



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

**INVESTIGATION REPORT INTO THE PROCUREMENT FOR
CONSTRUCTION OF ADMINISTRATION BLOCK AT
ATANGA SUB COUNTY**

ENTITY: PADER DISTRICT LOCAL GOVERNMENT

COMPLAINANT: BEHILDWAR ENTERPRISE

JUNE 2018

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ACRONYMS

AO	-	Accounting Officer
CAO	-	Chief Administration Officer
LTD	-	Limited
PDU	-	Procurement and Disposal Unit
PPDA	-	Public Procurement and Disposal of Public Assets Authority
SAA	-	Senior Accounts Assistant
SAEO	-	Senior Assistant Engineering Officer
UGX	-	Uganda Shilling

1.0 SUMMARY OF FACTS

1. The procurement for construction of an administration block at Atanga Sub- County was initiated on 12th July 2017, by Alimo Evaline and approved on the same day with an estimated cost of UGX 51,150,000.
2. On 17th August 2017, a bid notice was published with the deadline of bid submission of 31st August 2017.
3. On 20th August 2017, the Entity issued an addendum extending the bid closing date from 31st August 2017 to 15th September 2017.
4. The Entity issued the solicitation documents to four firms.

Table 1: Record of issue of solicitation documents

No	Name of Bidder	Date of issue
1.	Muga Services Ltd	21/08/2017
2.	Baseline Engineering Works Ltd	22/08/2017
3.	Behildwar Enterprise	25/08/2017
4.	Tedwii Company Ltd	5/09/2017

5. By the deadline of bid submission of 15th September 2017, the Entity had received three bids and were opened on the same day. The record of bid opening is indicated in table 2 below.

Table 2: Record of bid opening

No	Name of bidder	Price as read out (UGX)
1.	Behildwar Enterprise	101,706,400
2.	Tedwii Co. Ltd	113,983,654
3.	Baseline Engineering Works Ltd	112,560,690

6. On 18th October 2017, the evaluation report recommended contract award for the construction of an administration block at Atanga Sub-County to Tedwii Company Ltd at UGX 113,983,654.
7. On 19th October 2017, the Contracts Committee approved the evaluation report and the contract award recommendation was made to Tedwii Company Ltd at UGX 113,983,654.
8. On 24th October 2017, the notice of the Best Evaluated Bidder was displayed and removed on 6th November 2017. The reasons for being unsuccessful were provided as indicated in table 3 below.

Table 3: List of unsuccessful bidders and reason for disqualification

No	Name of bidders	Reasons for being unsuccessful
1.	Baseline Engineering Works Ltd	Quoted Higher price than the best evaluated bidder

No	Name of bidders	Reasons for being unsuccessful
2.	Behildwar Enterprise	Not compliant in similar works and use of a wrong document

9. On 6th November 2017, Pader District Local Government issued a letter of bid acceptance to Tedwii Company Limited.
10. On 6th November 2017, the Managing Director, Tedwii Company Ltd wrote a letter of bid acceptance to Pader District Local Government.
11. On 6th November 2017, the Managing Director Behildwar Enterprise wrote a letter to the Chief Administrative Officer Pader District Local Government complaining that the notice of the best evaluated bidder was not displayed on the Entity's notice board.
12. On 21st November 2017 and 29th November 2017, Behildwar Enterprise wrote letters to the CAO requesting for the evaluation results for the procurement.
13. On 30th November 2017, Behildwar Enterprise applied for Administrative Review following the payment of administrative fees on 28th November 2017.
14. On 22nd February 2018, the Chief Administrative Officer forwarded copies of the Administrative Review report and its minority report to the Authority for scrutiny and advice.
15. On 23rd February 2018, the Authority received a complaint from Behildwar Enterprise alleging that the procurement for the construction of administration block at Atanga Sub-County in Pader District Local Governments was marred by irregularities.

3.0 OBJECTIVES OF THE INVESTIGATION

The objectives of the investigation were to establish whether:

- i. The bid of Tedwii Company Ltd was properly evaluated.
- ii. The Accounting officer issued a decision on the application for administrative review from Behildwar Enterprise within the statutory timelines.

4.0 LEGAL PROVISIONS APPLICABLE

- i. The Public Procurement and Disposal of Public Assets Act, 2003.
- ii. The PPDA (Local Governments) Regulations, 2006.

5.0 METHODOLOGY

The Authority adopted the following methodology.

- 5.1 Review of the following documents:

- i. Procurement requisition;
- ii. Bid notice;
- iii. Copy of the solicitation document issued to bidders;
- iv. Records of issue and receipt of bids;
- v. Records of bid opening;
- vi. Bids submitted by bidders;
- vii. Evaluation report;
- viii. Notices of the Best Evaluated Bidder;
- ix. Contracts Committee minutes;
- x. Administrative review reports; and
- xi. Correspondences relating to the procurements.

5.2 The Authority held a meeting with the following persons as shown in the table 4 below on 7th March 2018.

Table 4: Officials met by the Authority

No.	Name	Organization	Title / Role in the Procurement Process
1.	Mr. Samuel Komakech Obwolo	Pader DL G	Assistant Procurement Officer
2.	Mr. Fildar Ladwar	Behildwar Enterprise	Managing Director

6.0 FINDINGS BY THE AUTHORITY

6.1 Whether the Entity recommended contract award to a firm with the high priced bid from Twedii Company Ltd.

- i. The complainant alleged that the best evaluated bidder Twedii Company Ltd was awarded a contract at UGX 113,983, 654, a price that was higher than what was quoted by other firms that participated in the procurement.
- ii. The Authority reviewed the evaluation report and noted that the Evaluation Committee recommended contract award to Twedii Company Ltd at UGX 113,983, 654. The evaluation report indicated that Behildwar Enterprise and Baseline Engineering Works Ltd were eliminated for failure to comply with the requirements of submission of audited accounts and lack of experience in similar works respectively.
- iii. On 19th October 2017, the Contracts Committee approved the evaluation report and awarded the contract to Tedwii Co, Ltd at UGX 113,983,654.
- iv. The Authority noted that the bid by Behildwar Enterprise did not meet the requirement of submission of audited accounts for the last two (2) years.
- v. The Authority further noted that Baseline Engineering Works Ltd was eliminated at the detailed technical evaluation stage for failure to meet a requirement of *“participation as a contractor in at least three contracts within the last three years in*

similar works". This evaluation criteria was not stated in detailed evaluation criteria in the issued solicitation document contrary to Regulation 73 (2) of the Local Governments (PPDA) Regulations, 2006.

- vi. The Authority reviewed the bid document of Tedwii Co. Ltd and found that the company provided 90 days as their bid validity period contrary to ITB 17.3: *(The bid validity period shall be 140 days)*.
- vii. The Authority found that the bid of Tedwii Company Ltd should have been found non-responsive to the requirement of validity period of 140 days and eliminated at preliminary stage.

6.2 Whether the Accounting Officer issued a decision on the application for Administrative Review from Behildwar Enterprise within the statutory timelines

- i. The Complainant submitted an application for Administrative Review to the Accounting Officer Pader District Local Government on 30th November 2017 and no decision has been issued.
- ii. Section 90 (2) (b), of the PPDA Act, 2003, state that: *"on receiving the complaint and on payment of the prescribed fee, the Accounting Officer is required to make a decision in writing, within fifteen working days, indicating the corrective measures to be taken, if any, and giving reasons for his or her decisions and submit a copy of the decision to the Authority"*.
- iii. The Authority noted that the Accounting Officer on receipt of the application for Administrative Review from Behildwar Enterprise, constituted a Committee to handle the complaint and two reports were submitted i.e. the majority report was submitted by Mr. Okwir Robert (Deputy CAO), Mr. Jimmy Ocan (Senior Internal Auditor) and Christine Lamaci (Senior Account Assistant) on 13th February 2018 and the minority report was submitted by Mr. Samuel Owbwolo Komakech on 19th February 2018.
- iv. The Authority found that the Accounting Officer did not issue a decision to the applicant contrary to Section 90 (2) (b), of the PPDA Act, 2003.

7.0 RECOMMENDATIONS

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

1. The Contracts Committee should improve its adjudication role to ensure that contract awards are made to firms with substantially responsive bids.
2. The Head Procurement and Disposal Unit should ensure that technical guidance to the Evaluation Committees during evaluation should be provided.

3. The Accounting Officer should always ensure that a decision to the application for Administrative Review is issued in writing within fifteen working days from the date of receiving an application for Administrative Review and the prescribed fee in accordance with Section 90 (2) (b), of the PPDA Act, 2003.
4. The Accounting Officer should take appropriate disciplinary action against the Evaluation Committee below for evaluating Tedwii Company Limited responsive yet it should have been eliminated at the preliminary stage for wrong bid validity period and for changing evaluation criteria.
 - a) Mr. Owor Thomas;
 - b) Ms. Alimo Evaline;
 - c) Mr. Ociti Christopher;
 - d) Mr. Ocen Robert; and
 - e) Mr. Wonyaka Gilbert.