



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

**INVESTIGATION INTO ALLEGED IRREGULARITIES IN THE  
PROCUREMENT OF SUPPLY OF COFFEE REHABILITATION  
INPUTS IN MBALE DISTRICT LOCAL GOVERNMENT**

**ENTITY : MBALE DISTRICT LOCAL GOVERNMENT**

**COMPLAINANT: NAMI HARDWARE LIMITED**

**AUGUST 2019**

**TABLE OF CONTENTS**

1.0 BACKGROUND ..... 4

2.0 LAWS APPLICABLE..... 6

3.0 OBJECTIVE OF THE INVESTIGATION ..... 6

4.0 METHODOLOGY ..... 6

5.0 FINDINGS OF THE AUTHORITY..... 6

6.0 RECOMMENDATIONS..... 8

## ACRONYMS

AO	-	Accounting Officer
BEB	-	Best Evaluated Bidder
CC	-	Contracts Committee
HPDU	-	Head Procurement and Disposal Unit
Ltd	-	Limited
PDU	-	Procurement and Disposal Unit
PPDA Act	-	Public Procurement and Disposal of Public Assets Act No. 1 of 2003
PPDA	-	Public Procurement and Disposal of Public Assets Authority
UGX	-	Uganda Shillings

## 1.0 BACKGROUND

1.1 On 12<sup>th</sup> July 2018, Mbale District Local Government initiated the procurement for Supply of coffee rehabilitation inputs at an estimated cost of UGX 20,000,000.

1.2 On 27<sup>th</sup> February 2019, the Contracts Committee approved the bidding document and the Evaluation Committee comprising of:

**Table 1: Evaluation Committee**

No	Name	Designation
1	Ms. Cissy Nabukenya	Senior Accounts Assistant
2	Ms. Rose NabiryeLudaga	Principal Production Officer
3	Mr. George Masaba	Procurement Officer

1.3 On 27<sup>th</sup> February 2019, the Contracts Committee approved the selective national bidding method of procurement and shortlist of three providers below:

- i. Kanene Technical Services Limited
- ii. Buyobo General Traders Limited
- iii. Nami Hard Ware Limited

1.4 On 4<sup>th</sup> March 2019, the invitation to bid was issued to the shortlisted bidders with a deadline for submission of bids of 18<sup>th</sup> March 2019 (11.00a.m).

1.5 On 14<sup>th</sup> March 2019, the following firms were issued with bid documents and submitted bids on 18<sup>th</sup> March 2019:

- i. Nami Hardware Limited
- ii. Wanek Investments Limited

1.6 On 22<sup>nd</sup> March 2019, the Evaluation Committee recommended award of the contract for supply of Coffee Rehabilitation inputs Wanek Investments Limited at a total evaluated price of UGX 19,334,300 VAT inclusive.

1.7 On 4<sup>th</sup> April 2019, the best evaluated bidder notice was displayed with a removal date of 17<sup>th</sup> April 2019.

1.8 On 16<sup>th</sup> April 2019, Nami Hardware applied for an Administrative review with one of the grounds being that the best evaluated bidder, "Wanek Investments Limited" was not issued with a bidding document.

1.9 On 23<sup>rd</sup> April 2019, the Accounting Officer constituted an Administrative Review Committee composed of the following:

- i. Mr. Mayoka Watasa

- ii. Mrs. Angella Ayo
- iii. Mr. Tom Musungu

- 1.10 On 2<sup>nd</sup> May 2019, the Administrative Review Committee issued a report to the Chief Administrative Officer. The report indicated that two invitations were issued on 4<sup>th</sup> March 2019 with one inviting Wanek Investments Limited, Mwashu Limited and Husa Limited while the other invited Kanene Technical Services Limited, Buyobo General Traders Limited and Nami Hardware Limited. The review committee also noted that a representative of Wanek Investments limited signed the record of issue of bid documents and also submitted its bid. The review committee recommended retendering of the procurement.
- 1.11 On 7<sup>th</sup> May 2019, the Accounting Officer advised that the bidder (Nami Hard Ware) that had been invited and evaluated be considered for award.
- 1.12 On 14<sup>th</sup> May 2019, the tender was re-advertised with a bid closing date of 27<sup>th</sup> May 2019. Thirty-six(36) firms were invited and eight (8) were issued with the bid documents.
- 1.13 On 27<sup>th</sup> May 2019, four bids were received.
- 1.14 On 28<sup>th</sup> May 2019, the Evaluation Committee recommended award of the contract for Supply of Coffee Rehabilitation Inputs at a total evaluated price of UGX 16,560,030 VAT inclusive to Nemu Building and Contractors Limited.
- 1.15 On 28<sup>th</sup> May 2019, the Contracts Committee approved the recommendation by the Evaluation Committee and awarded the contract to Nemu Building and Contractors Limited at a total evaluated price of UGX 16,560,030 VAT inclusive.
- 1.16 On 28<sup>th</sup> May 2019, the best evaluated bidder notice was displayed with a removal date of 12<sup>th</sup> June 2019.
- 1.17 On 13<sup>th</sup> June 2019, the Entity signed a contract with Nemu Hard Ware Limited with a contract price of UGX 16,560,030.
- 1.18 On 14<sup>th</sup> June, 2019, the Authority received a complaint from the Managing Director, Nami Hardware Limited. He alleged that that the Accounting Officer did not respond to an application for administrative review in respect to the procurement of supply of coffee rehabilitation inputs (MBAL/536/SUPLS/18-19/00054) but re-advertised the tender.
- 1.19 On 18<sup>th</sup> June 2019, the Authority instituted an investigation into the matter in accordance with Section 8(1) (c) of the PPDA, Act 2003.

## 2.0 LAW APPLICABLE

- i. The Public Procurement and Disposal of Public Assets Act, 2003;
- ii. The LG (PPDA) Regulations 2006;
- iii. The LG (PPDA) Guidelines 2008; and
- iv. The bidding document issued.

## 3.0 OBJECTIVES OF THE INVESTIGATION

The objectives of the investigation were to establish whether:

- i. The shortlisting and invitation of bidders was properly handled; and
- ii. The Accounting Officer did not respond to an application for administrative review in respect to the procurement of supply of coffee rehabilitation inputs but re-advertised the tender.

## 4.0 METHODOLOGY

The Authority adopted the following methodology:

### 4.1 Review of the following documents:

- i. Requisition;
- ii. Letters of invitation;
- iii. Bidding document issued to bidders;
- iv. Record of issue and receipt of bids;
- v. Record of bid opening;
- vi. Bids submitted by the bidders;
- vii. Evaluation report;
- viii. Contracts Committee minutes;
- ix. Contract for supply of coffee rehabilitation inputs; and
- x. Correspondences relating to the procurement.

### 4.2 On 15<sup>th</sup> July 2019, the Authority held a meeting with the following persons:

**Table 2: Persons met by the Authority**

No.	Name	Organisation	Designation
1.	Mr. Wanakina G. Davidson	Mbale DLG	Chairperson Contracts Committee
2.	Mr. Ariko P. Sam	Mbale DLG	Head PDU
3.	Mr. Watasamayoka	Mbale DLG	Principal Internal Auditor
4.	Mr. Ekachelan Esau	Mbale DLG	Chief Administrative Officer
5.	Mr. Mugoya Safiyi Wadada	Nami Hardware	Director

## **5.0 FINDINGS OF THE AUTHORITY**

### **5.1 Whether shortlisting and invitation of bidders was properly handled**

- i. The complainant alleged that Wanek Investments Limited was neither shortlisted nor invited to bid but was issued with a solicitation document for the procurement of supply of coffee rehabilitation inputs.
- ii. The Authority established that the Contracts Committee approved a shortlist of three firms on 27<sup>th</sup> February 2019. These were:
  - i. Kanene Technical Services Limited;
  - ii. Buyobo General Traders Limited; and
  - iii. Nami Hard Ware Limited.
- iii. During a meeting held with the Entity on 15<sup>th</sup> July 2019, the Authority was informed that two parallel invitations were issued on the same day with one having Wanek Investment Limited, Mwashu Limited and Husa Limited while the other had Kanene Technical Services Limited, Buyobo General Traders Limited and Nami Hard Ware Limited.
- iv. The Authority found that the Procurement and Disposal Unit irregularly issued Wanek Investments Limited a bidding document when the company was not approved by the Contracts Committee contrary to Regulation 25 (1) (c) of the Local Government (PPDA) Regulations, 2006 which requires the Procurement and Disposal Unit to implement decisions of the Contracts Committee.
- v. The Authority found that shortlisting and invitation of bidders was not properly handled as evidenced by invitations of three (3) firms i.e. Wanek Investment Limited, Mwashu Limited and Husa Limited which were not approved by the Contracts Committee contrary to Regulation 25 (1) (c) of the Local Government PPDA Regulations, 2006.

### **5.2. Whether the Accounting Officer did not respond to an application for administrative review in respect to the procurement of supply of coffee rehabilitation inputs (MBAL/536/SUPLS/18-19/00054)**

- i. The complainant alleged that the Accounting Officer did not respond to the application for administrative review in respect to the procurement of supply of coffee rehabilitation inputs.
- ii. Section 90(2)(b) of the PPDA Act, 2003, provides that on receiving the complaint and the prescribed fee, the Accounting Officer shall make a decision in writing, within fifteen (15) working days, indicating the corrective measures to be taken, if any, and giving reasons for his or her decision and submit a copy of the decision to the Authority.

- iii. The Authority found that on 6<sup>th</sup> April 2019, Nami Hardware Limited applied for an administrative review at the Entity level. The administrative review fees worth UGX 500,000 were paid through DFCU Bank.
- iv. On 2<sup>nd</sup> May 2019, the Administrative Review Committee issued a report addressed to the Chief Administrative Officer recommending that the procurement be retendered.
- v. On 7<sup>th</sup> May 2019, the Accounting Officer recommended that the bidder (Nami Hard Ware Limited) that had been invited and evaluated be considered for award contrary to the recommendation by the Administrative review Committee to re-tender.
- vi. On 14<sup>th</sup> May 2019, the tender was re-advertised. Thirty-six(36) firms were invited and only eight (8) firms were issued with the bid documents. Subsequently, the tender was awarded to Nemu Building and Contractors Limited on 28<sup>th</sup> May 2019, at a total evaluated price of UGX 16,560,030 VAT inclusive.
- vi. The Authority found that the Entity did not respond to the application for the administrative review from Nami Hard Ware Limited contrary to Section 90 (2) (b) of the PPDA Act, 2003, which requires the Accounting to make a decision in writing within fifteen (15) working days after receipt of a complaint.

## **6.0 RECOMMENDATIONS**

In light of the above findings and in accordance with Section 9 of the PPDA Act, 2003 the Authority recommends the following:

- i. The Accounting Officer should take disciplinary action against the Procurement and Disposal Unit staff involved in issuing invitations to bidders not approved by the Contracts Committee contrary to Regulation 25 (1) (c) of the Local Governments (PPDA) Regulations, 2006 which requires the Procurement and Disposal Unit to implement decisions of the Contracts Committee.
- ii. The Accounting Officer should ensure that the sum of UGX. 500,000 is refunded to Nami Hardware Limited in accordance with Guideline No.5/2008 of the Local Government Public Procurement and Disposal of Public Assets Guidelines, 2008 on administrative review Fee which requires Accounting Officers to refund the Administrative review fee to the bidder whose application is upheld on completion of the Administrative review.
- vii. The Accounting Officer should always ensure that applications for administrative reviews are handled in accordance with Section 90(2) (b) of the PPDA Act, 2003.