Spare Battery

Item DF18 (ii) of the device features provided that the devices must have an inbuilt spare battery that automatically powers on when the primary batter runs out with the capability of preserving the stored data in the work memory for at least seven working days and automatic recovery function.

The Authority found that the requirement would be restrictive to competition if left as a mandatory requirement as most electronic fiscal devices have one in built battery with a Complementary Metal Oxide Semiconductor (CMOS) to keep some parameter values and configuration parameters.

The Authority recommends that the requirement of a spare batter should be treated as optional so as to maximize competition in accordance with Sections 45 PPDA Act, 2003 as amended.

2.2.6 Electricity Connections

Item DF18 (v) provided that the devices features provided that the EFDs must have a direct current (DC) port of 12 volts or 24 volts with an inbuilt power stabilizer.

The Authority notes that limiting the DC port voltage to either 12 or 24 volts is restrictive as AC adapters and DC jacks and ports can vary in many ways, ranging from voltage to physical diameter. Some devices may accept as low as 5 volts of DC. Therefore capping the voltage of the DC jack and port will have an impact on completion.

The Authority recommends that the requirement be left open to bidders as devices may vary in regards to acceptable DC voltage in order to maximize competition.

2.2.7 Compatibility

Section 1.4 of the solicitation document issued to bidders provided that the electronic Fiscal Devices (EFDs) and Electronic Dispense Controllers (EDCs) should have hardware and software that is compatible with the designed Electronic Fiscal Receipting and Invoicing System (EFRIS) to record, provide a storage device and a secure mechanism through which information on all transactions between different business spectrum using EFDs and EDCs are transmitted electronically in real time with the Entity.

The Authority noted that although bidders' devices are required to be compatible with EFRIS, the mode of ensuring compatibility such as protocol of communication with EFRIS was not mentioned or provided for.

The Authority recommends that the communication protocol between EFRIS and the EFDs and EDCs should be provided to bidders.

2.2.8 Compliance Certification

Item LR01 of the mandatory requirements and general features of the EFDs and EDCs provided that manufacturers shall ensure that devices sold (hardware and software) meet Uganda National Bureau of Standards (UNBS) and Uganda Communications Commission (UCC) quality and communication standards.

The Authority noted that bid notice was advertised in the NewVision newspaper on 21st July 2022 with a bid closing date of 2nd September 2022, a period of 30 working days.

The Authority found that the period of 30 working days may not be sufficient for bidders to obtain approval and certification of both their hardware and software by both UNBS and UCC and as such the requirement is restrictive.

The Authority recommends that the bidders are given the opportunity to obtain both UNBS and UCC approval and certification of both their hardware and software before signing of the memoranda of understanding and that the requirement is waived for purposes of bidding.

2.3 Technical specifications

2.3.1 Fingerprint Reader

The Authority noted that the technical specifications of both the basic and advanced electronic fiscal devices provided for a capacitive fingerprint reader with 508 DPI / ISO19794-z and ANSI-378 template support.

The Authority found that the requirement was too specific and would limit competition by narrowing the requirement to a specific device.

The Authority recommends that technical specifications that are generic in nature and do not favour individual bidders are used in order to maximize competition and value for money in accordance with Sections 45 and 46 of the PPDA Act, 2003 and Regulation 28 of the PPDA (Rules and Methods procurement for Supplies, Works and Non-Consultancy Services) Regulations 2014.

2.3.2 Cameras

The technical specifications of both the basic and advanced electronic fiscal devices provided for a front and back cameras each of 5-megapixels with automatic focus, flashlight and fill light used for bar code and QR code scanning.

The Authority found that the requirement was too specific and would limit competition by narrowing the requirement to a specific device.

The Authority recommends that technical specifications that are generic in nature and do not favour individual bidders are used in order to maximize competition and value for money in

accordance with Sections 45 and 46 of the PPDA Act, 2003 and Regulation 28 of the PPDA (Rules and Methods procurement for Supplies, Works and Non-Consultancy Services) Regulations 2014.

2.3.3 Battery

The technical specifications of both the basic and advanced electronic fiscal devices provided for rechargeable lithium-ion (Li-ion) battery of 4.2V/5,200mAH that can support 60 hours of standby time and a minimum of 40,000 daily receipt printouts/lines when fully charged.

The Authority found that the fixing of the battery requirement to 4.2V/5,200mAH was restrictive as battery size is not necessarily an indicator of standby time or possible battery rundown when in use. Standby time and battery rundown when in use are highly dependent on device software optimization and other factors and thus limiting the required battery size to 4.2V/5,200mAH is restrictive.

The Authority recommends that the requirement is amended to include only the requirement of a battery that can support 60 hours of standby time and a minimum of 40,000 daily receipt printouts/lines when fully charged.

2.4 Post-Qualification

The Authority noted that Annex C of the solicitation document issued to bidders provided that the Entity would undertake a post-qualification on the Best Evaluated Bidder to ensure that the bidder has the capacity, expertise and financial resources to undertake the assignment. A post-qualification would be undertaken on:

- i. The experience and performance of the bidder with regard to similar assignments;
- ii. The capacity of the bidder with respect to equipment and facilities;
- iii. The qualifications and experience of the personnel of the bidder;
- iv. That the bidder has the capacity to supervise or manage the performance of the assignment as the case may be, based on the qualifications of the supervisory or management staff of the bidder and the number and deployment of staff;
- v. The financial capacity to perform the assignment; and
- vi. Any other relevant criteria.

The Authority however noted that with exception of the experience of the bidder with regard to similar assignments, there were no other criteria provided in the pre-qualification document upon which the Evaluation Committee would base the post-qualification. This leaves room for bias and subjectivity when undertaking the post-qualification.

The Authority recommends that the minimum requirements to enable a bidder pass the post-qualification are explicitly provided to bidders so as to minimize bias and subjectivity.

2.5 Delivery timelines

The Authority review the prequalification document issued to bidders and noted that provided as to the duration/timelines within which the solutions and services (EFDs and EDCs) described in the document were to be delivered and implemented after signing of the memoranda of understanding.

This implies that potential bidders are not fully aware of the requirement in regards to delivery timelines and may lead to delayed deliveries and failure to meet service level agreement which would negatively impact on revenue collection.

The Authority recommends that the delivery timelines within which the solutions and services (EFDs and EDCs) described in the document are to be provided should be explicitly mentioned.

The purpose of this letter is to forward the findings 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.



Simon Businge

FOR: EXECUTIVE DIRECTOR

cc: The Chairperson, Contracts Committee
cc: The Head, Procurement and Disposal Unit

