



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

**REPORT ON APPLICATION FOR ADMINISTRATIVE REVIEW IN RESPECT TO
THE PROCUREMENT FOR PRINTING AND SUPPLY OF BALLOT PAPERS FOR
THE 2021 FOR PRESIDENTIAL, PARLIAMENTARY AND LOCAL COUNCIL
ELECTIONS (REF/SUPLS/2020-21/00864/1/2/3/4/5/6/7/8/9)**

ENTITY: ELECTORAL COMMISSION

APPLICANT: ELLAMS PRODUCTS LIMITED

NOVEMBER 2020

1.0 BACKGROUND

1. On 19th March 2020, the Electoral Commission (hereinafter referred to as the Entity) initiated the procurement for printing and supply of ballot papers and Declaration of Results Forms (DRF) for the general elections for 2021 (Presidential, Parliamentary and Local Council elections) at an estimated cost of UGX 77,611,089,200 divided into the following nine lots:

Lot No.	Description of Lot
1.	Presidential and Directly Elected Members of Parliament
2.	District Women Representatives to Parliament and District/City Women Councillors
3.	District/City Chairpersons and District Directly Elected Councillors
4.	Municipality/City Division Chairpersons, Women Councilors Forming One Third of Councils and Directly Elected Councilors
5.	Municipality/City Division Directly Elected Councillors
6.	Ballot Papers for Sub-county/Town/Municipal Division Chairpersons (SCCP)
7.	Ballot Papers for Sub-County/Town/Municipal Division Directly Elected Councillors (SCDEC)
8.	Ballot Papers for Sub-county/Town/Municipal Division Women Councillors (SCWC)
9.	Ballot Papers for Councilors Representing Special Interest Groups (Youth, PWDs, Older Persons and Workers) at Districts/City Local Governments and SIGs (Youth, PWDs and Older Persons) at Municipality/City Divisions and Sub-County/Town/ Municipal Divisions

2. On 28th May 2020, the Contracts Committee approved the bidding document, the open International bidding procurement method and Evaluation Committee.
3. On 29th May 2020, the Entity advertised the bid notice for printing services for the Ballot Papers and Declaration of Results Forms for the General elections 2021 in the New Vision Newspaper with the deadline for bid submission on 13th July 2020.
4. On 5th June 2020, the Entity held a pre-bid meeting via teleconferencing and issued the minutes to the bidders of 1st July 2020.
5. On 13th July 2020, the Entity received and opened bids from 22 bidders. Out of the 22 bids received, ten were local bidders and twelve were foreign bidders as indicated in Table 1 below:

Table 1: Bids Submitted

No.	Name of Bidder	Number of Lots Bided for	Lot No.s
Local Bidders			
1.	In-line Print Services Ltd	1	4
2.	Multiplex Ltd	2	5, 9
3.	Wave Media Ltd	3	6, 4, 5
4.	Graphic Systems (U) Ltd	3	1, 4, 6
5.	Picfare Industries Ltd	4	3, 6, 7, 8
6.	B.N Enterprises Ltd	2	6, 7
7.	New Vision and Hightech Graphics JV	4	3, 4, 5, 6
8.	Marianum Press Ltd	2	4, 5
9.	In-line Print Services and Hitech General Trading LLC JV	3	3, 7, 8
10.	Media World Productions Ltd and Abulhoul Printing Press Ltd (Joint Venture)	2	5, 9
Foreign Bidders			
11.	Oriental Security Printing Solutions	5	1, 2, 3, 4, 5, 6
12.	United Printing and Publishing	9	1 - 9
13.	Al Ghurair Printing and Publishing L.L.C	9	1 - 9
14.	Sintel Security Print Solutions Ltd	9	1 - 9
15.	Group Joos NV	4	1, 6, 7, 8
16.	Ellams Products Ltd	4	2, 6, 7, 8
17.	Aero Vote Security Printing Ghana Ltd	2	2, 6
18.	Uniprint	9	1 - 9
19.	Tall Security Print Ltd	9	1 - 9
20.	Modern Lithographic (K) Ltd	2	3, 7
21.	Baltijas Banknote SIA	2	4, 5
22.	Adare SEC Ltd	6	4, 5, 6, 7, 8, 9

6. On 11th September 2020, the Contracts Committee approved the revised composition of the Evaluation Committee which is indicated in Table 2:

Table 2: Evaluation Committee

No.	Name	Designation
1.	Mr. Richard Baabo Kamugisha	Head Field Operations
2.	Mr. Charles Lwanga	Senior Election Officer/Statistics
3.	Mr. Charles Mashate	Head Voter Education & Training
4.	Mr. Paul Tamale	Senior Election Officer /Printery
5.	Mr. Robert Borekwa	Head Procurement & Disposal Unit

7. The Evaluation Report dated 17th September 2020, indicated that the following 16 bidders were eliminated at the various stages indicated in Table 3:

Table 3: Reasons for Elimination of Bidders

No.	Name of bidder	Stage and Reasons for Elimination
Preliminary Examination Stage		
1.	Group Joos NV	<ul style="list-style-type: none"> i. The bidder's Certificate of Incorporation or its equivalent was not enclosed. ii. Evidence for fulfillment to pay taxes was not enclosed. iii. No Bid Security was submitted.
2.	Media World Productions Ltd and Abulhoul Printing Press Ltd (Joint Venture)	<ul style="list-style-type: none"> i. The trading license for Abulhoul Printing Press Ltd was not included in the bid. ii. The Certificate of Registration for Abulhoul Printing Press Ltd was not included in the bid. iii. Evidence of fulfillment of obligations to pay taxes by Abulhoul Printing Press Ltd was not included in the bid. iv. The Power of Attorney submitted was given to a company/firm and not to individuals.
3.	B.N. Enterprises Ltd	The Bid Submission Sheet was not included in the bid.
4.	In-line Print Services & Hi-tech General Trading LLC	No certified Joint Venture agreement was enclosed in the bid.
5.	Marianum Press Ltd	Invalid Bid Security. Bidder enclosed a commitment letter from SWICO as a bid security.
Administrative Compliance		
6.	Oriental Security Printing Solutions	Evidence of successful completion of three contracts of similar nature and complexity not enclosed in the bid.
7.	Modern Lithographic (K) Ltd	Evidence of successful completion of three contracts of similar nature and complexity not enclosed in the bid.
8.	Baltjas Banknote	Evidence of successful completion of three contracts of similar nature and complexity not enclosed in the bid.
9.	Multiplex Ltd	Evidence of successful completion of three contracts of similar nature and complexity not enclosed in the bid.
10.	Wave Media Ltd	Evidence of successful completion of three contracts of similar nature and complexity not enclosed in the bid.

No.	Name of bidder	Stage and Reasons for Elimination
11.	In-line Print Services Ltd	Evidence of successful completion of three contracts of similar nature and complexity not enclosed in the bid.
12.	Graphic Systems (U) Ltd	Evidence of successful completion of three contracts of similar nature and complexity not enclosed in the bid.
13.	Picfare Industries Ltd	Evidence of successful completion of three contracts of similar nature and complexity not enclosed in the bid.
Detailed Commercial Evaluation		
14.	Ellams Products Ltd	Prices in the Price Schedule quoted in US Dollars contrary to the Entity's requirement in ITB 15 (b) of the solicitation document which required that for suppliers originating outside of Uganda, the currency of the bid shall be Uganda Shillings.
15.	New Vision - Hightech Graphics JV	The bidder did not state the delivery schedule in the bid.
Detailed Technical Evaluation		
16.	Sintel Security Print Solutions Ltd	The Bidder did not indicate compliance to the technical specification in the Solicitation Document.

8. The Evaluation Committee ranked bidders at financial comparison on the basis of the average total price for the four options of ballot paper sizes for the respective lots.
9. The bidding document provided that each bidder could only be awarded a maximum of two lots. The Evaluation Committee used decision tress¹ to determine the combination of bids for all lots with the total lowest cost to the Entity as indicated in Table 4 below:

Table 4: Combinations for Lots Used in Determination of the Award

Lot No.	COMBINATION 1		COMBINATION 2	
	Bidder	Evaluated Price (UGX) DDP	Bidder	Evaluated Price (UGX) DDP
1.	United Printing and Publishing	13,325,149,008.00	Al Ghurair Printing and Publishing L.L.C	11,577,312,000.00
2.	Al Ghurair Printing and	12,793,824,000.00	Al Ghurair Printing and	12,793,824,000.00

¹ A decision support tool that uses a tree-like model of decisions and their possible consequences, including chance event outcomes, resource costs.

Lot No.	COMBINATION 1		COMBINATION 2	
	Bidder	Evaluated Price (UGX) DDP	Bidder	Evaluated Price (UGX) DDP
	Publishing L.L.C		Publishing L.L.C	
3.	Uniprint	15,893,829,085.68	Uniprint	15,893,829,085.68
4.	Uniprint	4,030,024,808.88	Uniprint	4,030,024,808.88
5.	Tall Security Print Ltd.	2,282,305,680.00	Adare Sec	5,522,457,600.00
6.	Adare Sec	5,522,457,600.00	Adare Sec	8,053,257,600.00
7.	Adare Sec	8,053,257,600.00	Tall Security Print Ltd	2,282,305,680.00
8.	Al Ghurair Printing and Publishing L.L.C	10,963,584,000.00	Tall Security Print Ltd	13,419,153,072.00
9.	Tall Security Print Ltd.	1,930,713,788.88	United Printing and Publishing	11,578,110,621.48
TOTAL		74,795,145,571.44		85,150,274,468.04
COMBINATION 3			COMBINATION 4	
1.	United Printing and Publishing	13,325,149,008	Al Ghurair Printing and Publishing L.L.C	11,577,312,000
2.	Al Ghurair Printing and Publishing L.L.C	12,793,824,000	United Printing and Publishing	15,065,450,208
3.	Al Ghurair Printing and Publishing L.L.C	13,532,544,000	Al Ghurair Printing and Publishing L.L.C	13,532,544,000
4.	Uniprint	4,030,024,809	Adare Sec	2,832,814,080
5.	Adare Sec	5,522,457,600	Adare Sec	1,449,835,200
6.	Adare Sec	8,053,257,600	Uniprint	7,865,850,334
7.	Tall Security Print Ltd.	2,282,305,680	Uniprint	13,473,512,590
8.	Tall Security Print Ltd.	13,419,153,072.00	Tall Security Print Ltd.	13,419,153,072
9.	United Printing and Publishing	11,578,110,621.48	Tall Security Print Ltd.	1,931,073,789
TOTAL		84,536,826,390		81,147,545,273

10. On 23rd September 2020, the Contracts Committee approved the evaluation report and awarded the contracts for the nine lots to the following provides indicated below in Table 5:

Table 5: Best Evaluated Bidders

Lot No.	Best Evaluated Bidder	Option Dimensions	Award Price (UGX) CIF Entebbe
1	United Printing and Publishing	135 x 135mm	6,018,257,600
		347 x 135mm	8,173,716,400
		496 x 135mm	10,474,008,400
		580 x 135mm	12,348,320,400
2	Al Ghurair Printing and Publishing L.L.C	135 x 135mm	7,953,600,000
		347 x 135mm	8,713,600,000
		496 x 135mm	9,169,600,000
		580 x 135mm	9,701,600,000
3	Uniprint	135 x 135mm	7,533,326,797
		347 x 135mm	10,282,376,097
		496 x 135mm	2,376,574,847
		580 x 135mm	3,957,244,497
4	Uniprint	135 x 135mm	1,892,215,577
		347 x 135mm	2,592,585,877
		496 x 135mm	3,150,277,627
		580 x 135mm	3,559,434,277
5	Tall Security Print Ltd	135 x 135mm	1,218,252,000
		347 x 135mm	1,436,817,000
		496 x 135mm	1,739,892,000
		580 x 135mm	1,944,777,000
6	Adare Sec Ltd	135 x 135mm	2,600,040,000
		347 x 135mm	3,892,040,000
		496 x 135mm	4,405,040,000
		580 x 135mm	4,443,040,000
7	Adare Sec Ltd	135 x 135mm	4,899,040,000
		347 x 135mm	5,298,040,000
		496 x 135mm	5,982,040,000
		580 x 135mm	6,191,040,000
8	Al Ghurair Printing and Publishing L.L.C	135 x 135mm	7,157,600,000
		347 x 135mm	7,537,600,000
		496 x 135mm	7,765,600,000
		580 x 135mm	7,993,600,000
9	Tall Security Print Ltd	135 x 135mm	1,022,677,522
		347 x 135mm	1,274,151,442
		496 x 135mm	1,505,972,768
		580 x 135mm	1,561,292,126

11. On 25th September 2020, the Entity displayed the best evaluated bidder Notice with the removal date of 8th October 2020.

2.0 THE ADMINISTRATIVE REVIEW PROCESS

2.1 APPLICATION TO THE ACCOUNTING OFFICER

1. On 6th October 2020, Ellams Products Limited applied for Administrative Review before the Accounting Officer and copied to the Authority on the following grounds:
 - i. That the Entity illegally disqualified its bid for quoting its price in US Dollars yet the bidding document did not indicate that bids quoted in foreign currencies shall be rejected.
 - ii. That its prices were lower than the prices of the awarded bidder for Lot 2 and Lot 8.
2. On 7th October 2020, the Accounting Officer dismissed the application for administrative review.

2.2 APPLICATION TO THE AUTHORITY

1. On 23rd October 2020, Ellams Products Limited applied for administrative review before the Authority on the following grounds:
 - i. That the Entity illegally disqualified its bid for quoting its price in US Dollars yet the bidding document did not indicate that bids quoted in foreign currencies shall be rejected.
 - ii. That its prices were lower than the prices of the awarded bidder for Lot 2 and Lot 8.

3.0 DISPOSAL OF THE APPLICATION

1. In investigating the application, the Authority reviewed the following documents:
 - i. Procurement requisition;
 - ii. Bid notice;
 - iii. Bidding document issued;
 - iv. Records of bid receipt and opening;
 - v. Bids submitted;
 - vi. Minutes of the pre-bid meeting;
 - vii. Evaluation report;
 - viii. Minutes of Contracts Committee;
 - ix. Best evaluated bidder notice; and
 - x. Application for administrative reviews before the Accounting Officer and the Authority by Ellams Products Limited; and
 - xi. Submissions by the parties.
2. On 28th October 2020, the Authority held an administrative review hearing which was attended by the following officials from the Entity and Ellams Products Limited indicated below in Table 6:

Table 6: Persons that attended the hearing

No.	Name	Designation/Role
Officials Electoral Commission		
1.	Mr. Richard Kamugisha	Ag. Director Operations representing Accounting Officer
2.	Mr. Robert Borekwa	Principal Election Officer, Procurement
Officials from Ellams Products Limited		
3.	Mr. Reedy Kandadi	General Manager
4.	Mr. Goopal	Operations Manager

4.0 SUBMISSIONS BY THE PARTIES

4.1 SUBMISSIONS BY THE APPLICANT

The Applicant made the following submissions:

1. The Entity disqualified its bid for quoting prices in the price schedule in US Dollars instead of Uganda Shillings. The bidding document issued by the Entity did not state that bids submitted in other currency would be disqualified and no objection was raised on the bid at bid opening.
2. ITB 34 of the bidding document provided for conversion of all bid prices expressed in various currencies into a single currency using the selling exchange rate established by the source and on the date specified in the bid data sheet (BDS).
3. The Bank of Uganda exchange rate on 13th July 2020 which was the bid opening date was UGX. 3,697.88 should have been used at evaluation and comparison purposes.
4. It was unreasonable to be disqualified for quoting in USD while at the same time the guidelines permitted conversion to a single currency of Uganda selling rate.
5. The Entity would save money if the Applicant's bid had been favorably considered. The best evaluated bidder under Lot 2 had a price of UGX. 11,105,750,000 compared to the Applicant's price of UGX. 9,736,170,439. The Entity would therefore save UGX. 1,369,579,561 (14.06% savings).
6. The Applicant further submitted that under Lot 8, the best evaluated bidder under had a price of UGX. 9,517,000,000 compared to a price of UGX. 7,247,579,939. The Entity would therefore save UGX. 2,269,420,061 (31.3% savings). The Entity would therefore make a total saving of UGX. 3,638,999,622 on the two lots.
7. The Applicant prayed that the Authority considers its submissions, cancel the award and eventually award the Lots 2 and 8 to the Applicant.

4.2 SUBMISSIONS BY THE ENTITY

The Electoral Commission made the following submissions:

1. The Bid Data Sheet under ITB 15.1 (b) of the bidding document issued to bidders provided that, *'For supplies and relates services originating outside of Uganda the currency of the bid shall be: Uganda Shillings.'* The Applicant submitted its bid in US Dollars contrary to the requirements of the bidding document. The Entity properly evaluated the Applicant's bid
2. In response to the issue of price, the Entity stated that the Applicant's bid did not progress to financial evaluation and the Entity therefore did not make financial comparison of its bid. With respect to the Applicant's submission on the Entity making savings, the Entity stated that elections were of a security nature and therefore the Entity's interest was to engage competent and credible printers to do the job.
3. The Entity prayed that the Authority dismisses the application since the Applicant did not follow the requirement in the bidding document.

5.0 RESOLUTION BY THE AUTHORITY

5.1 Ground One

The Entity disqualified the Applicant's bid for quoting its price in US Dollars yet the bidding document did not indicate that bids quoted in foreign currencies shall be rejected.

Issue extracted by the Authority

Whether the Entity erred in law and fact when it disqualified the bid by Ellams Products Limited for quoting its bid price in United States Dollars.

Findings:

1. The Applicant submitted that it was illegally disqualified for quoting its price in United States Dollars because it was not part of the evaluation criteria since the bidding document did not indicate that bids quoted in foreign currencies shall be rejected.
2. The best evaluated bidder notice indicated that the Applicant's bid was eliminated at the commercial stage because its prices in the Price Schedule were quoted in US Dollars contrary to the Entity's requirement in ITB 15 (b) of the solicitation document which required that for suppliers originating outside of Uganda, the currency of the bid shall be Uganda Shillings.
3. The evaluation criteria stated under the bidding document Section 3 Evaluation methodology and criteria under paragraph 5 provided that:
*"5 Commercial Evaluation
commercial responsiveness of bids shall be evaluated in accordance with ITB Clause 33. The criteria shall be:*
 - (a) acceptance of the conditions of the proposed contract;*
 - (b) Inclusion of all cost components required such as transport and insurance to Entebbe Airport, in addition to the price of the supplies;*
 - (c) acceptable delivery schedule".*

4. Instruction to Bidder (ITB) 15.1 (b) in the bidding document provides that:
“Bid prices shall be quoted in the following currencies: (b) for Supplies and Related Services originating outside Uganda, or for imported parts or components of Supplies and Related Services originating outside Uganda, the bid prices shall be quoted in the currency of the expense or in the currency of the Bidder’s country unless otherwise specified in the Bid Data Sheet (BDS)”.
5. The bidding document provided under the BDS clause ITB 15.1 (b) that: “For Supplies and Related Services originating outside of Uganda the currency of the bid shall be: **Uganda Shillings**”.
6. The Authority found that the Applicant quoted its price schedule in United States Dollars contrary to the requirement of currency of the bid stated in the bidding document under ITB 15.1 (b) in the BDS. Whereas the Applicant had included the cost component of transport and insurance to Entebbe in addition to the cost of the supplies, the pricing was in a foreign currency.
7. The Authority found that the Entity did not err in law or fact when it disqualified the bid by Ellams Products Limited for quoting its bid price in United States Dollars.

Decision of the Authority on Ground One

The Authority found **no merit** in the ground since the bid by Ellams Products Limited was properly evaluated with the respect to the requirement for currency of the bid.

5.2 Ground Two

The Applicant’s bid prices were lower than the prices of the awarded bidder for Lot 2 and Lot 8.

Issue extracted by the Authority

Whether the Entity erred in law and fact when it awarded the contracts to other bidders yet the Applicants’ prices were lower than the prices of the awarded bidder for Lot 2 and Lot 8

Findings:

1. The Applicant submitted its prices were lower than the prices of the awarded bidder for Lot 2 and Lot 8. The Entity would therefore make a total saving of UGX. 3,638,999,622 on the two lots
2. The Authority noted that Ellams Products Limited’s bid did not progress to the financial evaluation stage as it was disqualified at commercial evaluation stage. The Applicant’s bid did not proceed to the financial comparison to ascertain whether or not its price was lower than the other bids evaluated at financial stage.
3. The Authority found that the Entity did not err in law and fact in awarding to other bidders since the Applicant’s bid was not considered at financial evaluation and could not

determine if the Applicant's prices were lower than the prices of the awarded bidder for Lot 2 and Lot 8.

Decision of the Authority on Ground Two

The Authority found **no merit** in ground two since Ellams Products Ltd's bid was not evaluated at financial comparison having been disqualified at commercial stage.

DECISION OF THE AUTHORITY

In accordance with Section 91 (4) of the PPDA Act, 2003 and in light of the findings in ground one and two, the application for Administrative Review by Ellams Products Ltd is **rejected**.