

PPDA/KIMC/712

12th September, 2023

The Town Clerk
Kira Municipal Council
Wakiso District
P.O Box 25749
KAMPALA

**RE: BID PREPARATORY AUDIT EXERCISE FOR SELECTED PROCUREMENTS
AT KIRA MUNICIPAL COUNCIL FY 2023/2024.**

Reference is made to the above subject.

The Public Procurement and Disposal of Public Assets Authority (PPDA) conducted a Bid Preparatory Audit at Kira Municipal Council.

The audit exercise involved a review of the procurement planning, requisition/initiation and solicitation documents issued to bidders following the PPDA Act, 2003, the Local Government (PPDA) Regulations 2006 and relevant PPDA guidelines.

The Authority selected three procurement files indicated in table 1 below.

Table 1: Selected procurements for the bid preparatory audit.

No	Subject of Procurement	Reference number
1	Construction of Kira Municipal Administration Block 1 st Floor	Kira712/wrks/2023-24/00003
2	Supply and installation of new Solar street lights and repair of the existing faulty lights	Kira712/wrks/2023-24/00013
3	Provision of Services; GIS data collection, processing and training of users in Kira Municipality	Kira712/wrks/2023-24/00017

The objectives of the audit were to:

- i. Ensure that public procurement planning and requisitions were conducted in a manner which promotes transparency, accountability and fairness in accordance with the PPDA Act 2003, the Local Governments (PPDA) Regulations 2006 and attendant guidelines
- ii. Establish whether the solicitation documents issued to bidders were prepared in accordance with the provisions of the PPDA Act 2003, the Local Governments (PPDA) Regulations, 2006 and attendant guidelines.

The scope of the bid preparatory audit entailed review of the procurement and disposal plan, procurement requisition forms and solicitation documents. The areas of the solicitation document analyzed were; Instruction to Bidders, Bid Data Sheet, Evaluation Methodology and Criteria, Bidding Forms and Special and General Conditions of the Contract.

The Authority identified the following exceptions with regard to the procurement process from planning to issue of solicitation document for the attention of Management:

1. *To establish whether procurement planning and requisitions were conducted in a manner which promotes transparency, accountability and fairness in accordance with the PPDA Act, 2003, the Local Governments (PPDA) Regulations, 2006 and attendant guidelines.*

1.1 Issues across the three sampled procurements.

A review of the procurement processes up to advertisement/bid notice level for all the three sampled procurements noted the following.

i. Inadequate information about the bid opportunity

The Entity published a bid notice in the New Vision of 31st August 2023 referring bidders to obtain full information from the Entity's and PPDA websites. However, by the time of the audit, there was no information regarding the bid opportunity on the Entities and PPDA websites, 9 working days after the advert was published.

Implication

This denies potential bidders' access to information regarding the bidding opportunity which eventually limits competition.

Recommendation

The Accounting Officer should ensure upload of the detailed bid notice on the Entity's and PPDA website as soon as possible to ensure transparency in the procurement process.

ii. No proof of monitoring of the User Department budget

The User Department did not complete the funds availability section of the procurement requisition LG Form 1 implying that the user Department do not monitor their budget.

Implication

This could result into approval of procurement without sufficient funding thus causing budget arrears due to overcommitting Government. It also exposes the Council to the risk of returning funds to the consolidated fund at the end of the financial year.

Recommendation

The Accounting Officer should task the Head of Departments to always indicate the amount of available funds when requisitioning to help in monitoring the budget.

iii. Inconsistencies in Reference Number

The Authority observed inconsistencies in the reference numbers in the published Bid Notice (advert) and those stated in the other sections of the solicitation documents of all the sampled procurements. The entity's reference codes in the advert started with **Kira712** while the bidding documents started **kira781**. This error was still not rectified in the pre-bid meeting held on 11th September 2023, as per the reviewed pre-bid minutes

Implication

This may cause confusion to the bidders regarding to which reference number takes precedence in preparation of the bid (s).

Recommendation

The Authority recommends that the errors are immediately rectified and bidders notified of the changes.

iv. Non authenticated BOQS, TORs and Specifications

On review of the sampled files, there was no formal submission of the statements of requirements to the Accounting Officer and Procurement and Disposal Unit. The original submissions had no page numbers and one could not establish the responsible technical person who prepared specifications, terms of references and bills of quantities since they all lacked authentication by the user.

Implication

The User Department may disown the submission incase the deliverables are not to their satisfaction

Recommendation

The User Departments should make formal submissions of detailed specifications, BOQ, drawings and TORs to the Accounting Officer and Procurement and Disposal Unit, with the initials of technical person as evidence of ownership.

2. To establish whether the solicitation document issued to bidders was prepared in accordance with the provisions of the PPDA Act 2003, the Local Governments (PPDA) Regulations, 2006 and attendant guidelines

2.1 Issues across the three sampled procurements.

i. Non-inclusion of margin of preference in the solicitation documents.

Section 59A (1) (a) of the PPDA Act, 2003 requires that whenever open domestic or open international bidding methods are used, margin of preference shall apply. Regulation 52 (3) (c) of the Local Governments (PPDA) Regulations, 2006 provides that a preference scheme shall apply to all competitive procurement methods. However, a review of the bidding documents for the three sampled procurement revealed that ITB 38.1, ITB 35.1 and ITB 36.1 of the sampled procurements indicated that margin of preferences shall not apply contrary to the above requirement.

Implication

This may disadvantage the local providers in case foreign provider participate in the competitive Domestic bidding, thus hindering promotion of local content.

Recommendation

The Authority recommends that an addendum should be issued incorporating margin of preference to the selected procurement as per the requirement in section 59 (A) 3 which states that; a procuring and disposing entity shall when procuring goods, services or services, grant a margin of preference of (a) 15%, in respect of goods; and (b) 7% in respect of works or services

2.2 Issues specific to particular procurement

I. Construction of Kira Municipal Administration Block 1st Floor

(a) Contradiction in the completion period: The Intended Completion Date for the whole of the Works is stated as 8 months in words in GCC 22. However, the figure 06 is also shown,

which indicates a completion period of 6 months. This is a contradiction. This should be rectified to give the correct period.

- (b) **Evaluation;** The bidding document did not provide for the detailed curriculum vitae for bidders' personnel to help in the assessment of their experience and qualifications.
- (c) **Payment;** Payment period and schedule are not indicated in the special conditions of contract

Implication

- Contradiction in the completion time may lead to conflicting completion period leading to delays in service delivery.
- Lack of comprehensive evaluation criteria increases the risk of contract award to non-responsive firms
- Without payment period, the entity may find itself hard to defend litigations on delayed payments and thus risking uncalled for penalties.

Recommendation

The Authority recommends that an addendum should be issued incorporating the above observations in the bidding document.

II. Supply and installation of new Solar street lights and repair of the existing faulty lights

(a) Bid security

Bid security was stated as UGX 1,000,000, an exact figure of 1% of the entity's budget of UGX 100,000,000. This may lead to predictability of the reserve price by the potential bidders thus leading to over costing or under costing of the project with adverse effects.

The Authority recommends that the amount of the Bid Security should be set between 1% and 2% of the estimate bid value as per the Guideline Reference 4/2008 of the Local Governments (Public Procurement and Disposal of Public Assets) Guidelines, 2008

(b) Inconsistence of information in the Bid Data Sheet and Bid Notice:

Section 2. ITB 1.1 of the bidding document Indicated the subject of procurement as 'Supply and installation of solar street lights and repair works in various locations of Namugongo, Bweyogerere and Kira Divisions in Kira Municipality'. This is not consistent with the Bid Notice which states; Supply and installation of new solar streetlights and repair of the existing faulty lights.

(c) Section 3. Evaluation Methodology and Criteria:

Paragraph 9.5 (b) of the evaluation criteria under experience in supplies of a similar nature and size for each of the previous 3(three) years, and details of supplies under way or contractually committed; and clients who may be contacted for further information on those contracts. This criterion did not indicate the exact minimum value of works completed in Uganda shillings to be considered as work executed.

Implication

Un clear evaluation criteria will hinder fairness and transparency in the procurement process.

Recommendation

The Authority recommends that the exact minimum value in UGX should be stated and evidence of successful execution of similar contracts with a copy of signed contract/LPOs and certificate of completed deliveries to be attached by the bidder.

(d) Special Conditions of Contract:

- Under GCC 4.2 (b), the Municipal did not state the version of Incoterms that would apply.
- GCC 10.2, the formal mechanism for the resolution of disputes was missing
- GCC 18.1, The entity stated bid currency as bid security, the currency should be Uganda shillings and not Bank security as stated.

Implication

Gaps in the Special Conditions of Contract (SCC) increase the risk of disputes during contract execution

Recommendation

The Accounting Officer should send an addendum correcting the above anomalies to all participating bidders.

III. Provision of Services; GIS data collection, processing and training of users in Kira Municipality

(a) Inconsistencies in the requirement for Bid Security;

The advert/bid notice requires bidders to produce a bid security of UGX. 500,000. However, ITB 21.1 required only a bid securing declaration not a bid security. The solicitation document does not also provide for the format of bid securing declaration to be used by the bidders in preparation of the bid. On review of the pre-bid minutes for the meeting on 11th september2023, the anomaly was not rectified to the bidders.

Implication

- This may confuse bidders and also the evaluation committee on which criteria to follow during evaluation.
- Gaps in the instructions to bidders (ITB) increase the risk of submission of non-responsive bids which could deter potential bidders from participating in the procurement process

Recommendation

The Authority therefore recommends that an addendum is sent to all participating bidders clarifying that it is the bid securing declaration required.

(b) Inadequate Technical Evaluation marks

- Quality Based Selection Criteria is to be used in the evaluation of Bids. The minimum Technical score was set at 80% and Financial score at 20% respectively. ITB 13.3 states that technical evaluation of the bid shall award scores as follows: specific experience 30 %, methodology 20% and Key Personnel at 30% totalling to 80%. The minimum technical score to qualify for financial bid opening 80%.

However, the above breakdown intends to score the bids against 80% rather than 100% as indicated in table 2 below.

Table 2: Distribution of Technical evaluation marks.

S/N	Item	Scores	Score breakdown
A	EXPERIENCE OF THE FIRM	30	
	General/Specific Experience		
	The firm must have existed for more than 5 years		5
	Evidence of at least Three (3) projects		25
B	METHODOLOGY PROPOSED	20	
	Appreciation of terms of Reference (TOR)		12
	Work plan		8
C	KEY PERSONNEL	30	
	Total	80	

- The Audit team noted that although the minimum pass mark for technical evaluation been stated and the formula for calculation of merit points been indicated. The way marks shall be distributed amongst the key proposed personnel for example is not indicated.

The authority recommends that;

- Awarding of scores for technical evaluation should be reviewed to total up to 100%.
- The awarding and distributed of marks for key personnel should be clearly stated to ensure transparency in the evaluation process.

The purpose of this letter is to forward the findings of the bid preparatory audit exercise. In order to administer and enforce compliance with the provisions of the PPDA Act 2003, Regulations and Guidelines, the entity should review the bidding document, make the necessary adjustments to corrects the errors and communicate those adjustments to all bidders participating in the process.



Moses Ojambo

For: EXECUTIVE DIRECTOR

- cc: The Chairman, Contracts Committee
cc: The Head, Procurement and Disposal Unit