



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

**APPLICATION FOR ADMINISTRATIVE REVIEW IN RESPECT OF
PROCUREMENT FOR CONSULTANCY SERVICES FOR
CONSTRUCTION SUPERVISION OF THE DESIGN AND BUILD
CONTRACT – PACKAGE 3; (LOT 5) BUHIMBA- NALWEYO-
BULAMAGI AND (LOT6) BULAMAGI-IGAYAZA-KAKUMIRO (93KM)
REF: UNRA/SRVCS/16-17/100111/03**

ENTITY: UGANDA NATIONAL ROADS AUTHORITY

**COMPLAINANT: PROFESSIONAL ENGINEERING CONSULTANTS
LIMITED**

JULY 2018

1.0 BACKGROUND

- 1.1 On 7th September 2017, Uganda National Roads Authority initiated the procurement for consultancy services for construction supervision for design and build contract package 3; (Lot 5) Buhimba- Nalweyo-Bulamagi and (Lot 6) Bulamagi-Igayaza-Kakumiro (93Km).
- 1.2 The following Consultants were issued with the Request for Proposal documents as indicated in Table 1 below:

Table 1: Consultants issued with the Request for Proposal

No.	Name of Consultant	Country of Origin
1.	LEA Associates South Asia Pvt. Ltd in association with KOM Consult Ltd	India
2.	Wanjohi Mutonyi Consult Ltd, in association with M&E Associates	Kenya
4.	AARVEE Associates in sub consultancy with WINTA Consulting Partners (U) Ltd	India
5.	Professional Engineering Consultants	Uganda
6.	AECOM Uganda Ltd in association with ICS Ltd	Uganda
7.	AECO – Abuljeban Engineering Consulting office in association with Technology Consultants Ltd	Kuwait
8.	AIC Progetti SPA In association with Prome consultants	Italy
9.	Kagga and Partners consulting Engineers	Uganda
10.	Via International in association with Gensult (U) Ltd	Italy

- 1.3 On 15th September 2017, a pre-bid meeting was held at UNRA Headquarters.
- 1.2 By 18th October 2017, nine (9) firms submitted separate technical and financial proposals as indicated in Table 2 below:

Table 3: Firms that submitted proposals

No.	Name of Consultant
1.	LEA Associates South Asia Pvt. Ltd in association with KOM Consult Ltd
2.	Wanjohi Mutonyi Consult Ltd, in association with M&E Associates
3.	AARVEE Associates in sub consultancy with WINTA Consulting Partners (U) Ltd
4.	Professional Engineering Consultants
5.	AECOM Uganda Ltd in association with ICS Ltd
6.	AECO – Abuljeban Engineering Consulting office in association with Technology Consultants Ltd
7.	AIC Progetti SPA In association with Prome Consultants
8.	Kagga and Partners Consulting Engineers
9.	Via International in association with Gensult (U) Ltd

- 1.3 The Technical Evaluation Report dated 29th November 2017 scored and ranked the bidders as indicated in Table 4 below:

Table 4: Technical Scores and Ranking following technical evaluation

No.	Name of Consultant	Technical score	Rank
1.	LEA Associates South Asia Pvt. Ltd in association with KOM Consult Ltd	89.81	1
2.	AECO – Abuljeban Engineering Consulting office in association with Technology Consultants Ltd	82.71	2
3.	Via International in association with Gensult (U) Ltd	81.44	3
4.	Professional Engineering Consultants	79.1	4
5.	AIC Progetti SPA in association with Prome Consultants	73.64	5
6.	AECOM Uganda Ltd in association with ICS Ltd	68.77	6
7.	Wanjohi Mutonyi Consult Ltd in association with M&E Associates	64.52	7
8.	AARVEE Associates in sub consultancy with WINTA Consulting Partners (U) Ltd	61.74	8
9.	Kagga and Partners Consulting Engineers	54.17	9

- 1.4 On 30th November 2017, the Contracts Committee approved the Technical Evaluation Report and the opening of the financial proposals of bidders that the minimum technical qualifying mark of 80%.
- 1.5 On 11th December 2017, the Entity displayed the notice following technical evaluation with a removal date of 22nd December 2017. The Entity also wrote to the bidders which scored below 80%, advised them of the weaknesses in the proposals and to pick the financial proposals.
- 1.6 On 18th December 2017, the financial proposals opened as indicated in Table 5 below:

Table 5: Record of financial proposals opening

No.	Name of Consultant	Technical Score	Rank	Read out price (UGX)
1.	LEA Associates South Asia Pvt. Ltd in association with KOM Consult Ltd	89.81	1	9,887,408,000
2.	AECO – Abuljeban Engineering Consulting Office in association with Technology Consultants Ltd	82.71	2	10,848,923,894
3.	Via International in association with Gensult (U) Ltd	81.44	3	15,527,931,153

- 1.7 On 19th December 2017, Professional Engineering Consultants (PEC) applied for Administrative Review at Entity level.
- 1.8 On 12th January 2018, the Entity found merit in some grounds of the application (2,3,4,9 & 10) and no merit in grounds 1,5,6,7 and 8. The Entity advised that it was to re-evaluate PEC's proposal.
- 1.9 The Technical Re-evaluation Report dated 27th February 2018 indicated the scores and ranking of the proposals as indicated in Table 6 below:

Table 6: Technical Scores and Ranking following technical re-evaluation

No.	Name of Consultant	Technical score	Rank
1.	LEA Associates South Asia Pvt. Ltd in association with KOM Consult Ltd	89.81	1
2.	AECO – Abuljeban Engineering Consulting office in association with Technology Consultants Ltd	82.71	2
3.	Via International in association with Gensult (U) Ltd	81.44	3
4.	Professional Engineering Consultants	79.1	4
5.	AIC Progetti SPA in association with Prome Consultants	73.64	5
6.	AECOM Uganda Ltd in association with ICS Ltd	68.77	6
7.	Wanjohi Mutonyi Consult Ltd in association with M&E Associates	64.52	7
8.	AARVEE Associates in sub consultancy with WINTA Consulting Partners (U) Ltd	61.74	8
9.	Kagga and Partners Consulting Engineers	54.17	9

- 1.10 On 16th March 2018, the Contracts Committee approved the Technical Re-evaluation Report.
- 1.11 The combined Technical and Financial Report dated 16th April 2018 recommended award to Via International in association with Gensult (U) Ltd, at UGX. 15,527,931,153.
- 1.12 On 23rd April 2018, the Entity informed PEC that it had found merit in four grounds and no merit in one ground at the re-evaluation of its technical proposal. The letter was received by the complainant on 25th April 2018.
- 1.13 On 24th April 2018, the Contracts Committee approved the Negotiation Committee to undertake negotiations with Via International in association with Gensult (U) Ltd which were held on 4th May 2018.
- 1.14 On 8th May 2018, PEC applied for Administrative Review to the Accounting Officer and paid UGX 5 Million as Administrative Review fees.

1.15 On 31st May 2018, PEC applied for Administrative Review to the Authority owing to the failure by the Accounting Officer to issue a decision within the 15 working days.

1.16 On 18th May 2018, the Authority held an Administrative Review hearing that was attended by persons indicated in Table 7 below:

Table 7: Members present at Administrative Review Meeting

No.	Name	Designation	Organization
1.	Mr. John Omeke Ongimu	Director Procurement	UNRA
2.	Ms. Jane Nabaweesi	Procurement Manager	UNRA
3.	Ms. Rebecca Nakiranda	Legal Counsel	PEC
4.	Mr. Bonnie K. Nsamba	Managing Director	PEC
5.	Mr. Charles Bakaki	Head Transport Engineering Division	PEC

2.0 PRELIMINARY FINDINGS BY THE AUTHORITY

Before the Authority could handle the merits of the Administrative Review, it dealt with the four preliminary matters on which have the ability to affect the procurement under review:

2.1 BREACH OF PRINCIPLES OF TRANSPARENCY AND FAIRNESS

The Authority found that there was breach of the principles of transparency and fairness provided under Section 45 of the PPDA Act, 2003 in the procurement as indicated below:

1. The Entity did not communicate the technical scores to the complainant following the completion of the re-evaluation on 27th February 2018. The complainant received a letter on 25th April 2018 dated 23rd April 2018 that did not indicate the technical score but informed the bidder that the Entity had found merit in four grounds and no merit in one ground at the re-evaluation of its technical proposal. The absence of communication amounted to unfairness and lack of transparency since bidders were not given an opportunity to review the scores and to challenge the results where necessary in accordance with the PPDA Act, 2003.
2. The Entity proceeded to evaluate the combined technical and financial proposals which was concluded on 16th April 2018 without communication of the technical score to the bidders. This was unfair to the complainant who had applied for administrative review that led to the re-evaluation.
3. The absence of communication led to the expiry of the proposals of six bidders without getting an opportunity to renew them. The complainant's proposal validity expired on 17th April 2018 and the bid securing declaration on 16th May 2018. The expiry of the proposals (bids) had an impact that where the complainant's Administrative Review was found to have merit, the bidder would not have an opportunity to continue participating in the process.

2.2 LACK OF FAIRNESS IN THE RE-EVALUATION PROCESS

1. The Authority found that the technical re-evaluation report dated 27th February 2018 had the same scores with the earlier report dated 29th November 2017 though the Accounting Officer had found merit in some of the grounds raised by the complainant during the Administrative Review at the Entity level.
2. The technical re-evaluation report put emphasis on the areas that had been challenged during the administrative review. The Authority sampled grounds No. 3 and 4 in respect to the estimated number of staff months of the Inspector of Works and the Team Leader respectively. The proposal had provided for a total of 120 man months for four staff with each at 30 man months in accordance with the bidding document and hence the finding of merit would have changed from 2.10 to a higher score but remained the same.
3. With respect to the Team Leader, the first Evaluation Report had evaluated Mr. John William Byaruhanga instead of Mr. Samson Lulseged Ejigu who was proposed by the complainant which was rectified. However, despite the correction which should have had a change in the score of the proposal, the complainant's score remained the same at 79.1%.
4. The Authority found that there was unfairness during the re-evaluation as evidenced by having of the same score of 79.1% despite the finding of merit in the grounds.

2.3 IRREGULARITY IN HANDLING OF FINANCIAL PROPOSALS OF BIDDERS THAT DID NOT MEET THE MINIMUM TECHNICAL SCORE

1. On 11th December 2017, the Entity communicated to all bidders whose proposals were below the minimum technical score of 80% and requested them to pick the financial proposals. The Entity had on the same date displayed the notice to bidders following technical evaluation.
2. The bidders received the communication dated 11th December 2017. The complainant also received the letter but did not pick the financial proposal.
3. The request to pick the financial proposal was contrary to Regulation 50(5) of the PPDA (procurement of consultancy services) Regulations, 2014 which provides that the financial proposal that is not evaluated shall be returned to the consultant, unopened, after the contract is awarded.
4. The above request was irregular and denied an opportunity to bidders to participate further in the process in case of a re-evaluation and their proposals are scored above the minimum technical score.

2.4 EXPIRY OF THE PROPOSALS

1. The Authority found that the complainant's proposal validity and bid securing declaration including other proposals that had been scored below the minimum technical score of 80% had expired on 17th April 2018 and 16th May 2018 respectively. This was confirmed by the Entity on 18th June 2018.
2. The complainant's proposal validity had long expired when the Entity communicated on 25th April 2018 that it had found merit in four grounds and no merit in one ground at the re-evaluation. The complainant's proposal had also expired before it applied for Administrative Review on 8th May 2018.

3.0 DECISION OF THE AUTHORITY ON THE PRELIMINARY MATTERS

1. The Authority found that the above four preliminary matters had an adverse impact on the procurement which could not be cured with any corrective action save for cancellation of the process.
2. In accordance with Section 91 (4), the Entity is advised to cancel the procurement process due to the unfairness and lack of transparency exhibited during and after the re-evaluation.