



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

**REPORT ON THE ALLEGED FRAUDULENT PROCUREMENT OF A
SCHOOL BUS**

ENTITY: KAPCHORWA SECONDARY SCHOOL

NOVEMBER 2024

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ACRONYMS

BEB	-	Best Evaluated Bidder
LTD		Limited
PDU	-	Procurement and Disposal Unit
PPDA	-	Public Procurement and Disposal of Public Assets Authority
UGX	-	Uganda Shillings

1.0 BACKGROUND

On 5th August 2024, the Authority received a complaint from concerned citizens regarding allegations of significant corruption in the procurement process for a school bus intended for Kapchorwa Secondary School. The complaint asserted that the school bus, purchased at UGX 230,000,000, was procured without the involvement of the school committee. It was further alleged that the school bursar negotiated the purchase in secrecy, leading to an increase in the price from UGX 120,000,000 to UGX 230,000,000.

In line with Section 9 (1) (d) of the PPDA Act, Cap 205, the Authority initiated an inspection into the matter and requested for the procurement action file for the mentioned tender.

2.0 OBJECTIVE OF THE INSPECTION

To establish whether the procurement of the school bus complied with the PPDA Law, specifically Guideline No. 5 of 2014, on procurement and disposal for schools in Uganda.

3.0 LAWS APPLICABLE

- i. The Public Procurement and Disposal of Public Assets Act, Cap 205;
- ii. The Public Procurement and Disposal of Public Assets Regulations, 2023;
- iii. Guideline No. 5 of 2014, on procurement and disposal for schools in Uganda;
- iv. Any other applicable laws.

4.0 METHODOLOGY

4.1 The Authority adopted the following methodology:

Review of the following documents:

- i. Minutes for the parents' general meeting;
- ii. Minutes for the Board of Governors' meeting;
- iii. Proforma invoices;
- iv. Minutes for the school procurement committee;
- v. Contracts Committee minutes; and
- vi. Other related correspondences.

5.0 LIMITATION OF SCOPE

- i. Some key documents essential to this investigation were not provided, including the financing agreement with ABSA Bank, and the RTGS interbank transfer payment document which would clarify the terms, conditions, and repayment period, as well as the purchase contract between TATA and Kapchorwa SS.

6.0 SUMMARY OF FACTS

- ii. On 8th December 2023, Kapchorwa Secondary School held a parents' general meeting which discussed the purchase of a school bus. Members unanimously agreed to raise the school fees by UGX 20,000 per student in order to fund the project.
- iii. On 18th April 2024, the school Board of Governors convened a meeting in which the Head Teacher presented that he had conducted a market survey on available buses for purchase. The findings were as follows:
 - A 29-seater Costa bus cost between UGX 150,000,000 and UGX 180,000,000.
 - A new 62-seater Isuzu bus cost UGX 500,000,000.
 - A new 42-seater TATA bus cost UGX 220,000,000.

The Head Teacher stated that the school had insufficient funds to outrightly procure the school bus. The Board of Governors under Min V 2024 dated 18th April 2024 approved the school request by the Head Teacher to engage ABSA Bank for loan financing. ABSA Bank agreed to provide the financing, on the condition that the school opened an account with them, a proposal which the meeting accepted.

The school obtained three quotations from the following companies as detailed in Table 1 below:

Table 1: Quotations for School Bus Purchase

No	Firm	Date	Seating capacity	Quoted amount (USD)	In UGX (April 2024 rate)
1.	ODTU METU Company Ltd	23 rd April 2024	55-seater bus	USD 121,025.52	462,196,461
2.	Isuzu Gala Mio 2015	28 th April 2024	67-seater	USD 152,613.02	582,829,123
3.	TATA	26 th April 2024	40-seater bus	USD 57,500	219,592,500

- iv. On 29th April 2024, the school procurement committee reviewed the price options and unanimously decided to procure the TATA bus, as it was the most affordable option.
- v. On 7th May 2024, the Contracts Committee awarded the contract for supply of a school bus to TATA bus Company.
- vi. The School's Centenary Bank Account statement dated 9th August 2024 for the period 1st January to 9th August 2024 revealed that on 7th June 2024, the school made an RTGS interbank transfer of UGX 115,000,000 from its Centenary Bank account. No details were stated on where the funds were transferred since there was no copy of the RTGS on file.

7.0 FINDINGS AND RECOMMENDATIONS BY THE AUTHORITY

7.1 Whether the procurement of the school bus complied with the PPDA Law, specifically Guideline No. 5 of 2014, on procurement and disposal for schools in Uganda.

The following anomalies were observed:

i. **Structure of the Entity**

Kapchorwa Secondary School is headed by Mr. Johnson Yeshe Kitikoy as the school Head Teacher. The Entity had a Board of Governors, an established Procurement Committee, a Contracts Committee, and User Departments. The inspection revealed that the structures lacked technical knowledge on procurement and disposal processes and the PPDA law. Subsequently, the Entity did not follow the procurement procedures at all in the procurement of the school bus contrary to Clause 2.5 (a) of the PPDA Procurement and Disposal Guideline for Schools No. 5 /2014.

Implication

Lack of technical knowledge by the Board of Governors, the Accounting Officer, User Departments, established Procurement Committee and Contracts Committee led to failure to adhere to the procurement and disposal processes with in the entity. This resulted in to non-compliance with the public procurement procedures as laid out in the PPDA Act, Cap 205 and Guideline No. 5 of 2014, on procurement and disposal for schools in Uganda.

Recommendation

The Accounting Officer should request the Authority to conduct training for the Board of Governors, Accounting Officer, Procurement Committee, Contracts Committee, User Departments and other stakeholders on procurement and disposal processes, as well as relevant laws such as the PPDA Act, Cap 205, and Guideline No. 5 of 2014. This will ensure that the committees and other stakeholders have the necessary knowledge to adhere to public procurement procedures, promote compliance, and reduce the risk of non-compliance in future transactions.

ii. **Failure to prepare a Procurement and disposal Plan**

Clause 7.5 of the PPDA Procurement and Disposal Guideline for Schools No. 5 /2014 provides that every User Department shall prepare its departmental procurement and disposal plan for its requirements based on the approved budget which shall be submitted to the Procurement and Disposal Unit for consolidation and implementation. The Authority noted that the Entity did not prepare a procurement and disposal plan and consequently, the school bus that was procured was not planned for by the entity.

Implication

Failure to prepare a comprehensive procurement and disposal plan constrains procurement and disposal scheduling, financial predictability, accounting and control over procurement budgets. It may also result into failure to fully implement intended procurement activities thereby denying intended beneficiaries' goods and services.

Recommendation

User Departments should prepare comprehensive work plans for integration into the Entity's annual procurement plan with their respective timelines in order to enhance procurement scheduling, financial predictability, accounting and control over budgets in accordance with Clause 7.5 of the PPDA Procurement and Disposal Guideline for Schools No.5/2014.

iii. **Failure to formally initiate the procurement for the school bus with clear specifications**

Clause 5.20.1 (b) and (c) of the PPDA Procurement and Disposal Guideline for Schools No. 5/2014 stipulates that User Departments are responsible for initiating procurement and disposal requirements and submitting them to the Procurement and Disposal Unit (PDU). It also requires the User Department to provide technical input for the preparation of procurement requirements to the PDU.

The inspection revealed that the procurement of a school bus was initiated without involvement from the User Departments. The Entity proceeded with the procurement without correct, clear, or complete specifications for the bus, in contravention of the aforementioned clause. Instead, the Entity relied entirely on market knowledge and proposal by the supplier.

Implications

- Lack of technical specifications increases the risk of acquiring goods that may not meet the intended needs and weakens compliance with regulatory standards especially fair and open competition.

Recommendation

Heads of User Departments should ensure that initiation forms are duly filled with clear statements of requirements for onward submission to the PDU in accordance with Clause 5.20.1 (b) and (c).

iv. **Use of an inappropriate procurement method**

Clause 8.6.2 of the PPDA Procurement and Disposal Guideline for Schools No.5/2014 provides that Open Domestic Bidding shall be used if the estimated value of the supplies or the non - consultancy services is greater than UGX 20 Million. The Authority noted that the Entity used the micro procurement method as opposed to Open Domestic Bidding Method which should have been ideal.

Implication

Failure to use the right procurement method reduces competition and undermines the attainment of value for money.

Recommendation

The Procurement Committee should recommend procurement methods in line with Clause 8.6.2 of the PPDA Procurement and Disposal Guideline for Schools No.5/2014

v. **Failure to prepare a bidding document and conduct a bidding process**

Clause 5.19.1 (i) of the PPDA Procurement and Disposal Guideline for Schools No. 5/2014 requires the Procurement Committee to prepare bidding documents to be issued to the bidders. The Authority noted that no solicitation document was prepared for the procurement of a school bus.

Implication

Failure to prepare bidding documents leaves doubt or assumption by a bidder of the requirements of the Entity and may result into acquisition of undesired goods and services hence failure to attain value for money. In addition the bidders are not bound by any terms and conditions or procedures of bidding that would safeguard the entity.

Recommendation

The Accounting Officer should ensure that the Entity conducts procurements following the procedures of bidding while using the appropriate Standard Bidding Documents in accordance with Section 67 (1) of the PPDA Act, Cap 205

vi. Failure to conduct evaluation

Clause 5.19.1 (s) of the PPDA Procurement and Disposal Guidelines for Schools No. 5/2014 states that the PDU is responsible for recommending the composition of the Evaluation Committees. Additionally, Clause 5.10.1 (e) assigns the Contracts Committee the responsibility of approving the membership of these committees.

The Authority observed that no Evaluation Committee was formed, and consequently, no evaluation was conducted during the procurement of a school bus, which was a violation of the aforementioned clause.

Implication

This violates the principles of fairness, transparency, and accountability, and may lead to the awarding of contracts to unqualified or incompetent firms.

Recommendation

The Procurement Committee should ensure that Evaluation Committees are nominated to conduct evaluation in accordance with Clause 5.10.1 (e) and 12.7 of the PPDA Procurement and Disposal Guideline for Schools No. 5/2014.

vii. Failure to display the notice of best evaluated bidder

Clause 12.10.6 of the PPDA Procurement and Disposal Guideline for Schools No. 5/2014 requires that a Procuring and Disposing Entity (PDE), within five working days of the Contracts Committee's decision to award a contract, must display a notice of the best evaluated bidder on the PDE's notice board and send a copy of the notice to all bidders who participated in the bidding process.

The Authority noted that in the procurement of a school bus, the required Best Evaluated Bidder Notice was not prepared as stipulated by these guidelines.

Implication

This indicates a lack of transparency in the procurement process.

Recommendation

The Accounting Officer should ensure that the Notice of the Best Evaluated Bidder is prepared within five working days following the Contracts Committee's decision to award a contract, in accordance with Clause 12.10.6 of the PPDA Procurement and Disposal Guideline for Schools No. 5/2014.

viii. **Failure to prepare a contract**

Section 28 (1) (i) of the PPDA Act, Cap 205 stipulates that the Accounting Officer is responsible for signing contracts related to procurement and disposal activities on behalf of the Entity. The Authority observed that the Accounting Officer did not sign a contract for the purchase of the school bus, a crucial step in the procurement process. Additionally, no clearance was sought from the Solicitor General, despite the procurement value exceeding UGX 200,000,000.

Implications

- Without a contract, the Entity lacks legal protection in case of disputes or non-compliance by the supplier, potentially leading to costly litigation.
- It can also result in misunderstandings regarding the terms and conditions of the purchase, including delivery timelines, payment terms, and quality expectations.

Recommendation

The Accounting Officer should ensure that service providers are engaged through formally signed contracts in accordance with Section 28 (1) (i) of the PPDA Act, Cap 205 and where the contract value exceeds UGX. 200,000,000, Solicitor General Clearance should be sought in line with Statutory instrument No. 97, 2014 issued by Attorney General.

ix. **Failure to appoint a contract manager to manage the contract**

Clause 12.12.1 of the PPDA Procurement and Disposal Guideline for Schools No. 5/2014 states that once a contract is signed, responsibility for contract management shifts from the Procurement and Disposal Unit (PDU) to the User Department. The PDU must provide a copy of the contract to the User Department, which is then required to prepare a contract implementation plan and submit a copy to the PDU for monitoring.

The Authority observed that no contract manager was appointed to oversee the contract for procurement of the school bus.

Implication

This may expose the entity to poor contract management leading to delayed service delivery or acceptance of supplies that do not conform to the specifications.

Recommendation

Heads of User Departments should nominate contract managers for appointment by the Accounting Officer and ensure that contract implementation plans are developed for each contract, as required by Guideline 12.12.1 of the PPDA Procurement and Disposal Guideline for Schools No. 5/2014.

x. **Lack of evidence of payment and delivery**

Clause 13.2.1 of PPDA Procurement and Disposal Guideline for Schools No. 5/2014 requires Contract Managers to ensure that payment support documents such as payment records, delivery records, and goods received notes are prepared for each contract.

On 7th June 2024, an RTGS interbank transfer of UGX 115,000,000 was made from the school's Centenary Bank account. However, the Authority did not receive any documentation, such as the loan agreement with ABSA Bank or delivery records confirming the receipt of the school bus from TATA Company Ltd.

Implication

Without proof of payment and delivery, there is no clear audit trail, making it difficult to verify whether the funds were appropriately used and if the school bus was fully paid for.

Recommendation

Contract Managers should ensure that payment support documents such as payment records, delivery records, and goods received notes are prepared for each contract in accordance with Clause 13.2.1 of PPDA Procurement and Disposal Guideline for Schools No. 5/2014.

8.0 CONCLUSION

The Inspection revealed that the procurement process for acquiring the school bus for Kapchorwa Secondary School did not adhere to the established rules, regulations, and guidelines outlined in the PPDA Act, Cap 205, the PPDA Regulations 2023, and Guideline No.5/2014 for procurement and disposal for schools in Uganda. Key procedural stages, such as initiation, bidding, evaluation, and contracting, were bypassed, resulting in significant non-compliance.

The procurement failed to follow standard procedures, with proper procurement structures not being utilized in the selection of TATA Uganda Ltd as the supplier. Additionally, the absence of key documents made it difficult to fully assess the legitimacy of the transactions and any possible fraudulent activities. These deviations from established procedures undermine the integrity of the procurement process and fail to meet the compliance standards set forth by the PPDA Law and its guidelines.

9.0 OVERALL RECOMMENDATION

The Accounting Officer;

- i. Request the Authority to conduct training for procurement and disposal stakeholders of the entity such as the Board of Governors, Accounting Officer, Procurement Committee, Contracts Committee and User Departments on procurement and disposal processes, as well as relevant laws such as the PPDA Act, Cap 205, and Guideline No. 5 of 2014. This will ensure that the committees and other stakeholders have the necessary knowledge to adhere to public procurement procedures, promote compliance, and reduce the risk of non-compliance in future transactions.
- ii. May consider delegating high value and complex procurements to the Chief Administrative Officer of Kapchorwa District Local Government whose PDU is headed by a Principal Procurement Officer in line with Clause 10.1.1 (b) where the entity may lack adequate capacity and knowledge of managing such procurement processes.