



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

Our Ref: PPDA/NEMA/150

14th November 2024

The Executive Director
National Environment Management Authority
P.O. Box 22255
KAMPALA

**BID PREPARATORY AUDIT EXERCISE FOR VARIOUS PROCUREMENTS AT
NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY**

Reference is made to the above subject.

The Authority noted that National Environment Management Authority is in the process of procuring the following transactions listed in Table 1 below:

Table 1: List of advertised transactions

No.	Procurement Reference No.	Subject of Procurement
1.	NEMA/SUPLS/24-25/00021	Supply of Five (05) M/Vs. Two (02) double cabin pick-up, one (01) Mini bus (Van) and three (03) station wagons
2.	NEMA/SRVCS/24-25/00079	Consultancy Services to undertake a feasibility study for the National Environment Management Authority Infrastructure Development Project (NEMA-IDP)
3.	NEMA/SUPLS/24-25/00115	Supply of three (03) high end work station, eleven (11) tablets, one (01) phone and two (02) laptops
4.	NEMA/SUPLS/24-25/00120	Supply, installation, configuration and deployment of four (04) server machines
5.	NEMA/SUPLS/24-25/00121	Procurement, replacement, installation and configuration of LAN infrastructure on the second floor-NEMA HQ.

In accordance with Section 7 (j) (i) of the Public Procurement and Disposal of Public Assets (PPDA) Act, Cap 205, the Authority conducted a bid preparatory audit into the above procurements. The purpose of the audit was to ensure that the principles of transparency, accountability and fairness have been followed in the preparation of the above tender documents.

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The Authority identified the following exceptions with regard to procurement planning, requisitioning and bidding document preparation for the attention of management:

The Authority conducted an analysis of the solicitation document approved by the Contracts Committee and observed the following exceptions;

1.0. Inconsistencies in the deadline for bid submission

The Authority found discrepancies in the stipulated deadlines for bid submission in all the transactions listed in Table 1 above. The advertisement published a deadline of 29th November 2024 while the bidding document indicated a later date of 2nd December 2024.

Implications

- Bidders may be unsure of which deadline to follow leading to potential missed opportunities, late submissions or unnecessary complaints.
- The discrepancies may discourage potential bidders from participating hence reducing competition.

Recommendation

The Accounting Officer should issue an addendum to the advert indicating the correct date of the deadline for bid submission in accordance with Section 28 (1) (d) of the PPDA Act, Cap 205.

1.1. Failure to provide for performance security

Regulation 11 (2) of the PPDA (Contracts) Regulations states that the value of the performance security shall be specified in the guidelines issued by the Authority. PPDA Guideline No.3 of 2024 issued on 5th February 2024 provides that performance security in form of a bank guarantee shall be required for procurement of consultancy services under the open domestic bidding method.

The Authority found that the Special Conditions of Contract in the bidding document for Consultancy Services to undertake a feasibility study for the National Environment Management Authority Infrastructure Development Project (NEMA-IDP) did not provide for performance security of 5% as required in the Guideline.

Implication

The Entity will not be protected against non-performance.

Recommendation

The Head Procurement and Disposal Unit should amend the bidding document to provide for performance security as provided in PPDA Guideline No.3 of 2024.

1.2. Conflicting payment terms

The bidding documents contain conflicting payment terms. ITB 45.1 stipulates the provision of an advance payment for the procurements outline in Table 2 below. Whereas GCC 17.1 provides for submission of an advance payment guarantee with a three-month validity period, GCC 16.1 specifies a 100% payment after delivery, which constitutes a contradiction.

Table 2: Transactions with conflicting payment terms

No.	Procurement Reference No.	Subject of Procurement
1.	NEMA/SUPLS/24-25/00021	Supply of Five (05) M/Vs. Two (02) double cabin pick-up, one (01) Mini bus (Van) and three (03) station wagons
2.	NEMA/SUPLS/24-25/00121	Procurement, replacement, installation and configuration of LAN infrastructure on the second floor-NEMA HQ.

Implication

Contradictions may lead to submission of non-compliant bids. They may also lead to subjectivity during evaluation.

Recommendation

The Head Procurement and Disposal Unit should amend the bidding document to provide for clear payment terms.

1.3. Inclusion of VAT Registration in the evaluation criteria:

PPDA Circular No.1 of 2015 states that VAT registration should not be part of the requirements for any bidding process. The Uganda Revenue Authority (URA) is not under any obligation to register any person who does not qualify for VAT registration as provided for under the VAT Act, Cap 349. For purposes of bidding, a TIN registration certificate and Tax Clearance are sufficient proof for compliance. The Authority found that the Procurement and Disposal Unit included the requirement for VAT registration under ITB 11.1 of the bidding document among the eligibility documents contrary to the requirements in PPDA Circular No.1 of 2015. This was found in three transactions shown in Table 3 below:

Table 3: Transactions with VAT Registration as an eligibility document

No.	Procurement Reference No.	Subject of Procurement
1.	NEMA/SUPLS/24-25/00021	Supply of Five (05) M/Vs. Two (02) double cabin pick-up, one (01) Mini bus (Van) and three (03) station wagons
2.	NEMA/SRVCSS/24-25/00079	Consultancy Services to undertake a feasibility study for the National Environment Management Authority Infrastructure Development Project (NEMA-IDP)
3.	NEMA/SUPLS/24-25/00121	Procurement, replacement, installation and configuration of LAN infrastructure on the second floor-NEMA HQ.

Implication

Bidders may be unfairly eliminated for failure to comply with the requirement.

Recommendation

The Head Procurement and Disposal Unit should adhere to PPDA Circular No.1 of 2015 and remove the provision for VAT Certificate of Registration under ITB 11.1 as an eligibility document.

1.4. Provision for performance security above the mandated threshold

PPDA Guideline No.3 on bid and performance securities states that where performance security in form of a Bank Guarantee is required, it shall be expressed in the Special Conditions of Contract in the bidding document as a percentage of the contract price and shall not exceed 5% of the contract price. The bidding documents of the following two transactions in Table 4 stated 10% as the required performance security.

Table 4: Transactions with overstated performance security requirements

No.	Procurement Reference No.	Subject of Procurement
1.	NEMA/SUPLS/24-25/00021	Supply of Five (05) M/Vs. Two (02) double cabin pick-up, one (01) Mini bus (Van) and three (03) station wagons
2.	NEMA/SUPLS/24-25/00121	Procurement, replacement, installation and configuration of LAN infrastructure on the second floor-NEMA HQ.

Implication

This is irregular and a breach of the guideline.

Recommendation

The Head Procurement and Disposal Unit should adhere to PPDA Guideline No.3 and set a performance security requirement that does not exceed 5%.

1.5. Bid security above the mandated threshold

PPDA Guideline No.3 on bid and performance securities states that the bank guarantee shall indicate a fixed amount and shall not exceed 1% of the estimated value of the procurement requirement. Contrary to this Guideline, the bid security in the bidding document for supply of five motor vehicles (NEMA/SUPLS/24-25/00021) exceeded 1% of the estimated cost of the procurement. Whereas the estimate was UGX 1,341,584,000, the Entity requested for a bid security of UGX 16,000,000(1.19%) instead of UGX 13,415,840, a difference of UGX 2,584,160.

Furthermore, the Guideline states that the bid security may take the form of a bid guarantee, bid bond or a bid securing declaration as provided in this guideline. However, the bid document required both the bid security and bid securing declaration.

Implication

This is irregular and a breach of the guideline.

Recommendation

The Head Procurement and Disposal Unit should adhere to PPDA Guideline No.3 and set a bid security requirement that does not exceed 1%.

1.6. Unclear requirement for a manufacturer's authorisation

In the procurement of five motor vehicles (NEMA/SUPLS/24-25/00021), ITB 5.5 of the Bid Data Sheet contains conflicting and non-committal language regarding the necessity of a manufacturer/supplier/distributor authorization. It uses both shall and shall not, creating confusion.

Implication

This will create confusion for the bidders and lead to submission of non-compliant bids.

Recommendation

The Head Procurement and Disposal Unit should clearly state whether the provision is required or not in the bidding document.

1.7. Inconsistencies in the total number of vehicles required by the entity

In the procurement of five motor vehicles (NEMA/SUPLS/24-25/00021), the internal memo from the User Department, attached as a supporting document to the requisition, indicated a quantity of four vehicles. The requisition form, initially indicating five vehicles, was subsequently amended in ink to specify six vehicles. ITB 1.1 states that the subject of procurement is supply of seven double cabin pickups and three station wagons making a total of 10 cars. The clearance from Ministry of Works and Transport (MOWT) indicated a quantity of five vehicles, aligning with the quantity specified in the advert.

Furthermore, only the double cabin pick-ups have a requirement for registration of the vehicles in the names of National Environment Management Authority (NEMA) with blue number plates with third party insurance for 12 months. However, the van and the station wagons do not have this provision.

The Authority also found that the Entity could consider procuring the vehicles under Lots since different manufacturers have different specifications. The Entity may find difficulty in getting a single manufacturer/supplier to provide the station wagons, double cabin pickups and a van under a single lot.

Implications

- The conflicting information could lead to confusion among stakeholders.
- If the final number of vehicles differ from User Department's request, it could lead to budgetary constraints and a mis-procurement.

Recommendation

The Head Procurement and Disposal Unit should amend the bidding documents to reflect the correct number of vehicles in line with the User Departments' request, the clearance from the Ministry of Works and Transport and Ministry of Public Service.

1.8. Inconsistencies in specifications in the procurement of motor vehicles

The Authority found inconsistencies in the specifications of the vehicles as shown in Table 5 below:

Table 5: Inconsistencies in specifications

Vehicle type	Specification	MOWT Clearance	Provision in the Bidding Document
Double cabin	Transmission	Manual transmission minimum speed 6 forward and 1 reverse; auto free hub with differential lock.	Automatic and manual transmission minimum speed 6 forward and 1 reverse; auto free hub with differential lock
Van	Engine	Water-cooled engine of capacity not exceeding 2500cc.	Water cooled diesel engine of capacity of greater than or equal to 3500 but less than 4200C.
	Transmission	Manual transmission minimum 5 speed forward and 1 reverse; 2WD.	Manual transmission minimum 5 speed forward and 1 reverse; auto free hub with differential lock.

Implications

- The vehicles may not meet the user requirements.
- This could lead to subjectivity during evaluation.

Recommendation

The Head Procurement and Disposal Unit should amend the bidding documents to correct the above inconsistencies.

1.9. Incomplete provisions in the bidding document

The Authority found gaps in the bidding documents of the following transactions highlighted in Table 6 below:

Table 6: Incomplete provisions in the bidding document

No.	Subject of Procurement	Observations
1.	Supply of three (03) high end work stations, eleven (11) tablets, one (01) phone and two (02) laptops	<ul style="list-style-type: none">• The bidding document did not state the amount of bid security although it stated that a bid security would be required in form of a bank guarantee.• Whereas the requisition had the requirement for a GIS server estimated at UGX 40,000,000, it was not among the items in the bidding document. Among the eligibility criteria is a manufacturer's authorization for server hardware and software licenses. However, since the GIS server was not listed in the bidding document, this makes this requirement redundant.

No.	Subject of Procurement	Observations
2.	Consultancy services to undertake a feasibility study for the National Environment Management Authority Infrastructure Development Project (NEMA-IDP)	The Entity did not provide for submission of academic documents/certificates of key personnel yet 25 points have been allocated to the criterion of key personnel.
3.	Supply, installation, configuration and deployment of four (04) server machines	Inconsistencies in the number of server machines: Whereas the subject of procurement is for four server machines, the requisition has a quantity of three, while the list of supplies and related services has a quantity of five.

Implication

This will create confusion amongst bidders and lead to submission of non-compliant bids.

Recommendations

The Head Procurement and Disposal Unit should amend the bidding documents to correct the above inconsistencies.

The Authority recommends that the above observations are immediately rectified, necessary approvals obtained and bidders notified of the changes before bid closure. A copy of the addendum and revised bidding documents should be submitted to the Authority.

The purpose of this letter is to forward the findings of the bid preparatory audit exercise for implementation.


Hilda K. Mwesigwa

FOR: EXECUTIVE DIRECTOR

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