



UGANDA MANAGEMENT INSTITUTE

POSTGRADUATE DIPLOMA IN BUSINESS ADMINISTRATION (DBA) WKD

SECOND SEMESTER EXAMS 2017/2018

MODULE PROCUREMENT AND CONTRACT MANAGEMENT

Date: Tuesday 2 October 2018

Time: 09.00 AM – 12.00 NOON

INSTRUCTIONS

1. Answer FOUR Questions.
2. Question ONE of Section A is compulsory and carries 40 marks.
3. Answer any other THREE Questions from Section B. Each question carries 20 marks.
4. Write clearly and legibly.
5. Do not write anything on the question paper.
6. Do not take Mobile Phones into the examination room.
7. Follow the instructions of the Examination Supervisor.
8. Indicate questions answered on the Answer Sheet in the column of Questions.

This paper consists of 7 printed pages.

-GOOD LUCK-

QUESTION ONE**The Mukono- Katosi Road Construction Saga, An African State inspired unethical Racket - UNRA conned of Shs 24.8 billion**

If the ongoing Mukono-Katosi Road saga were not real, it would definitely qualify to be a script for a blockbuster movie or novel. The movie is shot on location at the Uganda National Road Authority (UNRA) in Kampala; starring Apolo Senkeeto, a US-based financial speculator. The plot is to get his hands on a booty amounting to Shs 161 billion from UNRA, the government agency in charge of constructing national roads. He knows there are numerous hurdles because there are several agencies, managed by eagle-eyed technocrats, who will attempt to make his mission a near impossibility.

But as a strong US-based member of President Yoweri Museveni's ruling NRM, he knows that he has an upper hand politically, which will enable him to beat the bureaucrats at their own game. He sets his eyes on a key road in an opposition-dominated Mukono District – the longstanding Mukono-Katosi road, which the local politicians have always used to undermine President Museveni's government.

There is another bargaining chip, the Americans are not happy because the Chinese are being awarded all the juicy construction projects, "which is very bad for relations between the two allies." Having Eutaw Construction Company Inc, a well-known American construction company, to undertake the Katosi road project, would be an irrepressible idea to the political class in Kampala. With that plot, Senkeeto goes to work.

Here it goes!

As President Museveni was canvassing the Greater Mukono District for votes in 2006, the voters in area demanded for construction of Mukono-Katosi road. As usual the President promises the construction of road once given the highest office in the country. After four years in office, he remembers the promise made to the people of Greater Mukono. He directs the road authority in Uganda (UNRA) for an immediate action.

Knowing that only a few companies would be able to construct the road, Mr. Peter Kalenzi, Executive Director of UNRA, instructed John Bosco Kataala, director of Procurement to inform the bidders that there were many companies bidding for the contract. This would insure that the bids received were competitive.

One local and three foreign bids were received. Mr. Kalenzi called Kataala into his office to discuss them. Mr.Kataala told Mr. Kalenzi that the local bid from Ms.BALEX Construction Company appeared to be the most favorable. But Mr. Kalenzi told Kataala

to discard it because he wanted to contract the road to foreign companies to enhance international business and social relationships. Local contracting would only cause friction among the workers. The local bid, explained Mr. Kalenzi, was simply to obtain pricing information.

Mr.Kataala looked over the remaining bids and explained that China Civil Construction Company (CCCC) was the next best choice, then Eutaw Construction Inc., and lastly Sinohydro China Corporation. Kataala was familiar with the Sinohydro China Corporation and told Mr. Kalenzi that it had been involved in questionable business activities and was being investigated by Kenyan Government.

Mr. Kalenzi looked sternly at Kataala when he heard the CCCC bid was the best and told Kataala to discard it. Mr. Kalenzi's ex-wife was the director of the research and design team at CCCC and relations between the two were difficult, to say the least. The only remaining alternative was Eutaw Construction Company Ltd.

But on Nov.01, 2010, Mr.Senkeeto had secured a "resolution" to the effect that the directors of Eutaw Construction Company Inc of Aberdeen Mississippi had formed a Special Purpose Vehicle (SPV) to be named Eutaw Construction Company Inc of Vero Beach Florida with the purpose of soliciting and executing civil works in Asia and Africa. It was to be led by Michael Olvey as company secretary, Richard Pratt and Timothy McCoy as directors. The resolution bears the signature of Thomas .S Elmore as CEO and that of Jonathan J. Haywood as the public notary. With that document in hand, the company had submitted its bid in December 2010.

Never mind that the procurement process for such projects normally takes a year to the bare minimum. But UNRA gets a little suspicious with the documentation submitted by "Eutaw Construction Company Inc." There was need to pull some political strings and a rollout of media campaign involving some "spotlight investigative" stories to fight for their thing. At the highest level, they petitioned Museveni and held two meetings with him one of which was at his Kisozi Ranch. In February 2012, Museveni directs the Finance and Works ministries to expedite negotiations with Eutaw. But UNRA refuses to badge. Instead, it re-tenders the project, a decision that Senkeeto and his American accomplices protest to their political 'god-fathers.' Enter Abraham Byandala the minister of works and transport. He personally gets involves and verbally directs UNRA to sign Eutaw's contract. The ED of UNRA Mr. Peter Kalenzi refuses and asks him to put it in writing, which he did on Nov.13, 2013.

However, UNRA insists on physical due diligence to authenticate the documentation submitted by Eutaw. "Some of the information in the bid would seem not to rhyme with that available on the official website of Eutaw Construction Company Inc," Mr Kalenzi, wrote to the Eutaw headquarters in Mississippi. On Dec.05, 2013, UNRA wrote to Eutaw headquarters requesting for an appointment for its legal team to travel to the US to

verify the documentation. On Dec.13, UNRA got back a prompt reply dated Dec.10 in which the verification visit was confirmed for Feb.11-14, 2014. The legal counsel and the director audit, were supposed to make the trip. But that is how far it went.

Even when the legal counsel Marvin Baryaruha wrote a legal note advising that due diligence process could be carried afterwards, Mr. Kalenzi insisted on the team traveling to the US first in compliance with the procurement laws. Investigators are now trying to find out under what circumstances the contract was eventually signed without the due diligence being carried out.

With that out of the way, the process of getting the money from UNRA and the Treasury starts. First, the company must submit its documents to the Uganda Registration Services Bureau (URSB), and get a certificate, which it must use to open an account in the bank. Eutaw Construction Company Inc is registered as a corporate body in Uganda in December 2013 “after meeting all the requirements as per the Ugandan law,” according to Mercy Kyomugasho- Kainobwisho, the URSB director for business registration.

With that done, account number 16000098 is opened at Housing Finance Bank. But the process of getting the money involves acquiring and submitting various bonds to secure government money just in case something happens. Senkeeto submits a bond from Housing Finance Bank, which was executed on Nov.13, 2013 with a face value of Shs 16.528 billion. However, it is rejected because it was not in the required format. The bond is withdrawn and replaced with another bond, this time from SWICO with the same face value. Another bond from Housing Finance is re-submitted with a face value of more than Shs 24.79 billion. SWICO and UNRA exchange letters in which the authenticity of the bond was verified.

On Dec.14, 2013, a letter is sent from Housing Finance Bank, with a signature of Mary Kansiime Nyende confirming the performance guarantee. However, six days later, Richard Pratt writes to UNRA withdrawing the advance payment guarantee from Housing Finance Bank and replacing it with an insurance bond from SWICO. As it turns out, all these documents are forgeries, possibly, made on Nasser Road.

Massive Christmas gift

Apparently, from the trail of letters, it seems that the plan was to execute the cash remittance before Christmas or before Jan.01, 2014 because letters were being written right up to Christmas Eve. On December 30, Martin Olwa, the Katosi Rd project engineer, recommends that the advance payment could be made to Eutaw. On Jan.24, 2014, a payment voucher from the Treasury General Account is made vide cheque number FS401300 with a face value of more than Shs 24.79 billion. End of part one.

On March 30th, 2014, Kataala (the Director Procurement) immediately called a meeting with Eutaw Construction Inc, represented by Mr.Sekeeto. During the meeting it became

apparent that there was a lack of honesty in the development of Eutaw's bid and performance bonds. Further, Eutaw's attempt to subcontract and use substandard materials was an attempt to increase profit. Kataala realized that UNRA could not rely on Eutaw Construction Company. He stated that he would cancel the contract based on fraud. Eutaw Construction Company, wishing to avoid any litigation and bad publicity, agreed and passively backed out.

Besides, the community along the Mukono-Katosi had become violent threatening to meet the President or else they boycott the forthcoming 2016 elections and for the worst case scenario, they vote for retired Col. Dr Kiiza Besigye, a long time political rival to president Museveni. The community are complaining about dust from the earth moving vehicles, use of child labour, cutting of trees during road opening and inadequate compensation for the displaced families along the road alignment.

Luckily, at Mr. Kalenzi's direction, Kataala had not notified the other bidders of the award to Eutaw Construction Company. Kataala met with Mr. Kalenzi again and recommended that CCCC be awarded the contract. Mr. Kalenzi refused and ordered Kataala to meet with Sinohydro China Corporation and negotiate a contract.

The Dilemma

Kataala called Mr. Rui Ping Xhua, president of Sinohydro China Corporation, for a meeting the next day. Mr. Rui Ping Xhua knew that if UNRA wanted him to negotiate a contract, it must be in desperate need of someone. Accordingly, Mr. Rui Ping Xhua told Kataala that a donation to the Sinohydro China Corporation pension fund would make things much smoother in the negotiations. Kataala brushed the comment aside and finalized the meeting time. Kataala told Mr. Kalenzi about the pension fund. Mr. Kalenzi simply shrugged his shoulders and told Kataala to pay Mr. Rui Ping Xhua since it was essential to have Sinohydro China Corporation accept the contract.

Kataala was unsure of what to do. In his last two jobs, he had refused to participate in similar activities and was fired on both occasions. That was when he was single. Now Kataala has two spouses and four children to support.

Required

- a) Identify the unethical and corruption issues in the case and advise UNRA on how it can improve its ethical platform and procurement. **(15 marks)**
- b) How important is it to have written procedures dealing with ethics in a company? **(8 marks)**
- c) What should Kataala do? **(7 marks)**

- d) You have been nominated to be part of the evaluation committee and one of your responsibilities is to undertake due diligence.

Critically explain the **role** and **application** of due diligence in procurement.

(10 marks)

SECTION B: ANSWER ANY THREE QUESTIONS FROM THIS SECTION

QUESTION TWO

"The procurement process undertaken by various organizations either from the public, private or third sector involves certain key stages that must be taken care of critically in the process of acquiring supplies, services and works especially from external sources; otherwise, there would be no value for money".

Required:

Based on the above assertion, discuss the various stages involved in the procurement management process.

[20 Marks]

QUESTION THREE

"An organization may conduct procurement by the use of various methods as may be advised by the organization's procurement unit".

Using the knowledge you have attained in this module, discuss the various procurement methods for works, services and goods clearly spelling out the rationale for the selection or use of each method.

(20 Marks)

QUESTION FOUR

"The bid evaluation criteria is informed by the bid evaluation methodologies".

Discuss any 4 (Four) bid evaluation methodologies and justify under which circumstance the methodology is used.

(20 Marks)

QUESTION FIVE

- (i) Using relevant examples, discuss the key steps one should follow in disposal of assets in Uganda.

[10 Marks]

- (ii) Discuss challenges managers experience in the disposal of firm assets in Uganda. Use relevant examples.

[10 Marks]

QUESTION SIX

With increasing ambiguities, interdependencies among diverse players, and the scale of supply demand networks, new types of risks in supply chains are evolving (Kleindorfer & Wind, 2009; Kunreuther,2008).

Using your knowledge in Procurement management, identify and discuss the Risk areas/practices in the procurement process. **[20 Marks]**

END