



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

**INVESTIGATION REPORT INTO ALLEGED IRREGULARITIES IN THE  
PROCUREMENT OF PROVISION OF DISTRIBUTION SERVICES OF NON-  
MOTORABLE ROAD CONSTRUCTION /MAINTENANCE EQUIPMENT-  
REF.UNDER MOWT/NCONS/2016-17/00355**

**ENTITY: MINISTRY OF WORKS AND TRANSPORT**

**COMPLAINANT: WHISTLE BLOWER**

**SEPTEMBER 2017**

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## **Acronyms**

BEB	-	Best Evaluated Bidder
MoWT	-	Ministry of Works and Transport
NOBEB	-	Notice of Best Evaluated Bidder
PDU	-	Procurement and Disposal Unit
PPDA	-	Public Procurement and Disposal of Public Assets Authority
UGX	-	Uganda Shillings

## 1.0 SUMMARY OF FACTS

- i. On 24<sup>th</sup> February 2017, Ministry of Works and Transport initiated a procurement for the provision of distribution services of non-motorable road construction/maintenance equipment with an estimated cost of UGX 4,117,044,864.
- ii. On 7<sup>th</sup> March 2017, the Contracts Committee approved the open domestic bidding procurement method, the bidding document and bid notice.
- iii. On 10<sup>th</sup> March 2017, the procurement was advertised in the New Vision Newspaper with a deadline for bid closing of 10<sup>th</sup> April 2017.
- iv. Nine (09) firms purchased and were issued with the bidding document.
- v. On 20<sup>th</sup> March 2017, a pre-bid meeting was held which was attended by representatives of the firms that had purchased the bidding document.
- vi. On 10<sup>th</sup> April 2017, bid submission was closed. The record of bid opening indicated the following information:

**Table 1: Prices read out at bid opening**

No	Name of Bidder	Bid Price (UGX)
1.	Multilines International Ltd	10,001,675,500
2.	Globe Trotters Ltd	3,580,058,612
3.	Transtrac Uganda Ltd	4,432,797,912
4.	Bonfide clearing and forwarding Co. Ltd	60,000,000

- vii. The Evaluation Report signed on 10<sup>th</sup> April 2017 indicated that Transtrac Uganda Ltd and Bonfide Clearing and Forwarding Co. Ltd did not pass the preliminary and technical stage and did not qualify for further evaluation.
- viii. On 11<sup>th</sup> April 2017, the Contracts Committee approved Evaluation Report and awarded the contract for provision of provision of distribution services of non-motorable road construction/maintenance equipment with an estimated cost of UGX 4,224,469,163.15 VAT inclusive.
- ix. Two firms i.e. Multilines International Ltd and Globe Trotters Ltd passed the preliminary and technical examination and therefore qualified for financial evaluation.
- x. The Notice of the Best Evaluated Bidder was displayed from 12<sup>th</sup> April 2017 to 25<sup>th</sup> April 2017 and it indicated the reasons for the disqualification of Transtrac Uganda Ltd as that having no power of attorney authorizing the bid to be submitted and no evidence of fulfillment of obligations to pay taxes and social security contributions.

- x. On 19<sup>th</sup> April 2017, the Transtrac Uganda Ltd made an application for administrative review to the Accounting Officer of the Entity.
- xii. On 2<sup>nd</sup> May 2017, the Accounting Officer of the Entity issued the administrative review decision wherein it was decided that the application was dismissed on account that it had no merit.
- xiii. On 8<sup>th</sup> May 2017, the Transtrac Uganda Ltd made an application for administrative review of the Accounting Officer's decision to the Authority.
- xiv. On 11<sup>th</sup> May 2017, a whistle blower wrote to the Authority requesting for an investigation in the mishandling of the procurement by the Entity.
- xv. On 31<sup>st</sup> May 2017, the Authority issued its administrative review decision wherein it found merit in one of the grounds which was that the Applicant had submitted a valid Tax Clearance Certificate as required in the bidding document. However, the application was rejected on the basis that the Applicant did not submit a power of attorney which contravened ITB's 30.3 and 30.4 of the bidding document.

## **2.0 LEGAL PROVISIONS APPLICABLE**

1. The Public Procurement and Disposal of Public Assets Act, 2003.
2. The Public Procurement and Disposal of Public Assets Regulations, 2014.
3. The Public Procurement and Disposal of Public Assets Guidelines, 2014.
4. The Bidding Document.

## **3.0 OBJECTIVES**

The objectives of the investigation were to establish whether:

1. The bid for Globe Trotter Ltd was properly evaluated with respect to the commercial and technical requirements of Section 3 para 5 (d) (e) and (f) of the evaluation criteria and ITB 28.2.
2. The contract price of UGX 4,120,469,263.25 was different from bid price read out at bid opening of UGX 4,224,469,163.15 VAT inclusive.

## **4.0 METHODOLOGY**

The methodology adopted by the Authority in the investigation was as follows:

- 4.1 Reviewed the following documentation:
  - i. Procurement Requisition;
  - ii. Solicitation document issued to bidders;
  - iii. Records of bid closing and bid opening;

- iv. Bids submitted by bidders;
- v. Evaluation Report;
- vi. Contracts Committee minutes;
- vii. Administrative Review application and decision of the PPDA Appeals Tribunal ruling ; and
- viii. Other correspondences related to the procurement.

4.2 On 11<sup>th</sup> July 2017, the Authority held a meeting with the following persons.

**Table 2: Persons met by the Authority.**

No	Name	Designation
<b>MoWT - Entity</b>		
1.	Mr. Godfrey Erukwaibe	Head Procurement and Disposal Unit
2.	Eng. Henry Lubega	Principal Structural Engineer / member Contracts Committee
3.	Mr. Baker Ainebyona	Senior Procurement Officer
<b>Transtrac Uganda Ltd- Applicant</b>		
1.	Mr. Paul Herera	Whistle blower

## 6.0 FINDINGS BY THE AUTHORITY

6.1 *Whether the bid for Globe Trotter Ltd was properly evaluated with respect to the commercial and technical requirements of Section 3 para 5 (d) (e) and (f) of the evaluation criteria and ITB 28.2.*

- i. The complainant alleged that the bid for Globe Trotter Ltd contained non-conformities in both commercial and technical submissions contrary to Section 3 para 5 (d),(e) and (f) of the evaluation criteria and ITB 28.2.
- ii. The Evaluation Methodology and Criteria under clause 5.1 of the solicitation document required bidders to submit the following:
  - d). Evidence of availability of a minimum of 75 no. Low bed trailers in road worthy condition for distribution detailed specifications in the terms of reference.
  - e). Evidence of safe and quality management system sufficient for handling and transportation of these high value equipment detailed specifications in the terms of reference.
  - f). Evidence of availability of a team of qualified and skilled personnel with the minimum of 5 years' experience such as:
    - Logistics Advisor (Team Leader and Liaison Person) ;

- Drivers ; and
  - Load Masters.
- iii. ITB 28.2 of the bidding document provided that: *“A substantially compliant and responsive bid is the one that conforms to all the terms, conditions, and requirements of the bidding document with material deviation, reservation, or omission”. A material deviation, reservation or omission is one that is inconsistent with the bidding document and which may in a substantial way, limit the rights of the Procuring and Disposing Entity or the obligations of the bidder under the contract”*.
- iv. The Terms of Reference in respect to evidence of availability of a minimum of 75 no. low bed trailers in road worthy condition for distribution stated that: *“bidder was required to provide evidence of possession /mobilization of a minimum of 20 low bed trucks and 20 self-loading trucks in good mechanical condition (Registration number plates and pictorial representation)”*.
- v. The Authority reviewed the submitted bid and noted that bid submitted by Globe Trotter Ltd the best evaluated bidder did not meet the requirements of the solicitation documents with respect to the commercial and technical requirements under Section 3 para 5 (d). The Authority found that the bid lacked evidence of possession of mobilisation of twenty (20) Low bed trucks and twenty self-loading trucks in form of registration books and pictorial presentations. Only two registration log books for Low Bed trucks were submitted in the bid as indicated below.

**Table 3: Low bed trucks in the bid.**

N/o	Manufacture’s Model	Registration Number	Year of Manufacture	Owned, Leased or to be purchased
1.	Low Bed Semi Trailer	UAU 618U	2013	Owned
2.	Bachu Low Bed Trailer	UAU 064T	2013	Owned

- vi. The bid further included pictorial evidence of lifting equipment, forklifts, tele handlers Hiab, spreader beam all terrain 20-80 tonnes and grabber heavy duty forklift.
- vii. With respect to the requirement of having a safe and quality management system for handling and transportation of the high quality equipment, the bidder indicated that in fulfillment of the requirement Globe Trotter Ltd has adopted Report 365 which is a land Transportation Safety Recommended Practice Manual developed by the International association of Oil and Gas producers with relevant extracts in respect to Management systems , Risk-based approach , risk assessment, continuous improvement drivers related practices and journey related practices attached.

- viii. The Authority found that the bid by Globe Trotter Ltd submitted the C.V's for the following personnel in fulfilment of the requirement of availability of a team of qualified and skilled personnel with 5 to 12 years' experience for the Logistics Advisor (Team Leader and Liaison Person), Drivers, and Load Masters.

**Table 4: Qualification and Experience of key personnel**

No.	Name	Position	Experience
1.	Mr. Paul Lule	Logistics Manager	18 years
2.	Mr. Henry Ssebanakita	Maintenance Manager/ Overall Project Manager	5 years
3.	Mr. Andrew Mesh Kato	Manager QHSE	5 years
4.	14 selected drivers with copy of permits attached.	Drivers	Over 10 years
5.	16 selected Load Masters	Load Masters	-

- ix. The Evaluation Committee found the bid of Globe Trotter Ltd substantially responsive to the requirements in the bidding document and recommended of tender for award of provision of distribution services of motorable road construction /maintenance equipment at UGX 4,120,469,236.25 VAT inclusive. The Contracts Committee subsequently approved the Evaluation Committee recommendation and awarded the contract to Globe Trotter Ltd.
- x. The Entity undertook a post qualification and the due diligence report dated 10<sup>th</sup> April 2017, indicated that Globe Trotter Ltd had the financial and technical capacity to successfully implement the contract. The due diligence report further indicated that the bidder provided list of more than 75 units a combination of tractor head and trailer of flat bed-drop side body or low bed loaders. This was backed by a sample of 13 copy of registration certificates of tractor heads. The Evaluation team further stated: *“Team agreed that with the loading and off-loading equipment in the bidder's possession, flat drop sided trailers could serve the same purpose as the self-loading trucks....”*
- xi. The Authority found that the Evaluation Committee did not properly evaluate the bid of Globe Trotter Ltd with respect to commercial and technical requirements under Section 3 para 5 (d) of the evaluation criteria in the bidding document and should have found Globe Trotter Ltd's bid non-responsive.

**6.2** *Whether the contract price of UGX 4,120,469,263.25 was different from bid price read out at bid opening of UGX 4,224,469,163.15 VAT inclusive.*

- i. The complainant alleged that the bid price of the best evaluated bidder as read at opening of UGX 4,224,469,163.15 was different from the total contract price of UGX 4,120,469,263.25 indicated in the notice of best evaluated bidder.
- ii. The record of bid opening indicated the price read out for Globe Trotter Ltd as UGX 4,224,469,163.15 which was consistent with the price in Globe Trotter Ltd's Bid Submission Sheet.
- iii. During financial evaluation, the Evaluation Committee established that the bid of Globe Trotter Ltd had arithmetic errors. On 10<sup>th</sup> April 2017, the chairperson of the Evaluation Committee requested Globe Trotter Ltd to confirm the corrected price of UGX 3,491,923,104.45 VAT exclusive. On the same day, the bidder responded admitting the error and confirming the corrected bid price of UGX 4,120,469,163.25 Vat inclusive.
- iv. The Authority found that whereas contract price of UGX 4,120,469,263.25 was different from bid price read out at bid opening of UGX 4,224,469,163.15 VAT inclusive, this was due to the correction of arithmetic error in the bid of Globe Trotter Ltd which changed the bid price to the corrected total to UGX 4,120,469,263.25 VAT inclusive.

**8.0 RECOMMENDATIONS**

In light of the above findings and in accordance with Section 9 of the PPDA Act 2003, the Authority recommends that:

- i. The Entity proceeds with the implementation of the contract and ensure that the terms and conditions of the signed contract are strictly adhered to.
- ii. The Accounting Officer should take appropriate disciplinary action against the Evaluation Committee for irregularities noted in the evaluation process and the Contracts Committee for improper adjudication of the recommendation.

