



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

**INVESTIGATION REPORT INTO ALLEGED DIRECT
INTERFERENCE IN THE PROCUREMENT PROCESS BY THE
DISTRICT ENGINEER IN BUIKWE DISTRICT**

ENTITY: BUIKWE DISTRICT LOCAL GOVERNMENT

COMPLAINANT: INSPECTORATE OF GOVERNMENT

OCTOBER 2020

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ACRONYMS

ICEIDA	-	Iceland International Development Agency
PPDA	-	Public Procurement and Disposal of Public Assets Authority
UGX	-	Uganda Shillings

1.0 SUMMARY OF FACTS

1. A Tripartite Partnership Agreement was entered into between Ministry of Finance, Planning and Economic Development, the Iceland International Development Agency (ICEIDA) and Buikwe District Local Government on 27th September 2000 with a sum of USD 7 million to exclusively finance the improvement in the livelihood and living conditions of people in fishing communities in Buikwe District.
2. The project duration was for 3 years from 2014 to 2017. This was adjusted to USD 11.2 million for a period 1st October 2014 to 30th September 2019 and later extended to January 2020 on a no cost extension basis. Any unspent disbursed funds would be returned to ICEIDA upon termination of the programme.
3. The scope of the programme was to support:
 - i. Capacity building activities at Buikwe District;
 - ii. The education sector;
 - iii. The fisheries sector; and
 - iv. The health sector.
4. The Authority received a complaint from the Inspectorate of Government alleging the following:
 - i. Interference by the District Engineer, Buikwe District with the work of the Procurement and Disposal Unit during the procurements of Buikwe District Fishing Community Development Programme (BDFCDP). There were disagreements in the Technical Evaluation Committee while handling lot 4, where the District Engineer who was the Chairperson of the Committee recommended award of contract to a bidder who was over UGX 42 million above the approved estimate on procurement requisition form 1.that at the final stage of evaluation, there was a change in the estimated contract sum from UGX 629 million to UGX 684 million by the District Engineer so that the bidder with the corrected amount of UGX 671 million would be within the estimate hence award of contract.
 - ii. The District Engineer assumed the role Head Procurement and Disposal Unit because all the bids for the procurement advert that run on 26/8/2019 had been put under key and lock in his office. The evaluation of bids was managed by the District Engineer. Members of Evaluation Committees were nominated by the District Engineer.
 - iii. Bid evaluation for investments projects under DWSG-Water was carried out in the District Engineer's office on 4/10/2019.

2.0 OBJECTIVE OF THE INVESTIGATION

The objective of the investigation was to establish whether the District Engineer interfered in the procurement process of Buikwe District.

3.0 LAWS APPLICABLE

- i. The Public Procurement and Disposal of Public Assets Act, 2003;
- ii. The Local Governments(PPDA) Regulations, 2006; and
- iii. The bidding documents issued.

4.0 METHODOLOGY

1. The Authority reviewed the following documentation:
 - i. Procurement requisition for lot 4;
 - ii. Solicitation document issued to bidders;
 - iii. Record of bid closing and opening;
 - iv. Bids submitted by bidders;
 - v. Evaluation reports;
 - vi. Contracts Committee minutes; and
 - vii. Correspondences related to this matter.

2. The Authority met the following persons indicated in table 1:

Table 1: Persons Met

No.	Name	Designation
1.	Mr. Isaac K Ziwedde	Deputy Chief Administrative Officer
2.	Mr. Fredrick Seguya	District Engineer
3.	Mr. Laban Frank Waiswa	Head Procurement and Disposal Unit
4.	Mr. Rogers Babaranda	Procurement Officer

5.0 FINDINGS BY THE AUTHORITY

5.1 Whether there was interference by the District Engineer, Buikwe District with the work of the Procurement and Disposal Unit during the procurements of Buikwe District Fishing Community Development Programme in lot 4

1. On 4th April 2019, the procurement for lot 4 - the construction of a 3 in 1 staff house, 5 stance VIP Latrine, school kitchen and renovation of 3 blocks with 7 classrooms at Busunga Primary School was initiated by the User Department (Education Department) and funds worth UGX 629 million confirmed by the Accounting Officer.
2. On 5th April 2019, the Contracts Committee approved the open bidding procurement method, the solicitation document and the following evaluation committee members nominated by the Head Procurement and Disposal Unit:

Table 1: Evaluation Committee members

No.	Name	Designation
1.	Mr. Fredrick Seguya	District Engineer
2.	Mr. Vincent Mutebi	Senior Finance Officer
3.	Ms. Joyce Nalubega	Senior Inspector of Schools
4.	Mr. Laban Frank Waiswa	Senior Procurement Officer
5.	Ms Elizabeth Sikyajula	Senior Engineer

3. On 3rd May 2019, the procurement was advertised in the New Vision newspaper with a bid closing date of 27th May 2019.
4. On 27th May 2019, the Entity received and opened bids from the following five bidders:
 - i. Tech Set Services Ltd,
 - ii. Ficah Enterprises (U) Ltd,
 - iii. Lodina Investments (U) Ltd,
 - iv. Kimu Construction Co. Ltd
 - v. Trace Mark (U) Ltd
5. The evaluation report dated 13th June 2019 indicated that Kimu Construction Co. Ltd emerged as the best evaluated bidder with a bid price of UGX 671,384,487. There was an arithmetic error UGX 62,767,513 corrected in the bid of Kimu Construction Co. Ltd which reduced the contract price from UGX 734,152,000 VAT exclusive to UGX 671,384,487.

The Authority noted that the Head Procurement and Disposal Unit recommended negotiation on scope of works since the price of the best evaluated bidder was above the Engineer's estimate by UGX 42 million or cancel the process and request for new quotations.

The Authority noted that whereas it is true that the best evaluated bidder was awarded UGX 42 million above the estimate on Form 1, there was no evidence that the District Engineer singularly recommended award to Kimu Construction Co. Ltd. The evaluation report contained signatures of different people.

6. The evaluation report recommending Kimu Construction Co. Ltd at a contract award price of UGX 671,384,487 was submitted to the Embassy of Iceland for review as per the implementing agreement for a No objection to proceed to the next stage.
7. In a letter dated 3rd July 2019, the Embassy did not agree with the outcome of the evaluation on grounds that the best evaluated bidders' price was above the estimate on form 1 (UGX 629 million) and that the Works Department had a different estimate of UGX 684 million for the same procurement.

In a hearing with the Authority, the District Engineer indicated that in the evaluation meeting, a representative from the Education Department clarified that the figure of UGX 629,004,200 was the planning budget figure provided by the User Department and was not the Engineer's estimate.

The Authority noted that there was no evidence that the District Engineer at the final stage of the evaluation changed the estimated sum from UGX 629 million to UGX 684 million so that the bidder with the corrected amount of UGX 671 million would be within the estimate.

8. The Authority further noted that in the Contracts Committee minutes dated 8th July 2019, the Chairperson indicated that the Committee received a separate evaluation report and

minutes from the District Engineer/Chairperson of the Adhoc Evaluation Committee, Mr. Fredrick Seguya.

In a hearing with the Authority, the District Engineer indicated that there was no disagreement in the technical evaluation committee and that the report he submitted to the Contracts Committee was a copy of the detailed evaluation report and not a minority report.

The Authority noted that there was no evidence of disagreement between evaluation committee members during the evaluation process of the above procurement. The Authority further noted that the evaluation report submitted by the District Engineer to the Contracts Committee was a copy of the evaluation report approved by the Contracts Committee and not a separate minority report.

9. Regulation 25 (3) (i) of the Local Governments (PPDA) Regulations, 2006 provides that the Procurement and Disposal Unit shall make recommendations for award of contract to a Contracts Committee.
10. The Authority found that it was not the responsibility of the District Engineer to submit a copy of the evaluation report and minutes directly to the Contracts Committee without going through the Procurement and Disposal Unit contrary to Regulation 25 (3) (i) of the Local Governments (PPDA) Regulations, 2006.
11. The Authority noted that the Contracts Committee acted on the recommendations of the Donor to retender and the decision of the Entity was displayed on the best evaluated bidder notice on 8th July 2019 ending on 19th July 2019. Kimu Construction Co. Ltd sought clarification from the Entity on the best evaluated bidder notice and requested that the evaluation process be reviewed.
12. On 7th August 2019, the Entity, sought clarification from the Authority which guided that the decision from the Embassy to retender the procurement would prevail in accordance with Section 4A (2) of the PPDA Act, 2003 that provides that where there is a conflict between the Act, Regulations made under the Act or Guidelines issued by the Authority and a condition imposed by the donor of the funds, the conditions of the donor shall prevail with respect to the procurement that uses the funds.
13. The Authority noted that the procurement was cancelled and re-advertised in the New Vision newspaper of 26th August 2019 with a bid closing date of 13th September 2019.

Conclusion

The District Engineer submitted a copy of the evaluation report and minutes directly to the Contracts Committee instead of the Procurement and Disposal Unit contrary to Regulation 25 (3) (i) of the Local Governments (PPDA) Regulations, 2006.

5.2 Whether the District Engineer assumed the role of Head Procurement and Disposal Unit because all the bids for the procurement advert that run on 26/8/2019 had been put under key and lock in his office. Whether the evaluation of bids was managed by the District Engineer and whether members of Evaluation Committees were nominated by the District Engineer

The Authority did not find any evidence to show that the District Engineer assumed the role of the Head, Procurement and Disposal Unit in the procurement advert that run on 26/8/2019, managed the evaluation process or nominated members of the evaluation committees. At the time of the investigation in February 2020, the Authority could not ascertain whether bids had been put under lock and key in the Engineer's office due to the lapse of time.

5.3 Whether bid evaluation for investments projects under DWSG-Water was carried out in the District Engineer's office on 4/10/2019

In a meeting with the District Engineer at the Entity, he admitted that he had provided office space for evaluation of investments projects under DWSG-Water to be carried out.

The Authority found no evidence to show that the provision of the office space by the District Engineer to conduct the above evaluation negatively impacted the outcomes of the evaluation.

6.0 RECOMMENDATION

In accordance with Section 9 (1) (a) of the PPDA Act, 2003 and in light of the findings above, the Authority recommends that the Accounting Officer should caution the District Engineer for submitting a copy of the evaluation report and minutes directly to the Contracts Committee instead of the Procurement and Disposal Unit contrary to Regulation 25 (3) (i) of the Local Governments (PPDA) Regulations, 2006.