



**PUBLIC PROCUREMENT AND DISPOSAL
OF PUBLIC ASSETS AUTHORITY**
"Procurement That Delivers"

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

**INVESTIGATION REPORT IN RESPECT OF THE ALLEGED
IRREGULAR EVALUATION OF BIDS IN THE PROCUREMENT OF
CIVIL WORKS FOR UPGRADING OF KOBOKO-MOYO-YUMBE
ROAD (103.08KM) FROM GRAVEL TO PAVED (BITUMINOUS)
STANDARD**

REF NO. UNRA/WRKS/2020-21/00151

ENTITY : UGANDA NATIONAL ROADS AUTHORITY

COMPLAINANT: WHISTLEBLOWER

DECEMBER 2023

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1.0 BACKGROUND OF THE PROCUREMENT

1. On 1st June 2021, the procurement of civil works for for upgrading of Koboko-Moyo-Yumbe Road (103.08km) from gravel to paved (bituminous) standard was initiated at a cost of UGX 409,774,128,829. The procurement was to be funded under the Roads and Bridges in the Refugee Hosting Districts Project (P171339).
2. On 21st June 2021, the Contracts Committee approved the procurement method as international competitive bidding and the Evaluation Committee comprised of:

Table 1: Evaluation Committee composition

S/No	Name	Position	Justification
1.	Mr. Alex Otim	Manager Road Development	Technical Knowledge
2.	Mr. Godfrey Enzama	Manager Road Development	Technical Knowledge
3.	Mr. Kenneth Muniina	Team Leader Hydrology	Technical Knowledge
4.	Ms. Pamela Asiimwe	Maintainance Design Engineer	Technical Knowledge
5.	Mr. Patrick Were	Procurement Manager - Works	Procurement Knowledge

3. On 29th July 2021, the Contracts Committee approved the solicitation document and the Specific Procurement Notice.
4. On 7th February 2022, the Contracts Committee approved a revised Evaluation Committee comprising of:

Table 2: Revised Evaluation Committee composition

S/No	Name	Position	Justification
1.	Mr. Alex Otim	Manager Road Development	Technical Knowledge
2.	Mr. Godfrey Enzama	Manager Road Development	Technical Knowledge
3.	Mr. Kenneth Muniina	Team Leader Hydrology	Technical Knowledge
4.	Ms. Pamela Asiimwe	Maintenance Design Engineer	Technical Knowledge
5.	Mr. Brian Kayondo	Senior Procurement Officer	Procurement Knowledge
6.	Mr. Brian Karugaba	Environmental Specialist	Environmental and Social Safeguards Expertise
7.	Mr. Isaac Natukunda	Senior Procurement Officer	Procurement Knowledge

5. On 19th April 2022, the World Bank provided its no-objection to the Specific Procurement Notice.
6. On 23rd April 2022, the Specific Procurement Notice was advertised in the East African Newspaper with a deadline for submission of bids of 15th June 2022.
7. 73 bidders purchased and were issued the solicitation document.
8. On 16th May 2022, a pre-bid meeting was held using Microsoft Teams.

9. On 10th June 2022, Addendum No. 1 extending the deadline for submission of bids to 13th July 2022 was issued.
10. On 15th June 2022, the Contracts Committee approved Addendum No. 1.
11. On 30th June 2022, Clarification No. 1 was issued to bidders.
12. On 30th June 2022, the World Bank gave its no-objection to Addendum No. 2.
13. On 30th June 2022, Addendum No. 2 was issued to bidders.
14. On 30th June 2022, Addendum No. 3 extending the deadline for submission of bids to 28th July 2022 was issued.
15. On 15th July 2022, the Contracts Committee approved Addendum No. 2 and 3.
16. On 26th July 2022, Addendum No. 4 extending the deadline for submission of bids to 17th August 2022 was issued.
17. On 27th July 2022, the Contracts Committee approved Addendum No. 4.
18. On 17th August 2022, bids were received from 17 bidders. A bid from AVK Tech Engineering Solutions was received but returned unopened for late submission.
19. On 30th September 2022, the Contracts Committee approved the technical evaluation report and the bidders recommended for opening of financial bids as:
 - i. China Communications Construction Company Ltd;
 - ii. Chongqing International Construction Company;
 - iii. Zhongmei Engineering Group Limited; and
 - iv. SBI International Holding AG.
20. On 21st December 2022, the World Bank provided comments to the technical evaluation report.
21. On 4th May 2023, a revised technical evaluation report was signed recommending the following bidders for opening of financial bids
 - i. China Communications Construction Company Ltd;
 - ii. Chongqing International Construction Company;
 - iii. China Wu Yi Company Limited;
 - iv. Zhongmei Engineering Group Limited; and
 - v. China Railway Seventh Group Limited.
22. On 5th May 2023, the Contracts Committee approved the revised technical evaluation report and the list of bidders for opening of financial bids as proposed.

23. On 11th May 2023, the World Bank provided a no-objection to the technical evaluation report and the list of bidders whose financial bids were to be opened.
24. On 12th May 2023, a Notice to Bidders Following Technical Evaluation was displayed with a date of removal of 26th May 2023.
25. On 12th June 2023, financial bids were opened as indicated below:

Table 3: Record of opening of financial bids

S/No	Name of Bidder	Price Read Out (UGX)
1.	China Communications Construction Company	358,662,337,263
2.	Chongqing International Construction Company	368,798,839,180.2
3.	China Wu Yi Company Limited	515,215,006,961
4.	China Railway Seventh Group Limited	493,905,899,939
5.	Zhongmei Engineering Group Limited	430,264,628,459

22. On 12th July 2023, the Evaluation Committee sought clarification from China Communications Construction Company and Chongqing International Construction Company in regards to the breakdown of their prices as they had been determined to have submitted abnormally low bids.
23. On 18th July 2023, a second request for clarification was sent to China Communications Construction Company and Chongqing International Construction Company requiring the bidders to demonstrate the way they would execute each of the identified bill items considered grossly underpriced.
24. On 28th July 2023, the Contracts Committee approved the combined technical and financial evaluation report and awarded the contract to Chongqing International Construction Company at a price of UGX 368,798,839,180.2.
25. On 31st July 2023, the financial evaluation report was submitted to the World Bank for no-objection. The report recommended Chongqing International Construction Company for award of contract at a cost of UGX 368,798,839,180.2.
26. On 11th August 2023, the World Bank provided comments to the financial evaluation report and deferred the provision of a no-objection to the recommendation of award of contract.
27. On 1st September 2023, the World Bank provided additional comments to the financial evaluation report and deferred the provision of a no-objection.
28. On 22nd September 2023, the World Bank provided further comments to the financial evaluation report and deferred the provision of a no-objection.
29. On 16th October 2023, the Contracts Committee approved the revised combined technical and financial evaluation report and awarded the contract to Chongqing International Construction Company at a cost of UGX 368,798,839,180.2.

30. On 18th October 2023, the revised financial evaluation report and recommendation of award of contract were submitted to the World Bank for a no-objection.
31. On 21st November 2023, another revised financial evaluation report was submitted to the World Bank for a no-objection.
32. On 22nd November 2023, the Ag. Executive Director of the Entity in a letter to the World Bank sought to withdraw the revised financial evaluation report that had been submitted for a no-objection on 21st November 2023.
33. On 23rd November 2023, a revised financial evaluation report was submitted to the World Bank for no-objection. The report recommended Zhongmei Engineering Group Limited for award of contract at a cost of UGX 430,264,628,459.
34. On 26th November 2023, the World Bank granted a no-objection to the award of contract to Zhongmei Engineering Group Limited for award of contract at a cost of UGX 430,264,628,459.
35. On 29th November 2023, a Notice of Best Evaluated Bidder was issued with a standstill period expiring on 13th December 2023.
36. On 1st December 2023, the Authority received a complaint from a whistleblower and instituted an investigation into the matter.

2.0 OBJECTIVES OF THE INVESTIGATION

The objective of the investigation was to establish whether the evaluation of financial bids was undertaken in accordance with the PPDA Act, 2003 and Regulations, 2014 and the World Bank Procurement Framework for IPF Borrowers, 2020.

3.0 LAW APPLICABLE

- i. The Public Procurement and Disposal of Public Assets Act No. 1 of 2003;
- ii. The Public Procurement and Disposal of Public Assets Regulations of 2014; and
- iii. World Bank Procurement Framework for IPF Borrowers, 2020.

4.0 METHODOLOGY

In reviewing the application, the Authority adopted the following methodology:

4.1 Review and analysis of the procurement action file. The records reviewed included the following:

- i. Invitations to bid;
- ii. Bids;
- iii. Records of issue and receipt of bids;
- iv. Records of bid opening;
- v. Bids submitted by the bidders;
- vi. Technical evaluation reports;
- vii. Financial evaluation reports; and

viii. Correspondences between the Evaluation Committee and bidders.

4.2 Interviews were held on 13th December 2023 with the following:

Table 4: List of persons met

S/No	Name	Position
Uganda National Roads Authority		
1.	Mr. Alex Otim	Manager Road Development
Zhongmei Engineering Group Limited		
1.	Mr. Guo Wensheng	Project Engineer
2.	Mr. Wang Jie Feng	Project Manager
3.	Mr. Ivan Kyateka	Counsel

5.0 FINDINGS BY THE AUTHORITY ON THE GROUNDS RAISED

5.1 Whether the evaluation of financial bids was undertaken in accordance with the PPDA Act, 2003 and Regulations, 2014 and the World Bank Procurement Framework for IPF Borrowers, 2020

1. The whistleblower alleged that bidders who were considerably cheaper than the best evaluated bidder were eliminated during financial evaluation without adequate justification.
2. The Authority noted that on 12th June 2023, financial bids were opened as indicated below:

Table 5: Record of opening of financial bids

S/No	Name of Bidder	Price Read Out (UGX)
1.	China Communications Construction Company	358,662,337,263
2.	Chongqing International Construction Company	368,798,839,180.2
3.	China Wu Yi Company Limited	515,215,006,961
4.	China Railway Seventh Group Limited	493,905,899,939
5.	Zhongmei Engineering Group Limited	430,264,628,459

3. The Authority reviewed the bills of quantities in the bids submitted by the respective bidders and found that there were no arithmetic errors in any of the submitted bids.
4. The Authority reviewed the evaluation report dated 23rd November 2023 and noted that Zhongmei Engineering Group Limited was recommended for award of contract at a cost of UGX 430,264,628,459. The bids submitted by China Communications Construction Company Ltd and Chongqing International Construction Company though lower than the bid submitted by the best evaluated bidder, were eliminated on grounds of being abnormally low.
5. The Authority noted that ITB 40.1 of the solicitation document issued to bidders and the World Bank Guide to the identification and treatment of Abnormally Low Bids and Proposals, July 2016 provided that an Abnormally Low Bid (ALB) is one in which the bid price, in combination with other constituent elements of the bid, appears unreasonably low to

the extent that the bid price raises material concerns as to the capability of the bidder to perform the contract for the offered price.

6. The World Bank Guide to the identification and treatment of Abnormally Low Bids (ALB) and Proposals, July 2016 provides for five stages in the treatment of Abnormally Low Bids as indicated below:
 - i. Identify: the Entity identifies a potential ALB based on comparison with available prices from the market, or with the cost estimate;
 - ii. Clarify: the borrower seeks clarification from the Bidder/proposer;
 - iii. Justify: the bidder prepares a justification of their price based on the request from the Entity;
 - iv. Verify: the borrower fully analyzes the bidder's justification to verify if it is an ALB; and
 - v. Decide: the Entity fully documents the decision to accept or reject the bid with the Bank's no-objection.

5.1 Identification

1. The World Bank Guide to the identification and treatment of Abnormally Low Bids (ALBs) and Proposals, July 2016 provides for a statistical calculation using at least five substantially responsive prices. A potential ALB is identified where the bid is more than one standard deviation below the average of the substantially responsive bids received. The identification of an ALB using a mathematical calculation assumes that the bid prices are competitive and independent. That is, that there is not collusion in the market that is artificially keeping prices clustered.
2. The Authority determined the mean as UGX 433,369,542,360.44 and the standard deviation as UGX 63,440,802,405.844 as indicated below:

Steps

$$\sigma = \sqrt{\frac{1}{N} \sum_{i=1}^N (x_i - \mu)^2}$$

$$\sigma^2 = \frac{\sum (x_i - \mu)^2}{N}$$

$$= \frac{(358,662,337,263 - 433,369,542,360.44)^2 + \dots + (430,264,628,459 - 433,369,542,360.44)^2}{5}$$

$$= \frac{2.0123677049487E+22}{5}$$

$$= 4.0247354098974E+21$$

$$\sigma = \sqrt{4.0247354098974E+21}$$

$$= 63,440,802,405.844$$

3. The Authority found that one standard deviation from the mean was equivalent to UGX 369,928,739,954.60 determined as:

$$\mu - \sigma = 433,369,542,360.44 - 63,440,802,405.844 = 369,928,739,954.60$$

4. The Authority found that in accordance with the World Bank Guide to the identification and treatment of Abnormally Low Bids (ALBs) and Proposals, July 2016, the threshold for identification of Abnormally Low Bids was UGX 369,928,739,954.60.
5. China Communications Construction Company and Chongqing International Construction Company's bids were below the threshold having quoted UGX 358,662,337,263 and UGX 368,798,839,180.2 respectively.

5.2 Clarify

1. The World Bank Guide to the identification and treatment of Abnormally Low Bids (ALBs) and Proposals, July 2016 provides that once a potential ALB has been identified, and in the event that the Entity proposes to recommend award of the contract to that bidder, the Entity has a mandatory requirement to establish the capability of the bidder to perform the contract within its total evaluated bid price. An Entity must not automatically reject a potential ALB before completing all of the five stages in this process unless the bidder does not provide the requested clarification in a timely manner and the bid is rejected on that basis.
2. ITB 40.2 states that in the event of identification of a potentially Abnormally Low Bid, the Employer shall seek written clarifications from the bidder, including detailed price analyses of its bid price in correlation to the subject matter of the contract, scope, proposed methodology, schedule, allocation of risks and responsibilities and any other requirements of the bidding document.
3. The Authority noted that on 12th July 2023, the Evaluation Committee sought clarification from China Communications Construction Company Ltd and Chongqing International Construction Company in regards to the breakdown of their prices as they had been determined to have submitted abnormally low bids.
4. The Authority noted that on 13th July 2023, Chongqing International Construction Company submitted a breakdown of its prices while China Communications Construction Company submitted its price breakdown on 14th July 2023.
5. The Authority reviewed the unit rate breakdown submitted by both China Communications Construction Company and Chongqing International Construction Company and noted that several items that constitute major items of work were underpriced in comparison with the Entity's estimated costs as indicated below:

Table 6: Comparison of underpriced cost items

Bill No	Item Description	Engineer's Estimate (UGX)	China Communications Construction Company		Chongqing International Construction Company	
			Bidder's Price (UGX)	% of Engineer's Estimate	Bidder's Price (UGX)	% of Engineer's Estimate
1000	General	38,747,766,757	40,016,737,234	103.27	32,484,203,168	83.84
2000	Drainage	58,130,661,822	53,761,589,662	92.48	60,151,976,202.64	103.48
3000	Earthworks and pavement layers of gravel or crushed stone	106,540,679,658	78,457,403,445	73.64	97,042,542,278.78	91.08
4000	Bituminous layers and seals	82,712,781,355	52,112,885,300	63.00	46,088,508,031.05	55.72
5000	Ancillary roadworks	36,373,507,870	18,182,924,967	49.99	16,172,923,000.85	44.46
6000	Structures	5,409,905,476	7,329,138,983	135.48	5,187,854,799.36	95.90
7000	Tolerances, testing and quality control	110,000,000	115,000,000	104.55	115,000,000	104.55
8000	Dayworks	1,026,895,645	477,436,850	46.49	308,086,093.97	30.00
10000	Rigid Pavement	604,106,233	746,167,256	123.52	747,575,132.60	123.75
	Sub-Total	329,656,304,816	251,199,283,697	76.20	258,298,668,707.25	78.35

5.3 Justify

1. The Authority noted that on 18th July 2023, a second request for clarification was sent to China Communications Construction Company Ltd and Chongqing International Construction Company requiring the bidders to demonstrate the way they would execute each of the identified bill items considered grossly underpriced.

2. The Authority noted that on 20th July 2023, both China Communications Construction Company and Chongqing International Construction Company submitted additional clarification as regards elements of their bids that had been determined to be underpriced.
3. The Authority noted that China Communications Construction Company Ltd in its clarification stated that it is an international company undertaking numerous projects in Uganda and has established strong working relationships with the manufacturers of some of the materials that will be used on the project. This has resulted in the ability to acquire such material at discounts and competitive credit facilities due to the volume of business that they have offered the manufacturers over a long time. In addition, some of its projects under construction are almost complete, and it has sufficient personnel and equipment. The bidder further stated that it has gained experience in project management by working in the road construction industry in Uganda for many years and has delivered many projects with high quality and within time and thereby undertook to carry out the implementation of related items according to the unit prices in its bid.
4. The Authority noted that Chongqing International Construction Company Ltd in its clarification stated as follows:
 - a) The items related to earthworks and pavement layers of gravel or crushed stone i.e. items 32.01 (c) & (e), 33.01 (b), 33.04 and 36.01 (b) & (d), majorly involve cutting and moving of earth and spoil materials, and thus the major inputs are machines. As such the bidder plans on utilizing idle equipment from the recently concluded Hoima-Butiaba-Wanseko road project to execute the Koboko Yumbe Moyo project. Therefore, the prices for these items are justified in a way that the bidder provided for maintenance and operational costs which enables the bidder to be able to provide the competitive rates. Additionally, the quantities associated with these items are quite low and can be considered as hammock activities thereby borrowing resources from other similar more major activities thereby enabling savings.
 - b) For the items related to bituminous layers and seals i.e. Item 42.01, the bidder provided that it has two separate quarries and a state-of-the-art asphalt plant from the Hoima-Butiaba-Wanseko project plus four crushers which are currently idle and ready to be mobilized for the Koboko Yumbe Moyo project. Furthermore, the bidder states that they still possess quarry sites from the construction of Vurra-Arua Oraba road which makes it easier to restart quarrying activities for aggregates and establish an asphalt plant.
 - c) The prices are competitive and are a true reflection of their anticipated costs for undertaking the works items.

5.4 Verify

1. The World Bank Guide to the identification and treatment of Abnormally Low Bids (ALBs) and Proposals, July 2016 provides that on receiving the Bidder's justification, it is essential that the Entity's personnel fully analyzes the information provided by the bidder and takes account of all evidence provided in response to the request for clarification.
2. For a number of reasons, a bid price which is below the Entity's cost estimate may not be considered abnormally low. For example:

- i. A bidder's mobilization costs could be significantly lower if the bidder already has an on-going construction contract underway near the proposed project site, and could also benefit from economies of scale (for example, when procuring materials);
 - ii. A bidder may be keen to enter a new market (e.g. in terms of country of operation and/or type of work) and takes the conscious strategic position to bid low, using a project as a 'loss leader'. (This is generally more applicable to goods and non-consultancy services contracts than to works contracts);
 - iii. A bidder could have proposed a much more efficient or innovative method of working than other bidders;
 - iv. A bidder may be attempting to break into a collusive market (in such cases, the "market" prices may be artificially inflated and therefore the borrower's estimate could make a competitive bid look Abnormally Low by comparison; or
 - v. A bidder may have received a state subsidy.
3. Following verification of the bidder's price analyses and detailed justifications provided by the bidder, the Entity shall determine if the bid/proposal price, in combination with other elements of the bid/proposal, is unreasonably low, to the extent that the bidder has not demonstrated the capability to perform the contract successfully for the price submitted.

5.4.1 Chongqing International Construction Corporation

1. The Authority requested for progress reports for Hoima-Butiaba-Wanseko road and noted that the civil works were completed on 24th May 2022 with the subsequent defects liability period expiring on 25th May 2023. The Authority found that it was plausible that the bidder could use the equipment that had been used on the Hoima-Butiaba-Wanseko road for construction of Koboko-Moyo-Yumbe road which would lead to lower equipment, mobilization and operational costs.
2. The Authority further requested for progress reports for Vurra-Arua Oraba road and noted that the civil works were completed on 30th January 2015 and hence it is plausible that the bidder would have access to quarries as alluded to in its clarification which would lower the cost of obtaining material.
3. The Authority also observed that although the bidder quoted UGX 308,086,093.97 (30% of the Engineer's estimate) for day works, these are not considered to be a major cost driver of the civil works and would not have a major impact on the project as they are meant to cater for incidental works instructed by the Engineer on a daily basis.

5.4.2 China Communications Construction Company Ltd

1. The Authority noted that China Communications Construction Company Ltd in its clarification stated that it would be able to acquire material at discounts and competitive credit facilities due to the volume of business that they had offered manufacturers over a long time and that some of its projects under construction were almost complete.
2. The Authority found that the bidder did not provide adequate justification for the underpriced rates that it used in its bid as it simply provided a narrative implying that some projects were about to be completed and that it would be able to obtain discounts from its manufacturers.

The clarification did not provide explanation for rates used for non-manufactured goods and materials.

5.5 Decision

5.5.1 China Communications Construction Company

1. ITB 40 3 of the solicitation document issued to bidders provided that after the evaluation of the price analyses, in the event that the employer determines that the bidder has failed to demonstrate its capacity to deliver the contract for the offered tender price, the Employer shall reject the bid.
2. The Authority found that the Evaluation Committee correctly eliminated China Communications Construction Company for submission of an Abnormally Low Bid and failing to provide justification for its under priced rates.

5.5.2 Chongqing International Construction Corporation

1. The Authority found that although Chongqing International Construction Corporation had been found to have submitted an Abnormally Low Bid, their bid was only 0.31% (UGX 1,129,900,774.40) below the threshold which was not significant enough to reject a competitive bid given that the bidder had provided adequate justification for its pricing strategy.
2. Furthermore, steps could be taken to ensure effectiveness during contract implementation by ensuring that any unsubstantiated change orders or claims are not tolerated until such a time when the contractor would be due a variation of price i.e. after 18 months.
3. The Authority found that the award of the contract to Zhongmei Engineering Group Limited would imply signing the contract with a provider who quoted UGX 61,465,789,278.8 higher than the price quoted by Chongqing International Construction Corporation. This would lead to a much higher average cost of construction at UGX 4,137,159,889 in comparison to the average recommended by the National Planning Authority of UGX 3.2 Billion and the average cost as priced by Chongqing International Construction Corporation of UGX 3,546,142,684.
4. The Authority therefore found that the rejection of the bid submitted by Chongqing International Construction Corporation on the ground of being Abnormally Low was unjustified.

6.0 OTHER OBSERVATIONS

6.1 Inadequate Technical Evaluation

1. ITB 31.2 of the solicitation document issued to bidders provided that a substantially responsive bid is one that meets the requirements of the bidding document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:
 - a) If accepted, would:

- i. Affect in any substantial way the scope, quality, or performance of the works specified in the contract; or
 - ii. Limit in any substantial way, inconsistent with the bidding document, the Employer's rights or the bidder's obligations under the proposed contract; or
 - b) If rectified, would unfairly affect the competitive position of other bidders presenting substantially responsive bids.
2. ITB 31.3 of the solicitation document issued to bidders provided that the Employer shall examine the technical aspects of the bid submitted in accordance with ITB 16, in particular, to confirm that all requirements of Section VII, Works Requirements have been met without any material deviation, reservation or omission.
 3. ITB 32.4 of the solicitation document issued to bidders provided that if a bidder does not meet the qualifying criteria specified in Section III, Evaluation and Qualification Criteria, its bid shall be rejected by the Employer and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.
 4. ITB 32.5 of the solicitation document issued to bidders provided that only bids that are both substantially responsive to the bidding document, and meet all Qualification Criteria shall have their envelopes marked "SECOND ENVELOPE: FINANCIAL PART" opened at the second public opening.
 5. The Authority noted that the technical responsiveness of the bidder in accordance with ITB 31 and ITB 32 of the bidding document was premised on an assessment of the Bidder's technical capacity to mobilize key equipment and personnel for the contract consistent with its proposal regarding work methods, scheduling, and material sourcing in sufficient detail including site organization, method statement, mobilization schedule, construction schedule, Contractor's equipment and the Contractor's Environmental and Social Management plans.

6.1.1 Methodology

The Authority reviewed the bid submitted by Zhongmei Engineering Group Ltd and noted that although the Works Requirements provided that the works would require chemical stabilization for the subgrade, the method statement in the bid submitted by Zhongmei Engineering Group Ltd provided for the construction of a mechanically modified sub-base instead of a chemically stabilized sub-base as specified in the Works Requirements. The provision of mechanical instead of chemical stabilization would affect in a substantial way the scope, quality, or performance of the works specified in the contract.

Zhongmei Engineering Group Ltd in response stated that the works shall be done under the instruction and supervision of the Engineer making it impossible for the Contractor to carry out works in a manner contrary to the Employer's requirements. Further, Section 1205 of the General Specification require the Contractor to submit to the Engineer for approval a Quality Management System including work method statements for major items of work no later than 4 weeks after the notice to commence the works. Consequently, the method statement submitted with our bid is not an end in its self as it shall be subject to the Engineer's approval by way of regular submissions of the proposed methods of executing particular bill items.

The Authority however found that the requirement at the bidding stage was explicit in its need for bidders to indicate in their methodology how they intended on executing the works if awarded the contract. Therefore, failing to indicate the stabilization as chemical would be detrimental to the rights of the employer under the contract and would affect the quality of works.

6.1.2 Key Personnel

The Authority noted that bidders were required to provide staff meant to fill key positions as indicated in *Annex 1*.

The Authority found from a review of the bid submitted by Zhongmei Engineering Group Ltd that:

- i. The Plant/Equipment Manager lacked experience in a developing country and in maintenance/operation of machinery;
- ii. The Chief Laboratory Technician lacked experience in road works with concrete works;
- iii. The Bridge/Structural Engineer lacked experience in developing countries; and
- iv. The Communication Expert did not possess the required educational requirements.

Zhongmei Engineering Group Ltd indicated in its response that its proposed personnel had the required experience and academic qualifications and as such were eligible given the requirements set by the Entity in its solicitation document.

The Authority however found that the personnel proposed by the bidder did not meet the requirements as provided and as such, the bid submitted by Zhongmei Engineering Group Ltd was not responsive to the technical requirements. The bidder's financial bid should not have been opened in accordance with ITB 32.5 of the solicitation document issued to bidders.

The proposed recommendation by the Evaluation Committee to consider the deviations at pre-contract stage would amount to change in substance of the bid which was submitted through a competitive bidding process and thus a detriment to a fair, open, transparent and competitive process.

7.0 CONCLUSION AND RECOMMENDATION

In light of the above, the Authority is in congruence with the evaluation report prepared by the Evaluation Committee dated 27th July 2023 which recommended Chongqing International Construction Company for award of contract at a price of UGX 368,798,839,180.2. The recommendation of award of contract in the aforementioned report should be upheld and implemented.