



**INVESTIGATION INTO ALLEDGED IRREGULARITIES IN  
THE PROCUREMENT OF LABORATORY INSTRUCTION  
MANUALS**

**ENTITY: MINISTRY OF EDUCATION AND SPORTS**

**COMPLAINANTS: DR. JAMES TUMUSIIME, MANAGING  
DIRECTOR, FOUNTAIN PUBLISHERS LTD**

**BRIG GEN. HENRY ISOKE, HEAD, STATE  
HOUSE ANTI-CORRUPTION UNIT AND  
SENIOR PRESIDENTIAL ADVISOR/ ANTI-  
CORRUPTION**

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## ACRONYMS

CC	-	Contracts Committee
CG	-	Central Government
PPDA	-	Public Procurement and Disposal of Public Assets Authority
LIMS	-	Laboratory Instruction Manuals
LTD	-	Limited
MOES	-	Ministry of Education and Sports
NCDC	-	National Curriculum Development Center
STI	-	Science Teachers' Initiative
UGX	-	Uganda Shillings

## **1.0 BACKGROUND**

On 22<sup>nd</sup> August 2023, the PPDA received a complaint from Dr. James Tumusiime, Managing Director, Fountain Publishers Ltd alleging irregularities in the procurement of laboratory instruction manuals, and the procurement of framework contracts for supply of primary integrated science kits – lot 19; primary science learning kits – lot 20; and secondary laboratory instruction manuals – lot 21.

The Authority also received another letter dated 25<sup>th</sup> August 2023 from the State House Anti-Corruption Unit raising complaints received from a whistle blower on the above mentioned procurement, where similar allegations were also made. The Unit requested the Authority to carry out an audit on both procurements.

Specifically, the following allegations were raised:

1. The Entity failed to respond to request for clarifications sought by bidders
2. Bidders were given limited time (14 days) to develop and submit 06 books rather than the established practice of 3-5 months.
3. Bidders were advised to use one of the bidders and a competitor (River Flow International Ltd), as a guide in developing the books, an indicator that the process was tailored towards this bidder's book.
4. The River Flow International Ltd's books were later provided as samples and it is the same company which had earlier been arbitrarily chosen without competitive bidding to supply instruction materials in Northern & Eastern Uganda.
5. River Flow International's books are not laboratory manuals as purported but learners' books and teachers' guides.
6. Technical specifications and evaluation criteria were not provided to guide bidders.
7. Bidders were required to provide approval certificates issued by National Curriculum Development Centre (NCDC), which should have only been required if NCDC has issued pedagogical guidelines to be followed in evaluating the material which was not done.
8. The instructions given to bidders were restrictive, in as far as the requirement for them to have recommendations from at least two schools or educational institutions, where the bidder has made similar supplies in the last two years and three contracts or Local Purchase Orders (LPOs) of a minimum of UGX 200,000,000 for similar supplies from Government schools, for the same period.
9. The proper user department, which is the Instructions Materials Department was bypassed and procurement requisitions initiated by the Primary and Secondary Education Departments.

## **2.0 OBJECTIVES OF THE INVESTIGATION**

The investigation was conducted with the view of establishing whether:

1. The Entity responded to the request for clarifications from bidders;
2. The Entity provided a sufficient bidding period to the bidders;
3. The Entity's decision to use a competitor's book as a sample favoured River Flow International Ltd;
4. River Flow International Ltd had been arbitrarily chosen without competitive bidding to supply instruction materials in Northern & Eastern Uganda;

5. River Flow International Ltd's books whose sample was shown to the bidders are laboratory instruction manuals;
6. The technical specifications and evaluation criteria were not provided by the Entity to guide the bidder;
7. The Entity irregularly requested for an approval certificate issued by NCDC when it should not have been a requirement;
8. The experience requirements requested by the Entity were restrictive such as recommendation letters from at least two schools or any education institution for the same supplies done in the last two years and provision of three contracts or LPOs of a minimum of 200 million shillings for similar supplies from government schools in the last two years;
9. The procurement requisition for the procurement of laboratory instruction materials was raised by the User Department.

### 3.0 LAWS APPLICABLE

- i) PPDA Act 2003;
- ii) PPDA Regulations 2014; and
- iii) PPDA Guidelines 2014

### 4.0 SCOPE

The investigation focused on the procurement processes for laboratory instruction manuals from 2020 to date by the Ministry of Education and Sports.

### 5.0 METHODOLOGY

**Documents retrieval and analysis:** The following documents pertaining to the procurement of laboratory instruction manuals were retrieved and analyzed:

- i. The procurement action files for the direct procurements carried out in 2020, 2021 and 2022;
- ii. The procurement action file for the laboratory instruction manuals under framework contract;
- iii. Procurement action files for the procurement of primary integrated science kits, primary science learning kits and secondary laboratory instruction manuals under lots 19-21;
- iv. NCDC reports on evaluation of the laboratory instruction manuals submitted by Science Teachers' Initiative; and
- v. NCDC certificates issued to Science Teachers' Initiative

❖ **Interviews:** The officials in Table 1 were interviewed:

**Table 1: People interviewed**

S/N	Name of Interviewee	Title	Entity	Date
1.	Dr. James Tumusiime	Managing Director	Fountain Publishers Ltd	6/9/2023
2.	Mr. Simuka Mohammed	Managing Director	River Flow International Ltd	12/9/23
3.	Mr. Tukei Simon	Head, Instruction Materials Unit	Ministry of Education & Sports	13/9/2023
4.	Mr. Alfred Kyaka	Asst. Commissioner,	Ministry of	14/9/2023

S/N	Name of Interviewee	Title	Entity	Date
		Secondary Education	Education & Sports	
5.	Mr. Milton Ndyamuba	Principal Procurement Officer	Ministry of Education & Sports	14/9/2023
6.	Dr. Bernadette Nambi	Deputy Director	NCDC	15/9/2023
7.	Ms. Angella Kyagaba	Manager Quality Assurance and Publishing	NCDC	15/9/2023
8.	Ms. Frances Atima	Chairperson Contracts Committee	Ministry of Education & Sports	15/9/2023
9.	Ms. Jacquelin Basemera	Secretary Contracts Committee	Ministry of Education & Sports	15/9/2023
10.	Mr. Lutimba Fred	Head, PDU	Ministry of Education & Sports	15/9/2023
11.	Mr. Stuart Nabaasa	Team Leader	Science Teachers' Initiative	18/9/2023
12.	Mr. Sam Kuloba	Commissioner Government Secondary Education	Ministry of Education & Sports	19/9/2023

## 6.0 LIMITATIONS

The Authority was unable to retrieve and review the following documents from Ministry of Education and Sports:

- i. Procurement requisition (Form 5), evaluation report, records for issue, receipt and opening of bids from the procurement action file for supply of laboratory instruction manuals – Proc Ref: MOES/SUPL/20-21/00070; and
- ii. Procurement requisition (Form 5) from the procurement action file for procurement of laboratory instruction manuals, and the procurement of framework contracts for supply of primary integrated science kits – lot 19; primary science learning kits – lot 20; and secondary laboratory instruction manuals – lot 21.

## **7.0 SUMMARY OF FACTS**

- 7.1 On 22<sup>nd</sup> March 2019, the Ministry of Education and Sports submitted to the Ministry of Finance, Planning and Economic Development a project for Development of Secondary Education – Phase II estimated to cost UGX 50,000,000,000, scheduled to run from FY 2019/20 – 2023/24.
- 7.2 Component 2 of the project focused on strengthening and improving the quality of science and mathematics teaching and learning by among other things providing laboratory instruction manuals, practical science text books that had been developed by science teachers and continue with implementation of SESEMAT (Secondary Science and Mathematics Teachers) project phase II. The procurements under investigation were funded under this project.

### **Procurement of laboratory instruction manuals/ practical science manuals for Eastern Uganda – MOES/SUPLS/20-21/00070**

- 7.3 On 4<sup>th</sup> January 2021, the Principal Procurement Officer authored a memo indicating that the procurement requisition (Form 5) was approved by the Accounting Officer on 24<sup>th</sup> November 2020.
- 7.4 On 3<sup>rd</sup> November 2020, the Contracts Committee approved the direct procurement of laboratory instruction manuals from River Flow International Ltd. The justification provided for the direct procurement was that River Flow International Ltd was the sole supplier of laboratory manuals accredited by NCDC.
- 7.5 On 17<sup>th</sup> November 2020, the Contracts Committee approved the award of contract for the supply of laboratory instruction manuals to River Flow International Ltd at UGX 1,475,000,000.
- 7.6 On 6<sup>th</sup> January 2021, the Entity entered into a contract with River Flow International Ltd for the supply and delivery of laboratory instruction materials at UGX 1,475,000,000. This followed Solicitor General's clearance of the same on 21<sup>st</sup> December 2020. According to the Special Conditions of the Contract, delivery was scheduled for 30 days from the date of contract signature and the delivery point was Ministry of Education and Sports – Embassy House.
- 7.7 On 19<sup>th</sup> January 2021, River Flow International Ltd issued to the Entity Delivery Note No. 311 indicating that the company delivered 50,000 laboratory instruction manuals to the Ministry of Education and Sports. The Entity acknowledged receipt of the same by issuing Goods Received Note No. 3441 on the same day.

### **Procurement of laboratory instruction manuals/ practical science manuals for Eastern Uganda – MOES/SUPLS/21-22/00016**

- 7.8 On 30<sup>th</sup> July 2021, Ms. Santa Ateng, the Senior Education Officer, Government Secondary School raised a requisition for the procurement of 50,000 laboratory instruction manuals at UGX 1,500,000,000. This was approved by the Head of Department and the Accounting Officer on 9<sup>th</sup> August 2021.

- 7.9 In a Loose Minute to the Permanent Secretary dated 6<sup>th</sup> August 2021, the Commissioner, Government Secondary Education proposed the direct procurement of the laboratory instruction manuals, and provided two justifications for the same. The first justification was for the maintenance of uniformity and continuity of supply since the same materials had already been distributed to some schools in Eastern Uganda. The second justification was that River Flow International Ltd was the only Company in Uganda with the copyright of the laboratory instruction manuals.
- 7.10 On 9<sup>th</sup> August 2021, the Head, Procurement and Disposal Unit made submission to the Contracts Committee to among other things propose the direct procurement of the books from River Flow International Ltd since the company is the producer of the books and had copy rights to the same.
- 7.11 On 10<sup>th</sup> August 2021, the Contracts Committee approved the direct procurement method, the bidding document, Evaluation Committee and short listed Company – River Flow International Ltd.
- 7.12 On 12<sup>th</sup> August 2021, the Entity issued the bidding document to River Flow International Ltd and received the bid the next day on 13<sup>th</sup> August 2021. The bid was also opened on the same day.
- 7.13 On 16<sup>th</sup> August 2021, the Evaluation Committee recommended the award of contract for the supply and delivery of laboratory manuals to River Flow International Ltd at UGX 1,499,280,000.
- 7.14 On 18<sup>th</sup> August 2021, the Contracts Committee awarded the contract for the supply and delivery of laboratory instruction manuals to River Flow International Ltd at UGX 1,499,280,000. The Solicitor General cleared the contract on 9<sup>th</sup> September 2021. The Ministry thereafter entered into a contract with River Flow International Ltd for the supply and delivery of laboratory instruction manuals at UGX 1,499,280,000 on 17<sup>th</sup> September 2021. The delivery place was indicated as the Ministry of Education and Sports.
- 7.15 On 30<sup>th</sup> September 2022, River Flow International Ltd delivered 50,000 laboratory instruction manuals to the Ministry of Education and Sports vide Delivery Note No. 2942.
- 7.16 On 4<sup>th</sup> October 2021, Mr. Abubaker Bbuye, the Contract Manager issued a certificate of acceptance of laboratory instruction manuals to River Flow International Ltd – Science Teachers’ Initiative. The Contract Manager confirmed that 50,000 laboratory instruction manuals had been delivered by the supplier.
- 7.17 In a Loose Minute dated 23<sup>rd</sup> March 2022, the Contract Manager requested the Permanent Secretary to approve the list of 241 schools in the Eastern region of the country, and authorize distribution of the books to these schools. The Permanent Secretary requested internal audit to verify the books delivered. Internal Audit noted that the books were being held at the Ministry’s stores in Industrial Area – 6<sup>th</sup> street, and thereafter advised that the Permanent Secretary may approve the distribution and delivery of books from the Ministry’s stores. The Permanent Secretary authorized distribution of the books on 30<sup>th</sup> March 2023.

7.18 The laboratory instruction manuals were distributed by the Ministry of Education and Sports to schools in Eastern Uganda in April 2022.

**Procurement of laboratory instruction manuals/ practical science manuals for Northern Uganda – MOES/SUPLS/2022-2023/00011**

- 7.19 On 28<sup>th</sup> September 2022, the User Department (Department of Government Secondary Schools) raised a requisition for the direct procurement of laboratory instruction manuals for chemistry, physics and biology at an estimated cost of UGX 1,999,917,831. It was approved by the Head, User Department and the Accounting Officer on 28<sup>th</sup> September 2022 and 10<sup>th</sup> October 2022 respectively.
- 7.20 The justification provided for the direct procurement method was that River Flow International Ltd had copy rights to the production of these particular laboratory manuals. The User Department further noted that the books had been developed by experienced science teachers in Uganda, who had been training with the SESEMAT program.
- 7.21 On 18<sup>th</sup> October 2022, the Contracts Committee approved the direct procurement from River Flow International Ltd with the justification that the firm is the sole holder of the copy right to produce the laboratory instruction manuals. The Contracts Committee also approved the Evaluation Committee.
- 7.22 On 24<sup>th</sup> October 2022, River Flow International Ltd submitted its bid to the Entity and bid opening was done on 27<sup>th</sup> October 2022. Following the conclusion of the bid evaluation, the Contracts Committee awarded the contract for the supply of practical Science Manuals for students and teachers under Government Secondary Education to River Flow International Ltd at UGX 1,999,546,500 on 11<sup>th</sup> November 2022.
- 7.23 On 22<sup>nd</sup> December 2022, the Entity signed a contract with River Flow International Ltd for the provision of 58,859 practical science manuals for students and teachers under Government Secondary Education at UGX 1,999,546,500.
- 7.24 On 23<sup>rd</sup> December 2022, River Flow International Ltd delivered 58,859 books to the Entity, and thereafter issued Delivery Note No. 763.
- 7.25 On 14<sup>th</sup> February 2023, the Contract Manager wrote a Loose Minute requesting for approval of the distribution list of 233 schools in Northern Uganda which were supposed to benefit from 58,859 laboratory instruction manuals which had been delivered by River Flow International Ltd. The Permanent Secretary approved the distribution on 3<sup>rd</sup> March 2023.
- 7.26 Analysis of the Ministry's Issue Vouchers revealed that the books were delivered in different schools in Northern Uganda in March and April 2023.

**Procurement of laboratory instruction manuals, and the procurement of framework contracts for supply of primary integrated science kits – lot 19; primary science learning kits – lot 20; and secondary laboratory instruction manuals – lot 21.**

- 7.27 On 18<sup>th</sup> April 2023, the Contracts Committee approved the solicitation document, open domestic bidding procurement method, the Evaluation Committee and the advert for the procurement of services and supplies for the Ministry of Education and Sports under framework contract under lots 1-21.
- 7.28 On 25<sup>th</sup> April 2023, the Ministry of Education and Sports invited bids for the procurement of services and supplies for the Ministry of Education and Sports under framework contract under lots 1-21 – PR. MoES/SUPLS/22-23/00067. Lots 19, 20, and 21 were for the supply of; O level science learning kits & A level science learning kits; Primary Science Learning Kits and laboratory instruction manuals respectively.
- 7.29 The Ministry issued bidding documents to 205 bidders for the 21 lots which were advertised. Out of 205 bidders, 5 bidders were issued the bidding document for lots 21, 20 and 19 respectively.
- 7.30 The Ministry received bids from 163 bidders for the 21 lots between 15<sup>th</sup> May 2023 to 23<sup>rd</sup> May 2023. Out of the bidders that responded, only 1 bidder (River Flow International Ltd) bid for Lots 19 and lot 20, while 4 bidders, namely River Flow International Ltd, New Vision Printing, Inline Print Service and Uganda Printing Publishers Company bid for lot 21. Bid opening took place on 23<sup>rd</sup> May 2023 at 11:30am on the 3<sup>rd</sup> floor boardroom.
- 7.31 On 11<sup>th</sup> July 2023, the Contracts Committee approved the cancellation of the procurement process for framework contracts under lots 19-21. The decision was based on the submission from the Procurement and Disposal Unit to the effect that two bidders had lodged a complaint on certification required from the National Curriculum Development Center (NCDC), experience requirement for bidders to present contract values of at least UGX 200,000,000 from government schools for the past 2 years, and payment terms under section 8 GCC 16.1. The Contracts Committee was also informed that in the process of reviewing the requirements for the 3 lots, the deadline of submission of bids expired and therefore created the need to cancel the process.

**Procurement of laboratory instruction manuals under framework contract – MOES/SUPLS/23-24/00004**

- 7.32 On 18<sup>th</sup> July 2023, Ms. Zulaika Naiga from the User Department requisitioned for the direct procurement of 149,020 practical science manuals for students and teachers under Government Secondary Education totaling UGX 3,797,420,100. These books comprised of the chemistry laboratory instructional manual book 1 (LIM), chemistry laboratory instructional manual – teachers' book 1, physics laboratory instructional manual book 1, physics laboratory instructional manual – teachers' book 1, biology laboratory instructional manual book 1 and biology laboratory instructional manual. The Accounting Officer approved the requisition on 19<sup>th</sup> July 2023.
- 7.33 The drawings attached to the requisition indicate that the laboratory instruction manuals were part of the series of science books made by the Science Teachers' Initiative. A copy of the

copyright for the laboratory instruction manuals by Science Teachers' Initiative was also attached to the requisition.

- 7.34 On 28<sup>th</sup> July 2023, the Contracts Committee approved the open domestic procurement method, 14 days bidding period, solicitation document, advert, and the members of the Evaluation Committee. The minutes indicate that the Contracts Committee approved the 14 days bidding period because it was an emergency due to time constraints which required that the procurement be handled as an emergency in line with Regulation 8 (9)(a) of the PPDA (Rules and Methods) Regulations 2014.
- 7.35 On 31<sup>st</sup> July 2023, the Entity published a bid notice in the New Vision for framework contracts for the procurement of practical science manuals for students and teachers under Government Secondary Education for 18 months. A pre bid meeting was scheduled for 3<sup>rd</sup> August 2023 while the bid closing date was indicated as 17<sup>th</sup> August 2023.
- 7.36 The Entity issued the bidding documents to 10 bidders between 31<sup>st</sup> July 2023 to 15<sup>th</sup> August 2023 as tabulated below:

**Table 2: Bidders that were issued bidding documents**

S/N	Bidder	Date of Issuance
1.	St. Benard Publishers	31 <sup>st</sup> July 2023
2.	Fountain Publishers	31 <sup>st</sup> July 2023
3.	Elimu Publishers	31 <sup>st</sup> July 2023
4.	Inline Print Services Limited	1 <sup>st</sup> August 2023
5.	Jomat X Solutions Ltd	1 <sup>st</sup> August 2023
6.	MK Publishers (U) Ltd	2 <sup>nd</sup> August 2023
7.	Octien Technology Ventures Ltd	2 <sup>nd</sup> August 2023
8.	Bennag Ltd	3 <sup>rd</sup> August 2023
9.	Hitech Graphics Ltd	15 <sup>th</sup> August 2023
10.	River Flow International Ltd	15 <sup>th</sup> August 2023

- 7.37 On 3<sup>rd</sup> August 2023, the Entity held a pre-bid meeting attended by 19 bidders. The Entity responded to several questions raised by the bidders, among which were whether the bidders were required to develop new content for the laboratory instruction manuals or supply an existing material/ product that already been developed. The Entity responded that the procurement is for supplying laboratory instruction manuals that had already been developed.
- 7.38 On 15<sup>th</sup> August 2023, Fountain Publishers Ltd submitted a letter to the Head Procurement and Disposal Unit by email, wherein they raised concerns pertaining to the responses given to bidders during the pre-bid meeting held on 3<sup>rd</sup> August 2023. The bidder sought further clarifications on the queries raised and requested for extension of the bid submission date. Elimu Publishers Ltd also raised similar complaints on the same day, although they did not specifically seek for clarifications.
- 7.39 On 21<sup>st</sup> August 2023, three bidders returned their bidding documents, namely; River Flow International Ltd, Jomatx Solutions Ltd and Inline Print Services Ltd. The trio bid to supply

the books at UGX 3,799,891,800, UGX 1,425,674,340 and UGX 459,608,525 respectively, as per the record of bid opening.

7.40 Mr. Fred Lutimba, the Head, Procurement and Disposal Unit revealed that at the time the Authority halted the procurement process, the Entity was about to commence bid evaluations.

## **8.0 FINDINGS AND CONCLUSION**

### **8.1 Whether the Entity failed to respond to the clarification sought by the bidder**

The complainant alleged that following the pre-bid meeting, they raised a request for clarification but did not get any response from the Entity.

Regulation 49 (3) of the PPDA (Rules and Methods) Regulations 2014 states that:

*Where a request for clarification is received, the Procuring and Disposing Entity shall promptly provide a clarification in writing and the clarification shall be copied to all bidders to whom the bidding documents were issued, and shall include a description of the request without identifying the source of the request.*

Similarly, Part 1: Section 2 of the Bid Data Sheet ITB 7.1 of the bidding document issued to bidders states that:

*The Procuring and Disposing Entity will respond to any request for clarification provided that such a request is received **no later than seven (7) days** prior to the deadline for submission of bids.*

#### **Entity's response**

The Entity stated that clarifications sought by the bidders within the stipulated timelines were responded to through the record of minutes of pre-bid meeting signed on 14<sup>th</sup> August 2023. Mr. Milton Ndyamuba, the Principal Procurement Officer revealed that all the issues raised by Fountain Publishers Ltd had already been responded to during the pre-bid meeting.

#### **PPDA Findings**

Whereas the Entity responded to the questions raised by the bidders during the pre-bid meeting and minutes of the same were sent to all the bidders, the Authority noted that Fountain Publishers Ltd wrote a letter refuting some of the responses made by the Entity, and sought clarifications on the same. However, the bidder's request for clarification came on 15<sup>th</sup> August 2023, six days before the bid submission deadline of 21<sup>st</sup> August 2023. The Entity was therefore not obligated to respond to the bidder's request for clarification since it exceeded the 7 days provided in Part 1: Section 2 of the Bid Data Sheet ITB 7.1 of the bidding document, within which requests for clarifications were acceptable.

The Authority therefore finds **no merit** in this allegation.

## 8.2 Whether the Entity provided a sufficient bidding period to the bidders

The complainant alleged that the Entity provided an insufficient bidding time of 14 days for the bidders to develop and submit 6 books, instead of providing a period of 3-5 months as had been the practice.

Regulation 46 (1)(a) of the PPDA (Rules and Methods) Regulations, 2014 states that *the minimum bidding period for open domestic bidding method is 20 working days*.

### Entity's response

The Entity refuted this allegation, noting that this procurement was simply for the printing of already developed books, which did not require 3-5 months.

### PPDA findings

The Authority noted that a bidding period of 19 days was provided to the bidders by the Entity. This included the 14 days bidding period as per the bidding document and advertisement placed from 31<sup>st</sup> July 2023 to 17<sup>th</sup> August 2023, and the additional five days extension provided to bidders following the pre-bid meeting.

The investigation team however noted that there is confusion between the Entity and the bidders as to what the Ministry wanted to procure. Whereas the User Department simply wanted a direct procurement of laboratory instruction manuals from River Flow International Ltd, the company that had earlier supplied the same books to schools in Eastern and Northern Uganda, the Entity opted to advertise for the supply of laboratory instruction manuals under framework contracts. Analysis of the Terms of Reference indicates that the Entity was simply inviting bidders to print copies of the already existing book, which had been developed by the Science Teachers Initiative.

The bidders however understood the procurement as a call to develop and publish the laboratory instruction materials. The Entity sought to explain this to the bidders during the pre-bid meeting, but it remained a point of contention.

The complainant maintained that this procurement was for development of books and not for printing books.

The minimum bidding period for open domestic bidding is 20 working days as provided for in Regulation 46 (1)(a) of the PPDA (Rules and Methods) Regulations, 2014, compared to the 19 days given to the bidders by the Entity.

The Authority finds **merit** in this allegation, to the extent that the bidding period was only 19 days instead of 20 days for open domestic bidding.

## 8.3 Whether the Entity's decision to use a competitor's book as a sample favoured River Flow International Ltd

The complainant alleged that bidders were advised by the Entity to use River Flow International Ltd's book as a sample for viewing and yet the same company was also a bidder in the same process and had already supplied books to Eastern and Northern Uganda. That this made the bidding process tailored to the bidder.

Section 43 (a)(b)(c) of the PPDA Act 2003 states that *all public procurement and disposal shall be conducted in accordance with the principles of non-discrimination, transparency, accountability and fairness and maximisation of competition and ensuring value for money.*

In Part 2: Section 6 Statement of Requirements (page 49 of 65) of the bidding document, the Entity informed the bidder *that a sample for viewing was available at the Ministry of Education and Sports, Embassy House from 10:00am to 4:00pm working days.*

#### **Entity's response**

Bidders were availed a sample that was already existing and supplied to other schools under Science Teachers' Initiative copyright and clearance from NCDC. This procurement was not for developing, but for supplying similar materials.

#### **PPDA Findings**

The Authority established that the book samples which were shown to bidders were actually for River Flow International Ltd, which was also one of the bidders. Analysis of the bidding document revealed that Science Teachers' Initiative gave Powers of Attorney to River Flow International Ltd to make, publish, distribute, market, sell and promote all the authored and processed materials developed by the Science Teachers' initiative.

Considering that the procurement being undertaken is for printing of an already existing content, there was no unfairness in showing to the bidders the sample of the book that they were to print, which book had only been produced by River Flow International Ltd. It would have been however unfair to use a competitor's sample had it been for the development of content.

Upon being interviewed, Mr. Stuart Nabaasa, the Team Leader, Science Teachers Initiative revealed that they are willing to authorize any bidder to print the laboratory instruction manuals, as long as they agree on the terms for the same.

The Authority found **no merit** in this allegation.

#### **8.4 Whether River Flow International Ltd had been arbitrarily chosen without competitive bidding to supply instruction materials in Northern & Eastern Uganda**

The complainant alleged that River Flow International Ltd was arbitrarily awarded contracts without competitive bidding to supply instruction materials in Northern & Eastern Uganda.

Section 43 (a)(b)(c) of the PPDA Act 2003 states that *all public procurement and disposal shall be conducted in accordance with the principles of non-discrimination, transparency, accountability and fairness, and maximization of competition and ensuring value for money.*

#### **Entity's response**

The direct procurement method was based on sole sourcing justified by the NCDC clearance and possession of Powers of Attorney from the Authors - Science Teachers' Initiative that had copyrighted their books.

### PPDA Findings

The Authority noted that the Entity carried out three direct procurements of laboratory instruction manuals for Eastern and Northern Uganda worth UGX 4,973,938,000, as tabulated below:

**Table 3: Direct procurement of laboratory instruction manuals from River Flow International Ltd**

Period	Region	Amount (UGX)
FY 2020/21	Eastern Uganda	1,475,000,000
FY 2021/22	Eastern Uganda	1,499,280,000
FY 2022/23	Northern Uganda	1,999,658,000
	<b>Total</b>	<b>4,973,938,000</b>

The Authority further noted that the Entity erroneously used the direct procurement method in the first procurement of the laboratory instruction manuals worth UGX 1,475,000,000. The justification provided that River Flow International Ltd was the sole supplier of laboratory instruction manuals accredited by NCDC does not suffice because other bidders were not given the opportunity to develop the same and have them reviewed and approved by NCDC.

The justification of copy right restrictions is not sufficient to warrant the use of direct procurement, since copy right restrictions are not the same as trading rights. Copy rights simply restricted reproduction of the same content but did not limit participation of other bidders in developing content for the laboratory instruction manuals, as per the terms of reference provided by the Ministry.

Whereas the laboratory instruction manuals was an innovation of the Science Teachers' Initiative, the Entity should have opened up this procurement to the public through open domestic bidding by providing the terms of reference and the evaluation criteria for the same to interested bidders. In doing so, the Entity would have been able to compare the laboratory instruction manuals developed by other publishers with the laboratory instruction manuals produced by the Science Teachers' Initiative. The second and third direct procurements were based on the first direct procurement which had been irregularly carried out.

The Authority finds **merit** in this allegation.

### 8.5 Whether River Flow International Ltd's books whose sample was shown to the bidders are laboratory instruction manuals

The complainant alleged that upon viewing the sample, it was discovered that the books by River Flow International Ltd were not laboratory manuals but were instead Learner's books similar to those supplied by other publishers.

#### Entity's response

The books being bought are laboratory instruction manuals.

### **PPDA findings**

The Authority sought the opinion of National Curriculum Development Center as to whether the books developed by Science Teachers' Initiative are laboratory instruction manuals.

Upon being interviewed, Dr. Bernadette Nambi, the Deputy Director, NCDC and Ms. Angella Kyagaba, the Manager Quality Assurance and Publishing, NCDC confirmed that the biology, chemistry and physics books developed by Science Teachers' Initiatives were laboratory instruction manuals. The Director NCDC attached evaluation reports indicating that the Biology, Physics and Chemistry books were scored by the Center at 81%, 79% and 80% respectively.

Mr. Sam Kuloba, Commissioner, Government Secondary Education, who is the Head User Department also confirmed that the books by Science Teachers' Initiatives are laboratory instruction manuals because they were designed for laboratory/ practical sessions. That the manuals contain a step by step instruction/ activities for conducting experiments, lessons, and practical science lessons. That manuals are also well suited in facilitating science lessons in a mobile laboratory for schools without physical science laboratories. That these manuals serve a critical purpose of guiding learners and teachers through experiments.

Mr. Simon Peter Tukei, Head Instruction Management Unit stated that the laboratory instruction manuals had similarities with the core text books that were procured for the reviewed lower secondary school curriculum. That it therefore passes more as a text book than a laboratory instruction manual.

Considering that NCDC that developed the curriculum, and the User Department that initiated the procurement consider the books as laboratory instruction manuals, the Authority finds **no merit** in this allegation.

### **8.6 Whether the technical specifications and evaluation criteria were not provided by the Entity to guide the bidder**

The complainant alleged that technical specifications and evaluation criteria were not provided in the bidding documents issued to bidders by the Entity.

Regulation 25 (1) of the PPDA (Rules & Methods) Regulations states that:

*A Procuring and Disposing Entity shall include in the statement of requirements for supplies a list of the supplies and the quantities of the supplies; generic, functional or performance specifications; drawings; a delivery and completion schedule; and a description of any incidental works or non-consultancy services required.*

Regulation 25 (2) of the PPDA (Rules & Methods) Regulations further states that:

*A specification shall contain a complete, precise and unambiguous description of the supplies required and shall include a clear definition of the scope of the supplies; the purpose and objectives of the proposed purchase; a full description of the requirement; a generic specification to an appropriate level of detail; a functional description of the qualities, including any environmental or safety features required of the subject of the procurement; the performance parameters, including outputs, timescales, and any indicators or criteria by which the satisfactory performance of the specification can be judged; process and materials descriptions;*

*dimensions, symbols, terminology, language, packaging, marking and labeling requirements; the common specification standard relating to the supplies; and the relevant industry standard.*

#### **Entity's response**

The availed technical specifications coupled with the samples and evaluation criteria under the bidding documents were sufficient for acquisition of the books.

#### **PPDA findings**

The Authority noted that in Part 2: Section 6 Statement of Requirements (Pages 51-53 of 65) of the bidding document, the Entity provided the specifications for printing the Chemistry Laboratory Instruction manual (LIM), Learner's book 1, Chemistry Laboratory Instruction Manual (LIM) Teacher's Guide, Biology Laboratory Instruction Manual (LIM) Learner's book 1, Biology Laboratory Instruction Manual-Teacher's guide 1, Physics Laboratory Instruction Manual (LIM) Learner's book 1 and Physics Laboratory Instruction Manual Teacher's Guide 1.

The Authority therefore noted that the Entity provided the technical specifications for **printing**. This however differed from the technical specifications expected by the complainant who maintained that there should have been specifications regarding the **content** of the book to be developed and the criteria later to be used to evaluate the bidders.

The Authority finds **no merit** in this regard.

#### **8.7 Whether the Entity irregularly requested for an approval certificate issued by NCDC when it should not have been a requirement.**

The complainant alleged that the Entity introduced approval certificates which should not have been a requirement. That even if it was to be a requirement, NCDC should have issued pedagogical guidelines to be followed in evaluating the materials. That since this was not done, there was no basis for making it a requirement.

#### **Entity's response**

The requirement of an NCDC certificate was included for purposes of quality assurance. It should be noted that NCDC is mandated to develop and review curricula and other related instruction materials for pre-primary, primary, secondary and some tertiary institutions.

#### **PPDA findings**

The Authority noted that the requirement for an NCDC certificate was erroneously included among the documents required from the bidder, if indeed the Entity intended for this procurement to be for **printing**. The printing of an already existing book that has an NCDC certificate does not require that the printers also obtain their own certificates from NCDC. Instead, the Entity should have asked for authorization from Science Teachers Initiative, whose copyrighted book was to be printed.

This requirement is part of the reason for the confusion of bidders, because the NCDC certificate is for developed content in relation to the NCDC curriculum, and not for printing.

The Authority found **merit** in this allegation.

**8.8 Whether the experience requirements requested by the Entity were restrictive such as recommendation letters from at least two schools or any education institution for the same supplies done in the last two years and provision of three contracts or LPOs of a minimum of 200 million shillings for similar supplies from government schools in the last two years**

The complainant alleged that the Entity put restrictive clauses which should not have been applicable such as; recommendation letters from at least two schools or any education institution for the same supplies done in the last two years and provision of three contracts or LPOs of a minimum of 200 million shillings for similar supplies from government schools in the last two years.

Regulation 7 (4) of the PPDA (Evaluation) Regulations, 2014 states that *the evaluation criteria shall not be drafted in a way which restricts competition, except where this is necessary to meet the objectives of the procurement or where the preference or reservation scheme is applied.*

**Entity's response**

The spirit of requesting for recommendation letters from at least two schools or education institutions where the bidders had made similar supplies was for purposes of ensuring that bidders have experience in book supplies.

**PPDA findings**

From the analysis of Part 1: Section 3 evaluation methodology and criteria in the bidding document issued to bidders, the Authority did not find any requirement indicating that the bidders should provide recommendation letters from at least two schools or any education institution for the same supplies done in the last two years, and provision of three contracts or LPOs of a minimum of 200 million shillings for similar supplies from government schools in the last two years.

The Authority noted that whereas this requirement initially existed in the evaluation methodology and criteria in the bidding documents for Lots 19-21 which were cancelled by the Contracts Committee under procurement reference number (MoES/SUPLS/2022-2023/00067), the Entity excluded this requirement in the bidding document for the new procurement for laboratory instruction materials under reference number (MoES/SUPLS/2023-2024/00004).

The Authority did **not find merit** in this allegation.

**8.9 Whether the procurement requisition for the procurement of laboratory instruction materials was raised by the User Department**

The complainant alleged that the User Department (Instructional Materials Department) was not involved in raising the procurement requisition.

*Section 34 (1)(b) of the PPDA Act 2003 states that the User Department of a Procuring and Disposing Entity shall initiate procurement and disposal requirements and forward them to the Procurement and Disposal Unit.*

### **Entity's response**

The initiation was from the proper User Departments which were Government Secondary Education and Basic Education which are the users of these materials and the holders of the budget.

### **PPDA findings**

The Authority noted that the requisition was raised by Ms. Zulaika Naiga, a member of the User Department. Mr. Sam Kuloba, Head of Department, Government Secondary Schools, confirmed the request as the Head of the User Department. Being the user of the books, and holders of the budget, the Department of Government Secondary Schools was the User Department, and therefore correctly raised the procurement requisition in accordance with Section 34 (1)(b) of the PPDA Act 2003.

There was **no merit** found in this allegation.

## **9.0 CONCLUSION**

Whereas the Authority found merit in three out of the nine allegations raised pertaining to the insufficient bidding period provided to bidders, irregular request for an NCDC approval certificate from bidders, and irregular use of the direct procurement method indicated above; these irregularities are not sufficient to cancel the ongoing procurement of the laboratory instruction manuals using framework contracts.

Furthermore, out of these three issues with merit, only two relate to the ongoing procurement process.

## **9.0 RECOMMENDATIONS**

In light of the above, the Authority recommends the following:

1. The Accounting Officer should ensure that the procurement of the laboratory instruction manuals for senior one is expeditiously carried out so that the books are delivered to the intended beneficiaries in time.
2. The NCDC certificate should be waived from among the requirements to be evaluated by the Evaluation Committee.
3. Subsequent procurements of laboratory instruction manuals for classes beyond senior one should be opened up to all the interested bidders through the open domestic bidding method.
4. The Contracts Committee and the Head, Procurement and Disposal Unit should in future ensure that correct procurement methods are used for all procurements to be undertaken by the Entity as provided for in Sections 79-86 of the PPDA Act 2003; Regulations 6 & 11-17 of the PPDA (Rules and Methods for procurement of supplies, works and non-consultancy services) Regulations 2014; and Regulation 6 of the PPDA (Procurement of Consultancy Services) Regulations 2014.

5. The Head, Procurement and Disposal Unit should in future ensure that the minimum bidding period is adhered to in accordance with Regulation 46 of the PPDA (Rules and Methods for procurement of supplies, works and non-consultancy services) Regulations 2014.