



Westwood Corporation

PO Box 908, Industrial Free Zone, Bushrod Island, Monrovia, Liberia • Tel: 088- 651 4004 / 651 4001 / 6569 333

June 27, 2016

Mr. Dorbor Jallah,
Executive Director, PPCC
Complaints Appeals and Review Panel
Monrovia, Liberia

RECEIVED
01 JUL 2016

BY:

Mr. Director,

I would like to register my complaint pursuant to Part VII – Complaints and Review Process- of the Public Procurement and Concessions Act (PPCA), on the bid process that took place on May 20, 2016 at the Ministry of Public Works. We observed that there were numerous PPCA/ICB bid process violations which have now led to this complaint. The bid in review was for the “CIDP – Laterite Roads: Grading and Shaping of Existing and Proposed Urban Neighborhood Roads”, Ministry of Public Works contract held at their office.

The principle of conducting a bid process in accordance with the PPCA rules and regulations are to promote integrity, fairness, accountability, transparency, fair practices, and equitable treatment of all bidders, which are paramount for the economic development of Liberia and for growth in the Liberian Private Sector.

1) In contravention of **Section 61** of the PPCA, ‘Bid Opening,’ as the bids for the neighborhood Roads contract were opened, only the bid amounts were read. Bidders were told that in the interest of conserving time, the check list of the required documents would not be divulged, as is required by the PPCA.

It is our belief that time is not of the essence if the true objective is to conduct a fair and honest bid reading process, in furtherance of the PPCA ideals listed above. The process of reading the contents of the bid packages submitted is important for transparency, so that all participants can confirm that the companies’ submissions are in fact compliant or lacking.

2) There were bid price limits set as some contractors had prior knowledge of the budgetary allotment for this project from public sources (PPCC website). These limits were made known to all, as identified in the documents made available in the request for expression of interest, and contractors were instructed not to go below the floor and not to go above the ceiling. The criteria for pricing were set for lots 1 through 4. For example, the criteria for the pricing of lot 4 ranged from USD\$ 1,000,000 - USD\$ 1,200,000. In clear violation of PPCA **Section 112**, “Certainty of Evaluation Criteria”, the MPW awarded lot 4 to a company that bid below the threshold that was designated in the instruction to bidders. The awarded contractor offered USD\$ 936,843.79

and was successful.

The bidders that were cognizant and obeyed the bid price limits criteria were **CONFINED** to bid within that range. We are surprised that the selected company was not disqualified for being non-compliant with the requirements proscribed by the bid documents. Rather, it appears that the successful company was rewarded for disregarding the instructions given to the bidders and, in so doing, obtaining an unfair advantage over those that actually complied with the bid requirements.

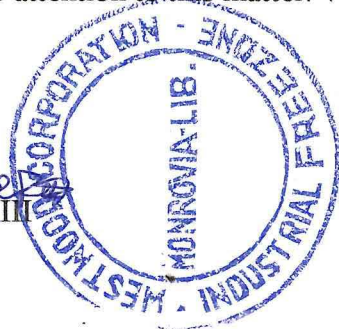
Westwood Corporation is a Liberian owned business, and we believe that the PPCA was intended to not only guide Government ministries and agencies as they manage public resources, but also to protect the interests and integrity of all businesses *equally*, by ensuring that Bid processes are fair and transparent. We do not believe that the Ministry of Public Works conducted fair practices and provided equitable treatment of all bidders in the bid for the "CIDP – Laterite Roads: Grading and Shaping of Existing and Proposed Urban Neighborhood Roads" contract. Westwood Corporation's interests have been adversely affected as a result of MPW's violation of the PPCA in the conduct of the aforementioned bid process.

Therefore, pursuant to Part VIII of the PPCA, we are hereby formally lodging our complaint with you as the Executive Director of the PPCC for the attention of the Complaints, Appeals and Review Panel.

Thank you for your attention to this matter. We await your timely response.

Sincerely,


Samuel B. Cooper III
General Manager





Westwood Corporation

PO Box 908, Industrial Free Zone, Bushrod Island, Monrovia, Liberia • Tel: 088- 651 4004 / 651 4001 / 6569 333

June 17, 2016

Hon. Dorbor Jallah
Executive Director
PPCC
Monrovia, Liberia

RECEIVED
17 JUN 2016

BY:.....

Dear Hon, Jallah,

We write to inform you of our complaint filed with the Head of Procuring or concession entity (Ministry of Public Works). Our company, Westwood Corporation participated in a bid with the Ministry of Public Works for the "CIDP-Laterite Roads: Grading and Shaping of Existing and Proposed Urban Neighborhood Roads" Contract. We bided for two lots: Lot #2 and Lot #4. Our proposal was not considered and we were unfairly deemed non-compliant. We have several concerns regarding the bid evaluation process and as per the PCCA we are now taking the prescribed actions to remedy our misfortune.

Please find attached copies of the communication submitted to the Ministry of Public Works, officially registering our complaint about their flawed and non-compliant bid process along with our response to their claims and justification for rejecting us from further consideration.

Kind regards.

Yours sincerely

Samuel B. Cooper III
General Manager





Westwood Corporation

PO Box 908, Industrial Free Zone, Bushrod Island, Monrovia, Liberia • Tel: 088- 651 4004 / 651 4001 / 6569 333

June 15, 2016

W. Gyude Moore
Ministry of Public Works
Monrovia, Liberia

Mr. Minister,

I acknowledge receipt of your letter dated June 13, 2016, wherein you cited reasons for which our company was deemed non-responsive and, therefore, not considered for the award of Lot 2 of the “CIDP – Laterite Roads: Grading and Shaping of Existing and Proposed Urban Neighborhood Roads” contract.

In your letter, you stated that Westwood Corporation’s submission was not permitted to advance to the technical evaluation process because the submission was deemed non-compliant for three reasons, namely:

1. “Westwood’s documents are stamped and not signed,”[BOQ]
2. “Westwood Corporation did not provide said letter” [letter of authority to seek reference], and
3. “Westwood Corporation submitted a single bid security for two separate lots.”

In response to assertion #1, we submit that Westwood’s submission was complete, because required documents were stamped and signed. Your letter states that “ITB 13.1, number 9 requests that ALL pages of the BOQ be signed and stamped.” Following a review of the Bidding Document, we found your citation to be incorrect as there were **no Bill of Quantities (BOQ)** supplied in the bid packages. We found **Bill of Engineering Measurement & Evaluation (BEME)** which was the title of the pages you provided to justify the computation and unit rate buildup of our offer price. If your institution mistakenly referred to the **Bill of Engineering Measurement & Evaluation** as the **Bill of Quantities**, then how can we be held responsible for your error and inability to explicitly communicate your requirements in the instruction to bidders? Are we required to make assumptions, and assume that you want us to stamp and sign each and every page of the BEME when the instructions do not make such a request? Additionally, the language of the section that you are relying on: Instructions to Bidders (ITB) 13.1 does not explicitly state the requirement that each page of the BOQ be both signed and stamped. Rather, it is ambiguous and reads as follows: “Completed fully signed and **stamped Bill of Quantities (all pages)**.” It is our interpretation that the proceeding language would require all pages of the BOQ to be stamped, if the BOQ had been included. Westwood Corporation submitted the complete list of documents required by and in compliance with ITB 13.1, which were signed and stamped. (Please find attached a copy of the Bill of Engineering Measurement & Evaluation (BEME) and a copy of the ITB).

In response to assertion #2, we explicitly refute the claim that we did not present the letter of authority to seek reference, which is a basic supporting document that is usually required of all of the bids that we submit to the Ministry of Public Works (MPW), and emphatically state that the required documents were in fact a part of our bid submission. We have bid on a series of internationally funded projects with more rigorous document requirements than the basic MPW requirements and have been the successful bidders on about twelve of these

foreign base funded projects.

In response to assertion #3, we reviewed section ITB 17.1, which states that the “Bid shall include **a** Bid-Securing Declaration (Valid for the period of 28 days or more) using the form included in Section X.” Section 17.1 only requires **one** Bid Securing Declaration, which makes sense because it was stated by your procurement division to all bidders that they would only be awarded one of the lots that they bid for and that no company would be awarded more than one lot. Therefore, in compliance with ITB Section 17.1, Westwood Corporation submitted a single bid security (valued at the highest amount listed) because it was only permitted to submit **one** and did not want to violate ITB 17.1 by submitting several bid securities.

Furthermore, quoting your letter, you write “ITB 17.2 states clearly the value of each lot’s Bid Security and **requested separate bid securities** based on the value of each lot.” It is true that ITB 17.2 states clearly the value of each lot’s bid security but NEVER requested separate bid securities as you claim. (Please find attached a copy of your letter and the ITB). In previous bidding processes conducted by the Ministry of Public Works and SIDA it is common practice and an established norm for bidders to submit the highest bid valued bid security for a process with multiple lots if the contractor is restricted to only one award. The rationale is simple; the bid security is the instrument used to secure funds for a rebid in the instance where a contractor is awarded a contract and reneges on his/her obligations. We had every right to assume that it was business as usual unless specifically instructed otherwise.

Therefore, we maintain that Westwood Corporation’s bid submission was compliant with the ITB and should not have been declared non-responsive and prevented from progressing to the technical evaluation stage in the bid for Lots 2 and 4 of the “CIDP – Laterite Roads: Grading and Shaping of Existing and Proposed Urban Neighborhood Roads” contract.

Additionally, pursuant to Part VII – Complaints and Review Process- of the Public Procurement and Concessions Act (PPCA), I would also like to register my complaint on the bid process that took place on May 20, 2016 and point out that there were numerous PPCA/ICB bid process violations which have now led to this complaint.

The principle of conducting a bid process in accordance with the PPCA rules and regulations are to promote integrity, fairness, accountability, transparency, fair practices, and equitable treatment of all bidders, which are paramount for the economic development of Liberia and for growth in the Liberian Private Sector.

As the Ministry of Public Works was clothed with the responsibility of ensuring that the subject bid process was in compliance with the law- specifically the PPCA- our representative was not aware that the following provisions of the PPCA had been violated at the time of the bid opening:

1) In contravention of **Section 61** of the PPCA, ‘Bid Opening,’ as the bids for the neighborhood Roads contract were opened, only the bid amounts were read. Bidders were told that in the interest of conserving time, the check list of the required documents would not be divulged, as is required by the PPCA.

It is our belief that time is not of the essence if the true objective is to conduct a fair and honest bid reading process, in furtherance of the PPCA ideals listed above. The process of reading the contents of the bid packages submitted is important for transparency, so that all participants can confirm that the companies’ submissions are in fact compliant or lacking.

Over two weeks have passed from the time of the bid opening to the announcement of award, which was ample time to alter, rearrange, add or simply remove documents. In essence, we are convinced that there was enough time to manipulate the process.

2) There were bid price limits set as some contractors had prior knowledge of the budgetary allotment for this project from public sources (PPCC website). These limits were made known to all, as identified in the

documents made available in the request for expression of interest, and contractors were instructed not to go below the floor and not to go above the ceiling. The criteria for pricing were set for lots 1 through 4. For example, the criteria for the pricing of lot 4 ranged from USD\$ 1,000,000 - USD\$ 1,200,000. In clear violation of PPCA **Section 112**, "Certainty of Evaluation Criteria", the MPW awarded lot 4 to a company that bid below the threshold that was designated in the instruction to bidders. The awarded contractor offered USD\$ 936,843.79 and was successful.

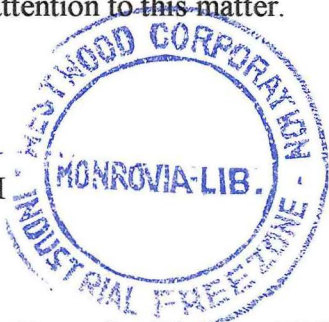
The bidders that were cognizant and obeyed the bid price limits criteria were **CONFINED** to bid within that range. We are surprised that the selected company was not disqualified for being non-compliant with the requirements proscribed by the bid documents. Rather, it appears that the successful company was rewarded for disregarding the instructions given to the bidders and, in so doing, obtaining an unfair advantage over those that actually complied with the bid requirements. When you falsely accused Westwood Corporation of attempting to obtain an unfair advantage in your letter of June 13, 2016, you indicated that such an attempt was a serious breach and an "action that would lead to sanctions by the PPCC," and stated that your "judgement was to simply render [our] submissions non-responsive with the intent of a debriefing meeting and a warning." Therefore, if all bidders were being treated equally, we query why the same intent did not hold true for all, when you instead rewarded the breaching party for disregarding the bid requirements and obtaining an unfair advantage.

Westwood Corporation is a Liberian owned business, and we believe that the PPCA was intended to not only guide Government ministries and agencies as they manage public resources, but also to protect the interests and integrity of all businesses *equally*, by ensuring that Bid processes are fair and transparent. We do not believe that the Ministry of Public Works conducted fair practices and provided equitable treatment of all bidders in the bid for the "CIDP – Laterite Roads: Grading and Shaping of Existing and Proposed Urban Neighborhood Roads" contract. Westwood Corporation's interests have been adversely affected as a result of MPW's violation of the PPCA in the conduct of the aforementioned bid process. Therefore, pursuant to Part VIII of the PPCA, we are hereby formally lodging our complaint with you as the "Head of the Procuring or Concession Entity" and submitting a copy of this complaint to the Executive Director of the PPCC for the attention of the Complaints, Appeals, and Review Panel.

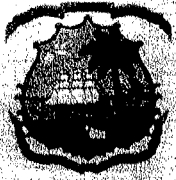
Thank you for your attention to ~~this~~ matter.

Sincerely,


Samuel B. Cooper III
General Manager



Cc: Dorbor Jallah, Executive Director, PPCC
Attn: Complaints Appeals, and Review Panel



Republic of Liberia
MINISTRY OF PUBLIC WORKS
P.O. Box 9011, 107 Lynch Street
Monrovia, Liberia



Office of the Minister

WGM-M/MPW-RL/786/2016

June 13, 2016

Mr. Samuel Cooper
General Manager
Westwood Corporation
Monrovia, Liberia

Dear Mr. Cooper:

This acknowledges receipt of your June 10, 2016 letter seeking clarification on why the bid submitted by Westwood Corporation for Lot 2 of the "CIDP - Laterite Roads: Grading and Shaping of Existing and Proposed Urban Neighborhood Roads" was evaluated as non-responsive.

As I noted in my letter informing you that Westwood's bid was unsuccessful, the Ministry thanks you for the effort and resources expended in submitting your bid and sincerely hopes that the feedback given here will contribute to the successful future bids.

The Bid Evaluation process is conducted under clear guidelines and rules through the PPCC Act of 2010. The Panel conducts the evaluation in three parts: Preliminary, Technical and Financial. As every bidder is aware, the evaluation process seeks to determine the "most responsive" bid in terms of value for money. The process is such that non-compliance in any preceding phase precludes advancement to the succeeding phase.

Your bid was very strong in the preliminary portion and displayed familiarity with the requested documents. All of the required preliminary documents were in your bid and consequently qualified your submission to advance to the technical evaluation. Despite the performance in the preliminary evaluation, however, Westwood Corporation's submission did not move beyond the technical evaluation round. I have listed the non-compliance in order of seriousness.

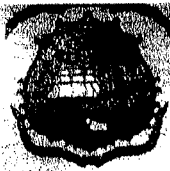
1. ITB 13.1, number 9 requests that ALL pages of the BOQ be signed and stamped, Westwood's documents are stamped and not signed
2. ITB 13.2, number 9 requests a letter or authority to seek reference, Westwood Corporation did not provide said letter and most importantly
3. ITB 17.2 states clearly the value of each lot's Bid Security and requested separate bid securities based on the value of each lot. Westwood Corporation submitted a single bid security for two separate lots.

The submission of one bid security for two separate projects is a serious breach. It is viewed as a Contractor attempting to obtain an unfair advantage since other bidders secured separate Bid Securities for each lot. In this case, our judgement was to simply render your submissions non-responsive with the intent of a debriefing meeting and a warning. However, since you wrote seeking an explanation, that de-brief meeting will no longer be necessary. It is important that the management of Westwood Corporation notes that in the future such action would lead to sanction by PPCC.

Best regards,


W. Gyudé Moore
MINISTER

ITB 13.1	The bidder shall submit with its bid the following documents: <ol style="list-style-type: none"> 1. Bid Submission form in the format indicated in Section IV 2. Completed fully signed and stamped Bill of Quantities (All pages) 3. Completed Bid-Securing Declaration 4. Qualification Information form and Documents 5. Project Organization and Manpower Chart (Key personnel) 6. Program/Work Schedule 7. Schedule of Equipment to be utilized executively in the contract 8. Litigation records for the past three (3) years 9. Letter of authority to seek references
ITB 14.4	The Contract is not subject to price adjustment in accordance with GCC Clause 47.
ITB 15.1	The currency of the Republic of Liberia is United States Dollars
ITB 15.2	The authority for establishing the rates of exchange shall be the Central Bank of Liberia (CBL)
ITB 15.4	Bidders are not required to substantiate the rates and prices
ITB 16.1	The Bid shall be valid for 45 days after deadline for bid submission
ITB 17.1	Bid shall include a Bid-Securing Declaration (Valid for the period of 28 days or more) using the form included in Section X. Bidders must declare for a period of One (1) years
ITB 17.2	The Bid Security amount: Lot 1: \$ 1,600.00USD Lot 2: \$26,000USD Lot 3: \$1,400.00 USD Lot 4: \$ 24,000USD
ITB 18.1	Alternative Bids shall not be considered.
ITB 19.1	The number of copies of the Bid to be completed and returned shall be Five Copies (5) with one (1) Original
D. Submission of Bids	
ITB 20.1	Bidders may submit their bids electronically: Not Applicable
ITB 20.2 (a)	The PE's address for the purpose of Bid submission is: Attention: A. Samuka Dunnoh Address: Procurement Division Ministry of Public Works South Lynch Street 1000-Monrovia, 10-Liberia
ITB 20.2 (b)	Name and Identification number of the contract as given in ITB 1.1 above in

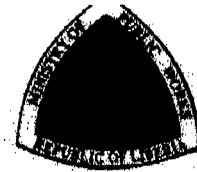


Republic of Liberia

MINISTRY OF PUBLIC WORKS

P.O. Box 9011, 107 Lynch Street

Monrovia, Liberia



Office of the Minister

WGM-M/MPW-RI/692a/2016

April 22, 2016

The General Manager

Westwood Corporation
Industrial Free Zone Compound
Bushrod Island,
Monrovia, Liberia

Dear Mr. /Madam Manager:

Ref: Invitation to Bid (ITB)

RESTRICTED BIDDING (RB)

IFB No. MPW /CIDP/ RB/001/15 /16

The Ministry of Public Works has received funding through the Government of Liberia from the Japanese Government for Community Infrastructure Development Projects on the RIA Highway. In this light, the Ministry intends to use part of said funding to hire experienced laterite road construction companies under contract to implement alley opening projects as specified in the bidding document.

In view of the above, the Ministry requests your participation in a Restricted Bidding Process for opening of alleys on the RIA Highway which is divided into four (4) lots as specified in the bidding document.

The cost of construction for each lot is as follow:

Lot#1-US\$ 700,000.00-800,000.00

Lot#2-US\$ 1,100,000.00-1,300,000.00

Lot#3-US\$ 600,000.00-700,000.00 &

Lot#4-US\$ 1,000,000.00-1,200,000.00

Other Pre-qualified Companies invited to participate in the Bidding Process are:

- Mande Construction Corporation
- Peace Glory Lawal (PGL)
- Goldstone Liberia, Inc.

RIA Highway Nazbe Town Community/ Dumba farm (CODE: RP - 4)

BILL OF ENGINEERING MEASUREMENT & EVALUATION

ITEM #:	Activities Description	Unit	Quantity	Unit Price	Amount USD
I.					
II.					
III.	Road Work and Earth works				
3.01(a)	Clearing & Grubby	m2	2120.00		
(b)	Excavation of unsuitable materials	m3	150.00		
©	Backfill of excavated EUM section	m3	195.00		
3.02	Reshaping, grading & Compaction	m2	4225.00		

RIA Highway - Beach (Old V.P Road) (CODE: RP - 9)

BILL OF ENGINEERING MEASUREMENT & EVALUATION

ITEM #:	ACTIVITIES DESCRIPTION	Unit	Quantity	Unit Price	Amount USD
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<i>III.</i>	<i>Road works & Earth works</i>				
3.01	Clearing & Grubbing	m2	1600		
(b)	Excavation of unsuitable material	m3	100		
(c.)	Backfill of excavated EUM section	m3	130		
3.02	Reshaping, grading & Compaction	m2	3200		

4.01 Install RCP Culvert on mass concrete bedding 0.15m
thick including aprons same as bedding thickness.
Construct RC head & wing walls.

(a)	RCP 600mmØx8.2m	No.	2		
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