



PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS AUTHORITY

APPLICATION NO. 60 OF FY 2018/2019

REPORT ON APPLICATION FOR ADMINISTRATIVE REVIEW IN RESPECT TO THE TENDER FOR CONSULTANCY SERVICES TO DEVELOP A NATIONAL CENTRAL ELECTRONIC MONITORING SYSTEM (NCEMS) FOR GAMING AND LOTTERIES REGULATORY BOARD REF: MOFPED/CONS/18-19/00001

ENTITY: MINISTRY OF FINANCE PLANNING AND ECONOMIC DEVELOPMENT

APPLICANT: ISOLUTIONS JV ISAWARE JV AXES NETWORKS JV FORENSIC OPTIONS

JULY 2019

1.0 BACKGROUND

1. On 23rd March 2018, the National Gaming Board initiated the procurement for a National Central Monitoring System at an estimated cost of UGX 10.5 Billion. The procurement process was contracted out by Ministry of Finance, Planning and Economic Development (MOFPED).
2. On 23rd July 2018, the Entity (MOFPED) requested the Authority for clearance to use an alternative bidding document for procurement of consultancy services for the development and maintenance of a National Central Electronic Monitoring System.
3. On 23rd July 2019, the Entity requested clearance from National Information Technology Authority (NITA-U) of the basic specifications and for a technical officer to participate in the evaluation.
4. On 22nd August 2018, the Authority guided that competitive dialogue may only be used through an accreditation.
5. On 3rd September 2018, NITA-U cleared the specifications for the procurement.
6. On 18th October 2018, the Contracts Committee approved the use of Consultancy Services with Expression of Interest, Request for Proposal document and the Evaluation Committee indicated below:

Table 1: Evaluation Committee Composition

No.	Name	Position	Entity
1.	Ms. Christine Akuguzibwe	Procurement Officer	LGRB
2.	Mr. Dennis Mudene	Representative from NITA-U	LGRB
3.	Mr. John Nanyumba	Senior Procurement Officer	MOFPED

7. On 3rd November 2018, the Expression of Interest was advertised in the East African and in the New Vision news papers on 15th November 2018 with a deadline of 29th November 2018.
8. On 6th December 2018, the Contracts Committee approved three (3) additional members of the Evaluation Committee as indicated below:

Table 2: Evaluation Committee Composition

No.	Name	Position	Entity
1.	Mr. Morphat Masaba	AC/MIS	MOFPED
2.	Mr. Fred Okwangale	IT Specialist	MOFPED
3.	Mr. Paul	CMCS/FINMAP	MOFPED

No.	Name	Position	Entity
	Kyama		

9. The bidding documents were issued to sixteen bidders that expressed interest as indicated in Table 3 below:

Table 3: Bidders that expressed interest/pre-qualification

No.	Name of Bidder
1.	Isolutions JV Isaware JV Axes Networks JV Forensic Options
2.	Comtrade D.O.O JV MTA Computers
3.	Africa One
4.	Play Track
5.	Impiger Technologies PYT Ltd
6.	MFI document Solutions
7.	Fintech Uganda
8.	Sybyl Ltd
9.	MTA Computer Ltd
10.	Afrkan Computer Equip Supplies
11.	Asigma Advisory
12.	Decart Ltd Bulgaria
13.	Sci (U) Ltd
14.	Technology Associates
15.	Ernest & Young
16.	Richard Yego

10. On 29th November 2018, eight firms submitted proposals which were opened as indicated in Table 4 below:

Table 4: Proposals submitted

No.	Name of Bidder
1.	Isolutions JV Isaware JV Axes Networks JV Forensic Options
2.	Comtrade D.O.O JV MTA Computers
3.	Play track/Bridge (JV)
4.	Eclectics International
5.	Technology Associates Limited JV Malope Monitoring Solutions
6.	Fintech Uganda JV
7.	Aces (PYT) Ltd
8.	MFI Documents

11. Three bidders indicated in Table 5 were found compliant to the requirements:

Table 5: Compliant bidders

No.	Name of Bidder
1.	Isolutions JV Isaware JV Axes Networks JV Forensic Options
2.	Comtrade D.O.O JV MTA Computers

No.	Name of Bidder
3.	Technology Associates Ltd JV Malope Monitoring Solutions

12. On 14th January 2019, the Contracts Committee approved the three shortlisted firms to submit technical proposals using a one stage two envelope method.
13. On 15th January 2019, the Entity displayed the Notice of shortlisted Bidders with a removal date of 28th January 2019.
14. On 10th February 2019, the Entity issued the three firms in Table 5 with Request for Proposal documents with a proposal closing date of 28th February 2019.
15. On 15th February 2019, the Entity held a pre-proposal meeting with the three consultants.
16. On 21st March 2019, three firms Isolutions JV Isaware JV Axes Networks JV Forensic Options, Comtrade D.O.O JV MTA Computers and Technology Associates Ltd submitted their proposals which were opened on the same day.
17. According to the Evaluation Report recommended the opening of the financial proposals of the two bidders Isolutions JV Isaware JV Axes Networks JV Forensic Options and Comtrade D.O.O JV MTA Computers that were technically responsive as detailed in Table 6 below:

Table 6: Technical Evaluation Score

No.	Bidder	Score ¹	Remark
1.	Isolutions JV Isaware JV Axes Networks JV Forensic Options	78.28	Pass
2.	Comtrade D.O.O JV MTA Computers	89.93	Pass
3.	Technology Associates Ltd JV Malope Monitoring Solutions	64.32	Fail

18. On 18th April 2019, the Contracts Committee approved the opening of the financial proposals of Isolutions JV Isaware JV Axes Networks JV Forensic Options and Comtrade D.O.O JV MTA Computers.
19. On 23rd April 2019, the Entity displayed the Notice of Best Evaluated Bidder whose removal date was 7th May 2019 indicating the best evaluated bidders as Isolutions JV Isaware JV Axes Networks JV Forensic Options and Comtrade D.O.O JV MTA Computer.
20. The Notice of Best Evaluated Bidder further indicated that Technology Associates Ltd JV Malope Monitoring Solutions did not adequately respond to a number of technical requirements and was therefore non-responsive and eliminated at that stage.

¹The pass mark at this stage was 75%

21. On 8th May 2019, financial proposals of Isolutions JV Isaware JV Axes Networks JV Forensic Options and Comtrade D.O.O JV MTA Computers were opened.
22. The Evaluation Committee undertook a financial comparison as indicated in Table 7 below.

Table 7: Summary of Financial Comparison

No	Name	Proposal Price (UGX)	Evaluated Price(UGX)	Financial Score
1.	Isolutions JV Isaware JV Axes Networks JV Forensic Options	9,270,720,000	9,270,720,000	25.00
2.	Comtrade D.O.O JV MTA Computers	10,833,200,000.	10,833,200,000.	21.39

23. The Combined Evaluation Report dated 10th May 2019 recommended award to Comtrade D.O.O JV MTA Computers at a contract price of UGX 10,833,200,000as indicated in Table 8 below:

Table 8: Combined Financial and Technical Weighting

Bidder	Technical Score	Financial Score	Combined Score	Rank
Isolutions JV Isaware JV Axes Networks JV Forensic Options	58.71	25	83.71	2
Comtrade D.O.O JV MTA Computers	67.45	21.39	88.84	1

24. On 20th May 2019, the Entity displayed the Notice of Best Evaluated Bidder indicating Comtrade D.O.O JV MTA Computers at a contract price of UGX 10,833,200,000with a removal date of 31st May 2019.
25. Isolutions JV Isaware JV Axes Networks JV Forensic Options was unsuccessful because its combined weighted score (technical + financial) of 83.71 was lower than that of the best evaluated bidder of 88.84.
26. On 11th June 2019, the Entity requested Isolutions JV Isaware JV Axes Networks JV Forensic Options and Comtrade D.O.O JV MTA Computers to extend the bid validity and Bid Securing Declarations to 24th October 2019 and 2nd December 2019 respectively.
27. On 30th May 2019, the Applicant applied for Administrative Review to the Accounting Officer and raised the following ground;

“The missing amount of local taxes in the proposal submitted by Comtrade D.O.O JV MTA Computers was contrary to the requirement in the proposal document under ITC 15.4 which provided that financial proposals should clearly estimate as a separate amount, the local taxes (including social security), duties, fess, levies and other charges imposed under the applicable law, on the Consultant and their personnel (other than nationals of or permanent residents in Uganda), unless the PDS specifies otherwise.”

28. On 13th June 2019, the Accounting Officer issued a decision rejecting the application for Administrative review application.

2.0 APPLICATION FOR REVIEW BY THE AUTHORITY

1. On 24th June 2019, the Applicant applied for Administrative Review to the Authority raising the following grounds:

- i. Comtrade D.O.O in JV with MTA Computers should have been eliminated at the first stage of evaluation because it did not indicate the required local taxes in its bid.*
- ii. Deviation from the evaluation criteria set in the bidding document: The calculation of the final score did not reflect the evaluation criteria in the bidding document, specifically, the email received from Mr. Crescent Muhumuza stated how the combined score was calculated to identify the best evaluated bidder.*
- iii. It was illegal for the Head of the Procurement and Disposal Unit (PDU) to handle investigations in the administrative review application and communicate the results to the applicant.*

3.0 DISPOSAL OF APPLICATION

1. In investigating the application for Administrative Review, the Authority analysed the following documents:
 - i. Bidding document;
 - ii. Record of bid opening;
 - iii. Bids submitted by the bidders;
 - iv. The evaluation report and minutes;
 - v. Minutes of the Contracts Committee;
 - vi. Notice of Best Evaluated Bidder;
 - vii. Application for Administrative Review by iSolutions; and
 - viii. Correspondences with respect to the Administrative Review.
2. On 26th June 2019, the Authority convened an Administrative Review hearing which was attended by the persons indicated in Table 9:

Table 9: Representation at the Administrative Review Hearing

No.	Name	Designation
Ministry of Finance, Planning and Economic Development		
1.	Mr. Julius Mukholi W	Head Legal
2.	Mr. Prajwal Raj Gyawacy	Senior Legal Officer
3.	Mr. John Fred Nanyumba	Senior Procurement Officer
4.	Ms. Nabulime Ssekyondwa	Procurement Officer
5.	Mr. Augustine Ssekyondwa	AA/NITA-U
6.	Ms. Akugizibwe Christine	Procurement Officer, National Gaming Board
7.	Mr. Denis Mudene	Information Technology Officer, National Gaming Board
8.	Mr. Fredrick Richard Okwangale	ITS/MOFPED
9.	Mr. Benjamin David Odongo	Intern (Statistician)
Isolutions JV Isaware JV Axes Networks JV Forensic Options		
1.	Mr. Micael Amzon	Lawyer
2.	Ms. Dorothy Achola	Associate Forensic Options
3.	Mr. Davis Muhangi	Partner Forensic Options
Comtrade D.O.O in JV with MTA Computers		
1.	Eng. Nicholas Rwendeire R.A	Partner/ Power of Attorney Representative

4.0 SUBMISSIONS BY THE APPLICANT

Ground 1:

Comtrade D.O.O in JV with MTA Computers should have been eliminated at the first stage of evaluation because it did not indicate the required local taxes in its bid

1. The Applicant submitted that the financial offer submitted by Comtrade D.O.O in JV with MTA Computers did not include local taxes which was a mandatory requirement under ITC 15.4 of the bidding document issued to bidders
2. The Applicant stated that the bidding document under Evaluation Criteria and Methodology indicated that the completed financial proposal forms would be used to compile the breakdown of contract price in any resulting agreement.
3. The Evaluation Committee erred to consider the issue of not indicating local taxes as a separate amount as a non - material deviation and therefore waived it in line with Regulation 11(3) of the PPDA (Evaluation) Regulations, 2014.
4. The failure by the best evaluated bidder to provide local taxes in its bid was a material deviation from the bidding document and therefore should have led to its disqualification at the preliminary evaluation stage.

Ground 2:

The calculation of the final score did not reflect the evaluation criteria in the bidding document

1. The Applicant stated that the calculation of the final combined score was not undertaken in accordance with the evaluation criteria in the bidding document. The email received from Mr. Crescent Muhumuza indicated that a score of 100 was awarded to the lowest priced proposal and other proposals were given a financial score inversely proportional to the lowest priced proposal using the following calculation:
“Lowest price divide by proposal price x 100 = Financial score”
2. It was further submitted that it was clear from the email that the evaluation methodology and criteria used was not Quality Cost Based Selection to get the lowest priced bid since the entity was considering the bid with the highest score.
3. The Applicant requested a review of the following related to the calculation:
 - i. Deviation from the evaluation criteria in the tender document;
 - ii. Introduction of new computation method specifically to the financials; and
 - iii. Technical scoring on weightings.

Ground 3:

It was illegal for the Head of the Procurement and Disposal Unit to handle investigations in the administrative review application and communicate the results to the applicant

1. The Applicant submitted that it received a decision signed by Mr. Crescent Muhumuza, the Head Procurement and Disposal Unit which was contrary to Section 90 (1) of the PPDA Act, 2003. The section provides that a bidder who is aggrieved by a decision of a procuring and disposing entity may make a complaint to the Accounting Officer of the procuring and disposing entity. (2) On receiving the complaint and the prescribed fees, the Accounting Officer shall-
 - i. Immediately suspend the procurement proceedings; and
 - ii. Make a decision in writing, within fifteen working days, indicating the corrective measures to be taken, if any and giving reasons for his or her decisions and submit a copy of the decision to the Authority.
2. The Applicant found that it was unlawful and unfair for Mr. Crescent Muhumuza to issue a decision on an Administrative Review as the Accounting Officer yet he had participated in the procurement process as the Head Procurement Disposal.
3. The Applicant further submitted that the action was contrary to Section 38 of the PPDA Act, 2003 that provides for independence of performance of functions and states that the Accounting Officer, the Contracts Committee, the Procurement and Disposal Unit, the

User Department and the Evaluation Committee in relation to their respective functions of powers.

4. The Applicant concluded that the performance of the function of the Accounting Officer by the Head Procurement and Disposal Unit was illegal. The HPDU should not have signed the decision of an Administrative Review against process he presided over.

5.0 SUBMISSIONS BY THE ENTITY

Ground 1:

Comtrade D.O.O in JV with MTA Computers should have been eliminated at the first stage of evaluation because it did not indicate the required local taxes in its bid

1. The Entity submitted that it received bids from Comtrade D.O.O in JV with MTA Computers and Isolutions JV Isaware JV Axes Networks JV Forensic Options indicated local taxes in the financial proposals.
2. The financial proposal submission sheet included in the bid by Comtrade D.O.O in JV with MTA Computers explicitly indicated that the declared total price of UGX 10,833,200,000 was inclusive of all local taxes.
3. The bid also included a price break down of UGX 10,833,200,000 that indicated zero (0) against the row on local taxes.
4. The Evaluation Committee considered the omission of not indicating local taxes as a separate amount under the financial proposal submission sheet as a non-conformity issue which as a non-material deviation and therefore waived it in line with Regulation 11(3) of the Public Procurement and Disposal of Public Assets (Evaluation) Regulations 2014.

Ground 2:

The calculation of the final score did not reflect the evaluation criteria in the bidding document

1. The Entity submitted that the calculation that was indicated in the email to the Applicant was consistent with the evaluation criteria in the bidding document. Thee formula for calculating the combined score under the Quality and Cost Based Selection methodology was:

“A score of 100 should be awarded to the lowest priced proposal”. Other proposals should be given a financial score inversely proportional to the lowest priced proposal using the following calculation:

Lowest price divide by proposal price X 100 = Financial Score.”

2. The Evaluation Committee adhered to the Quality Cost Based Selection methodology where merit point evaluation was applied. The scores were assigned a technical weight of 75% and a financial weight of 25%. The proposal with the lowest evaluated price was

given a financial score of 100 and the other proposal was given a financial score that was inversely proportional to the lowest priced proposal.

Ground 3:

It was illegal for the Head of the Procurement and Disposal Unit to handle investigations in the administrative review application and communicate the results to the applicant

1. The Entity submitted that the decision communicated was by the Accounting Officer and was not contrary to Section 90 (1) of the PPDA Act, 2003. The decision was signed for the Permanent Secretary/Secretary to the Treasury.
2. The Entity indicated that Mr. Crescent Muhumuza signed off the decision to the Administrative Review application in the capacity of the Permanent Secretary/Secretary to the Treasury and not as the Assistant Commission/HPDU, the substantial position that he holds.
3. It further indicated that Mr. Crescent Muhumuza did not participate in the procurement process of the above consultant and was neither a member of the Evaluation Committee and hence could not have a conflict of interest.
4. The Accounting Officer delegated the function in accordance with Regulation 21 of the PPDA (Procuring and Disposing Entities) Regulations, 2014 to a member of staff of the procuring and disposal entity and hence the signing of the decision was not illegal.

6.0 RESOLUTION BY THE AUTHORITY

1. The Authority raised the following issues from the grounds raised:
 - i. Whether Comtrade D.O.O in JV with MTA Computers should have been eliminated at the first stage of evaluation because it did not indicate the required local taxes in its bid.
 - ii. Whether the Evaluation Committee deviated from the evaluation criteria set in the bidding document.
 - iii. Whether it was illegal for the Head Procurement and Disposal Unit to handle investigations in the administrative review application and communicate the results to the applicant.
2. The Authority observed that much as ground three was not raised before the Accounting Officer, it arose from the decision of the Accounting Officer.

Issue 1:

Whether Comtrade D.O.O in JV with MTA Computers should have been eliminated at the first stage of evaluation because it did not indicate the required local taxes in its bid.

1. The Applicant submitted that the bid by Comtrade D.O.O in JV with MTA Computers should have been eliminated at the first stage of evaluation because it did not indicate the required local taxes. The requirement was a material deviation and the Evaluation Committee could not waive its omission.
2. The Entity in response indicated that the financial proposal submission sheet by Comtrade D.O.O in JV with MTA Computers explicitly indicated that the declared total price of UGX 10,833,200,000 was inclusive of all local taxes.
3. The Authority reviewed the bidding document and found that ITC 15.4 provided that the financial proposals should clearly estimate, as a separate amount, the local taxes (including social security) duties, fees, levies and other charges imposed under the applicable law, on the consultant and their personnel (other than nationals of or permanent residents in Uganda) unless the PDS specifies otherwise.
4. The Proposal Data Sheet (PDS) 15.4 provided that the financial proposal shall be broken down into the price for each activity.
5. Section 3 Evaluation Methodology and Criteria part D under 7.1 (C) further provided that the costs to be included in the bid price are taxes, duties and levies.
6. The proposal price breakdown of UGX 10,833,200,000 was provided in the bid as indicated in Table 10 below:

Table 10: Price Breakdown

COST ITEM	AMOUNT (UGX)
Fees	8,533,000,000
Reimbursable	37,100,000
Miscellaneous Expense	2,263,100,000
Local Taxes	0
Total	10,833,200,000

7. At the hearing, the best evaluated bidder, Comtrade D.O.O JV MTA Computers indicated that the procurement was for software that is an intellectual property of the provider and attracted zero taxes.
8. On 11th July 2019, the Authority sought for clarification from Uganda Revenue Authority as to the applicable laws of the procurement. On 16th July 2019, the Authority received a response from Uganda Revenue Authority that guided that the procurement was subject to Value Added Tax (VAT) of 18%.
9. In light of the above, the Authority found no merit in the submissions by Comtrade D.O.O JV MTA Computers that the procurement attracted zero taxes.
10. The Evaluation Committee erred when it considered the omission of not indicating local taxes as a separate amount under the financial proposal submission sheet as a non-

material deviation and therefore waived. The Evaluation Committee should have computed the applicable local taxes and requested the bidder to confirm if new bid price after computation of the local taxes was acceptable to the bidder in accordance with Regulations 56 and 59(3) of the PPDA (Procurement of Consultancy Services) Regulations, 2014.

Decision of the Authority on the Ground:

The Authority found merit in Ground one since Comtrade D.O.O in JV with MTA Computers did not comply with the bidding document that required the financial proposals to clearly estimate as a separate amount the local taxes.

Issue 2:

Whether the Evaluation Committee deviated from the evaluation criteria set in the bidding document.

1. The Applicant submitted that the calculation of the final combined score was not undertaken in accordance with the evaluation criteria in the bidding document as evidenced by the email received from the Head Procurement and Disposal Unit.
2. The Applicant further submitted that since it had the lowest priced bid at UGX. 9,270,720,000 and had scored above the minimum technical score of 75%, the Entity should have awarded the contract to it.
3. The Entity submitted that the Evaluation Committee did not deviate from the bidding document and complied with the procedure for evaluating proposals under the quality and cost based selection method.
4. Section 3 Evaluation Methodology and Criteria provided that the methodology to be used for evaluation of bids received shall be Quality and Cost Based Selection (QCBS methodology) where Merit Point Evaluation shall be applied.
5. Section 3 Evaluation Methodology and Criteria further provided that the evaluation shall be conducted in three sequential stages:
 - i. Preliminary examination to determine the eligibility of bidders and the administrative compliance of bids received
 - ii. A detailed technical evaluation to determine the commercial and technical responsiveness of the eligible and compliant bids which will be conducted in two phases:
 - a) **Phase 1:** Technical responsiveness to the technical support and maintenance, and testing and quality assurance requirements, this is a pass or fail phase where bidders who fail at this phase shall not proceed to phase 2.
 - b) **Phase 2:** Merit point evaluation. This will be applied to evaluate the technical compliance.

- iii. A financial comparison to compare costs of the eligible compliant, responsive bids receive and determine the best evaluated bid.
6. Section 3 Evaluation Methodology and Criteria (e) 6.2.1 provided that bids shall be evaluated on the basis of the bidder’s responsiveness to the TORs, applying the evaluation criteria and merit point system specified below. Responsiveness is determined by comparison of the specifications /terms of reference required in section 6 and the evaluation shall be conducted on a **merit point** basis, substantial responsive shall be considered a pass when a bidder has obtained a minimum total mark of **75%** a bid shall be rejected at this stage if it does not achieve the minimum technical score.
 7. Regulation (6) of the PPDA(procurement of consultancy services) Regulations, 2014 provides that for the purposes of determining the best evaluated proposal:
 - a) the score of the technical and financial proposals shall be weighted, using the weights stated in the request for proposals;
 - b) the total score of a proposal shall be obtained by adding the weighted score of the technical and financial proposals; and
 - c) the consultant who obtains the highest total score under paragraph (b) shall, be recommended for award of contract.
 8. The Authority noted that the maximum number of points that were to be awarded under each technical evaluation criterion in the bidding document was as indicated in Table 11 below:

Table 11: Points for the Technical Criteria

Criteria	Points
a) Response to technical and financial requirements	40
b) Qualification & competence of key personnel for the assignment.	20
c) Adequacy of the proposed work plan and methodology in responding to the terms reference	10
d) Proof of concept (demonstration)	20
e) Suitability of the transfer of knowledge program (training)	10
Total Points	100

9. During the financial evaluation, the Evaluation Committee gave the financial proposal of Isolutions JV Isaware JV Axes Networks JV Forensic Options a financial score of 100 since it had the lowest evaluated price. The proposal by Comtrade D.O.O JV MTA Computers was given a financial score of 85.57 that was inversely proportional to that of the Applicant.

10. The Evaluation Committee weighted the technical and financial scores at 75% and 25% respectively as indicated in Table 12:

Table 12: Ranking of the Proposals

Consultant	Technical Score (100)	Weighted Technical Score (75)	Financial Score (100)	Weighted Financial Score (25)	Total Score	Rank
Isolutions JV Isaware JV Axes Networks JV Forensic Options	78.28	58.71	100	25	83.71	2
Comtrade D.O.O JV MTA Computers	89.93	67.45	85.57	21.39	88.84	1

11. The Evaluation Committee did not deviate from the evaluation criteria indicated in the bidding document. It complied with the bidding document and the procedure for evaluation under the quality and cost based selection methodology provided under the PPDA (procurement of consultancy services) Regulations, 2014.

Decision of the Authority on the Ground:

The Authority found **no merit** in Ground two since the Evaluation Committee adhered to the evaluation criteria and the provisions of the PPDA (procurement of consultancy services) Regulations, 2014 in undertaking the evaluation.

Issue 3

Whether it was illegal for the Head Procurement and Disposal Unit to handle investigations in the administrative review application and communicate the results to the Applicant.

1. Under Section 90 (2) (b) of the PPDA Act, 2003 Administrative Review decisions are made by the Accounting Officers.
2. On 13th June 2019, the Entity issued its Administrative Review decision which was signed by Mr. Crescent Muhumuza the Assistant Commissioner/Head Procurement and Disposal Unit for the Permanent Secretary/Secretary to the Treasury.
3. The Entity did not adduce evidence that Mr. Crescent Muhumuza was delegated to issue the decision and even if it did this would be contrary to Section 38 of the PPDA Act, 2003 which provides for independence in performance of functions of the procurement structures.
4. Section 26 (1)(h) of the PPDA Act, 2003 provides the responsibility of investigating complaints by providers with the Accounting Officer.

5. The Authority noted that Mr. Crescent Muhumuza responded to requests for clarification, signed the notice of best evaluated bidder and hence participated in the procurement process.
6. The issuance of the decision was irregular since it conflicted with the roles of the Procurement and Disposal Unit. However, the omission did not affect the evaluation results of the bidder.

Decision of the Authority on the Ground:

The Authority found merit in ground three since Under Section 90 (2) (b) of the PPDA Act, 2003 Administrative Review decisions are made by the Accounting Officers.

DECISION OF THE AUTHORITY

In accordance with Section 91 (4) of the PPDA Act, 2003 and in light of the findings during the Administrative Review process, the application for Administrative Review is **upheld** based on the above findings of the Authority in Grounds 1 and 3 above.

The Entity is directed as follows:

1. To re-evaluate the financial proposals.
2. To refund the Administrative Review fees to the Applicant in accordance with Regulation 11(2) of the PPDA (Administrative Review) Regulation, 2014.

The above decision of the Authority shall be implemented after 10 working days from the receipt of the decision where no appeal to the PPDA Appeals Tribunal is lodged.