



Construction Sector Transparency Initiative – Ethiopia (CoST – Ethiopia)

**Assurance Report on Reactive Disclosure of Project and Contract
Information of Wollo University**

G+3 CLASSROOM BUILDING PROJECT

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LIST OF ACRONYMS / ABBREVIATIONS

AP	- Assurance Professional
CoST	- Construction Sector Transparency Initiative
EIA	- Environmental Impact Assessment
ETB	- Ethiopian Birr
FDRE	- Federal Democratic Republic of Ethiopia
PPPAA	- The Public Procurement and Property Administration Agency
IDS	- Infrastructure Data Standard
ITB	- Instruction to Bidders
NMSGE	- National Multi-Stakeholder Group Executive Committee
C	
PE	- Procuring Entity
PLC	- Private Limited Company
SBD	- the standard bidding document
VAT	- Value Added Tax

1. EXECUTIVE SUMMARY

Construction Sector Transparency Initiative (CoST) is a multi-stake holder initiative, which aims to enhance transparency of Procuring Entities (PE) and construction companies. Core to this aim is disclosing construction project information into the public domain. The CoST Disclosure Process requires procuring entities to ensure that information about the purpose, scope, costs, and execution of publicly financed construction projects is open and accessible to the public, and that it is disclosed in a timely manner.

The objective of the project level assurance process is to collect project information, verify the accuracy and completeness of the information collected, Analyze the information obtained and highlight findings and causes of concerns in plain language in order to enable stakeholders to make informed judgment about the cost, time of delivery, and quality of the built infrastructure.

Cost Ethiopia, which is directed by CoST Ethiopia's Multi-Stakeholder Group (MSG) Executive Committee, which comprises representatives of the government, the private sector and civil society.

The NMSG-EC used the following criteria for project selection.

A project from the sector of building and related facilities of Universities and an ongoing project with a degree of completion close to 80 percent.

The assurance professional has taken responsibility of executing the above mentioned tasks.

One of the projects selected through this procedure is a G+3 classroom building project of Wollo University. Wollo University is building a G+3 Class Room Building in the premises of the university located in Amhara Region, in South Wollo zone, Dessie Town, Wollo University, and Dessie Campus.

The Design and Contract administration service contract of the project was assigned, among other projects of the university, directly to MH Engineering P.L.C.-consulting Engineers and & architects through a supplementary agreement of an existing main agreement between the two parties. The main agreement, was originally signed between GTZ-IS representing the Ministry of Education and the MH-engineering PLC-consulting Engineers and & architects for the supervision of the building works of the 13 universities, which were being built in the whole country. The agreement was then transferred to the individual universities and other supplementary agreements followed since then.

The procurement of the works contract was conducted through an open national competitive bidding process. Solomon Abiye Building Contractor signed the agreement or the works contract for contract amount of ETB 16,561,837.40 including 15% VAT and duration of 365 calendar days.

The only contract included in detail, in this assurance report is the works contract. This is because the design and the supervision contracts are either out of the scope of this report, as they include other projects that the PE (procuring entity) is executing simultaneously or/and there are no enough documents presented.

The disclosed information of the project represents the status of the project as of March /2018.

Mesfin Shiferawis the AP (Assurance Professional) of this report.

➤ Summary of findings and causes of concerns

General

Record keeping, both in print or electronic format, is generally required for protecting contractual rights and is useful for post-contract review so that one can learn from good and bad experiences, take measures to improve procurement and implementation procedures and so on. One cannot over emphasize the importance of establishing a documentation system as it enables the PE to maintain a complete simultaneous, chronological, and provable record of what happened on a particular time. What problems were there and what their impact were upon progress, program and costs of contracts.

The proclamation stipulates that all documents regarding a particular procurement case shall be kept for future reference and monitoring and control purposes for a period of ten (10) years

Consequently, it is strongly advised that it might be good for The PE to improve its documentation system or even better to establishing a documentation system to maintain documents properly.

Design Service contract, Supervision, and contract administration contract.

- According to the available documents, the PE, in spite of the proclamation for procurement, awarded the design service contract directly to a consultant without conducting open bidding procurement procedure.
- According to the available documents, the PE, in spite of the proclamation for procurement, awarded the supervision and contract administration contract directly to a consultant without conducting open bidding procurement procedure.

As there are no documents presented for design contract except a single page of the contract agreement, this report could not give any further comments.

As the supervision contract, include other projects in the university it is out of the scope of this report to give any further comments

Works (Construction) contract

Procurement information

- Not using the updated standard bidding document for that particular time, i.e. the standard bidding document (SDB) for procurement of works (August 2011).
- No Document presented showing that the PE had checked if bidders are registered suppliers.
- Long period of time (210 days from bid opening day) between the opening date and the award date of the contract to the successful bidder.
- There is no document or print out presented that shows the bid announcement was released on the PPPA website.
- Use Bid opening manual and other manuals i.e. Manual for Minutes on the public opening of bids, that is available in the Public Procurement Manual, December 2011 during bid process.

Contract information

- Lack of Proper and complete design work especially the building design with respect to the condition and topography of the site during the design stage created a variation order for additional retaining structure, which incurred the PE unexpected additional cost.
- Lack of completeness, with respect to document preparation of BoQ and takeoff, incurred the PE unexpected additional cost.
- Granting of time extension for conditions that were not, according to the agreement and condition of contract, **compensable**, i.e. the consultant granted extension of time of 90 days for rainy days with **no condition in the contract, which allows or supports the consultant/engineer to grant time extension for rainy days**
- Furthermore, it is not clear if there was another time extension approved for the extended time between August 19 /2016 and November 14 /2016 (provisional acceptance day), as there is no document presented.
- The final acceptance of this project should have been conducted on November 13/2017 but it was not done up to march /2018

2. Introduction

This assurance report is concerning the publication of the infrastructure data standard (IDS) of the aforementioned project as outlined in the disclosure standard of CoST- Ethiopia, it is also concerning the process of verifying the accuracy and completeness of the collected information and analyzing the information to highlight issues of potential concern. The disclosed information of the project represents the status of the project as of March /2018.

CoST – Ethiopia support procuring entities in a bid to boost the disclosure process to be sustainable, delivered rounds of training programs followed by Mentorship and Follow-up of the Disclosure Process to PE professionals on the basics of CoST and Application of the agencies website for the disclosure of Infrastructure Data Standard by the respective PE.

Following the above stated training, mentorship and follow up services, the PEs were expected to disclose the IDS of two (2) projects using the template posted on the website of FPPAA. However, even after a year and repeated insistence some PEs could not disclose the information at all. Thus, CoST- Ethiopia employed assuring professionals to undertake the reactive disclosure and assurance process.

The main objective of this assurance process is to inquire and collect information reactively from the PE in order to insure the publication of the infrastructure Data Standards as outlined in the disclosure Standard of CoST-Ethiopia. It is also to verify the accuracy and competence of the information collected, and to analyze and interpret the information obtained so it will be in a form that can easily be understood by to the public and stakeholders in order to enable them to make informed judgment.

Information items to be disclosed through this report were to include the collection and review of the procurement procedures and the contract implementation for design, supervision, and works contract. However, because the design contract have no document presented, and the supervision, and the contract administration contracts included other projects in the university the study had to focus on the works contract only.

The report describes major information about the construction contract, which includes information concerning the procurement and implementation stages of the project. Under the procurement information item, information that will help stakeholders and the public in general to have an over view of the process is presented. The report will also analyze the compliance and efficiency of the procurement stage of the project and will present it in a clearly intelligible way. Under the contract implementation item, the report also analyzes information items by going through issues related to contract price, contract duration and contract scope. In addition, it analyzes cause of changes to the project with respect to the standard and to the contract agreement so that stakeholders and the public will get an idea and understanding of the issues and their consequences.

The report has also tried to analyze the project with respect to conditions of safety provisions provided in construction site.

Finally, recommendations are presented based on the main findings, causes of concerns and issues observed during the analysis, which will hopefully help the PE to take measures that can improve the execution of the project effectively.

In this assurance process the first activity that the AP did was, using the introduction letter from CoST Ethiopia contacted the president and the assigned staff of the PE and, with the approval of the PE, the consultant to get available documents concerning the project.

Then using the available documents, the AP has tried to analyze the information obtained and to produce a report that is intelligible to non-specialist, highlighting the main findings and causes of concern that the analyzed information reveals.

The AP has also included in this report his professional impressions about different points by comparing events and decisions with the procurement laws of the country, the contract conditions of the contract and supporting documents.

The main challenge encountered in this assurance process was getting the necessary documents and getting them in time. Some of the documents and information were relatively easier to get than other remaining documents as it took long time and repeated effort. However, there are some documents, which are not available at all.

Unavailable or incomplete documents for this report include the following

- Environmental Impact assessment report.
- Land and settlement impact assessment report.
- Design reports and their completion time according to the agreement and the actual completion time.
- Document or print out showing if the bid announcement was released on the PPPA web site.
- Names and number of bidders who purchased the construction bid documents. (Not indicated on bid opening and bid evaluation documents).
- Engineering Cost Estimate (not indicated on bid opening and bid evaluation documents).
- Content of any complaint lodged on bid evaluation result. (Not indicated on bid opening and bid evaluation documents).
- accidents record (accident & death)

3. Disclosure of project Information

Project over view

Wollo University conducted a procurement and contract implementation process to construct a classroom building with a budget allocated from the government of the federal democratic republic of Ethiopia.

The classroom building for Wollo University is a project of a G+3 building. It is located in Amhara Region, in South Wollo zone, Dessie Town, Wollo University, Dessie Campus.

There is no document available that shows if Environmental, Land, and settlement impact assessment had been conducted for this project.

The project, among other projects in the university, is designed by MH-engineering PLC, according to the supplementary agreement signed with Wollo University. The supplementary agreement is part of the main agreement, which was originally signed between GTZ-IS representing the Ministry of Education and the MH-engineering PLC-consulting Engineers and & architects for the supervision of the building works of the 13 universities, which were being built in the whole country. The agreement was then transferred to the individual university and other supplementary agreements, for additional works have continued since then.

The agreement to design the classroom building was signed between the PE and MH-engineering PLC. Nevertheless, there are no documents presented that show information concerning the detail programs of agreement, design reports, payment effected, duration of the project.

The agreement for supervision and contract administration contract includes other projects, which the university is conducting at the same time.

The PE conducted an open bid procurement process to select Solomon Abiye Building Contractor for the construction contract. The contract construction cost was ETB 16,561,837.40 including VAT, the contractor took possession of the site on 29/04/15 (21/08/07 E.C), to complete the whole of the Works, with duration of 365 Calendar Days according to the contract agreement, the construction was completed and Provisional acceptance was conducted on November 14/2016. The final acceptance had to be completed 365 calendar days after the provisional acceptance but was not complete until March / 2018.

Scope of the project

This project is a program to design, supervise, and administrate and to build G+3-class room building that will enable Wollo University to upgrade the teaching and learning process to better level, the building is situated in Wollo University Dessie campus.

Thus, three contracts had to be executed to bring this project into reality. These are:

1. The service contract which is a contract for design and bid document preparation.
2. The service contract which is a contract for the supervision and contract administration of the works (construction) contract
3. The Work contract which is a contract for the construction of Works contract.

There is no document available that shows if Environmental, Land, and settlement impact assessment had been conducted for this project.

As there is no document presented by the PE for the environmental impact assessment study, one cannot give comments about the socio economic benefit and the undesired impacts of the project.

Based on the information from the PE's procurement document the project is funded by the government of the federal democratic republic of Ethiopia. The total project coast is very hard to calculate as the coast for, supervision, and contract administrations are not known because the supervision service contract include other projects and the price for the services is not separately indicated. According to the design contract agreement, the project cost for the design service is ETB 74,406.15 including VAT. Construction contract agreement, the design the project cost for the construction service is ETB 16,561,837.40 including VAT.

Similarly, the total duration of the project, which includes the design, the supervision and contract administration and the construction service cannot be known because even though the design and supervision service contract are separate they both include other projects and the duration for these services are not indicated. According to the construction contract, the project duration for the construction service is 365 calendar days.

Overview of project identification

Project identification variable	Description
Project location	The project location is in Amhara Region, in South Wollo zone, Dessie Town, Wollo University, Dessie Campus
Project scope	Construction of G+3 Class Room Building.
Undesired impacts of the project	No such report was made available by the PE on any conducted study. Thus, It is very difficult to deduct that there is any undesirable impact by the project.
Source of funding	The project is fully funded by the government of the federal democratic republic of Ethiopia (the government).
Original project cost	<p>Service contract for design– ETB 74,406.15</p> <p>Service contract for the supervision and contract administration:- the contracts include other projects. Thus, it is difficult to separate the contract cost for this project.</p> <p>Work contract - ETB 16,561,837.40</p> <p>Total –It would have been good if one can determine the total project cost had the separate amount for the design , supervision and contract administration been known.</p>
Original project duration	<p>There is no document presented which shows the length of duration of the design Service contract.</p> <p>There is no document presented which shows the length of duration of the design Service contract but one can understand that the duration is equal to the work duration .</p> <p>The contract duration according to the work contract is 365 calendar days.</p>

4. DISCLOSURE OF PROCUREMENT AND CONTRACT INFORMATION FOR DESIGN CONTRACT.

4.1. DISCLOSURE OF PROCUREMENT INFORMATION

4.1.1.OVERVIEW OF THE PROCUREMENT PROCESS

The contract for the design work was executed by MH-engineering PLC-consulting Engineers and & architects.

According to the available document, the university is executing different projects simultaneously. The project, among other projects in the university, is designed by MH-engineering PLC, according to the supplementary agreement signed with Wollo University.

The supplementary agreement is part of the main agreement, which was originally signed between GTZ-IS representing the Ministry of Education and the MH-engineering PLC-consulting Engineers and & architects for the supervision of the building works of the 13 universities, which were being built in the whole country. The agreement was then transferred to the individual university and other supplementary agreements, for additional works have continued since then.

The agreement to design the G+3 Class Room building was signed on November 25/2013. Except the single page of the agreement there are no documents presented that show information concerning the scope of the contract, detail programs of agreement, preliminary and final design reports and payments and duration of the project.

For this service contract, the design agreement document (single page) is the only document that is presented by the PE. The contact document only shows there is an agreement between the two parties. The duration of the contract, the services included in the agreement, the total payment effected, and the actual total duration of the preliminary and final design documents and so on are not presented for reference.

The total contract price for the design of the G+3 Classroom project agreement is ETB 74,406.15 including 15% VAT.

Thus, according to the documents presented one can deduce that the contract is awarded directly to the consultant in spite of the proclamation for procurement there was no procurement process conducted to select a consultant.

Article 25/1 of The Proclamation stipulates that “Except as otherwise provided in the Proclamation and this Directive, public bodies shall use open bidding as the preferred procedure of procurement.”

4.1.2. VERIFICATION OF THE DISCLOSED PROCUREMENT INFORMATION

4.1.2.1. COMPLETENESS OF THE DISCLOSED PROCUREMENT INFORMATION

The complete availability of all relevant documents of the procurement process will determine the completeness of the disclosed procurement information. In the absence of major documents, which might have shown the justification, why the design service had to be assigned directly to the consultant. It is very hard to conclude that the disclosure of the procurement information is complete.

4.1.2.2. ACCURACY OF THE DISCLOSED PROCUREMENT INFORMATION

To make sure that the disclosed procurement information is accurate, the AP had tried to collect documents from both the PE and The consulting firm MH Engineering PLC by indicting the required documents. Even though it was clearly stated that the verification and analysis process would continue on the available documents only, it was not possible to collect some of the documents that were mentioned earlier. Thus in this condition, were the whole documents might not be presented, would cast doubt on the accuracy of the disclosed procurement information.

4.1.3. ANALYSIS OF THE DISCLOSED PROCUREMENT INFORMATION

4.1.3.1. COMPLIANCE OF THE PROCUREMENT PROCESS WITH THE RULES OF ADVERTISEMENT

As it is previously mentioned the PE has presumably decided to award the Design service contract directly to MH consult PLC without conducting any procurement process as a supplementary agreement of an existing agreement.

Thus, one can conclude that the procurement process of advertisement is not in compliance with regulations of PPPA STANDARD BIDDING DOCUMENT (SBD) for Procurement of Consultancy Services. Version 1, July 2011.

4.1.3.2. EFFICIENCY OF THE PROCUREMENT PROCESS

As the PE had presumably decided to award, the service contract directly to MH Engineering PLC (the consultant) and thus, in the absence of procurement procedure for the procurement of the design contract according to the proclamation of the procurement one cannot decide if the process is inefficient.

4.1.3.3. FAIRNESS OF THE PROCUREMENT RULES ON PARTICIPATION

The proclamation of procurement of the Federal Republic of Ethiopia, stipulates that the PE have to conduct a procurement process using the STANDARD BIDDING DOCUMENT (SBD) for Procurement of Consultancy Services to select a Consultancy Services so the process will be fair. In this case for the fact that there was no bid process conducted to procure the design service. As the PE had presumably decided to award the service contract directly to MH Engineering PLC (the consultant)and in the

absence of any information as there is no enough document presented on the whole process, it is very hard to conclude that the process was fair.

4.1.3.4. TRANSPARENCY OF TENDER EVALUATION PROCESS

According to the proclamation of procurement of the Federal Republic of Ethiopia, it is required by the PE to conduct a procurement process using the STANDARD BIDDING DOCUMENT (SBD) for Procurement of Consultancy Services to select a Consultancy Services so the process will be transparent. In this case for the fact that there was no bid process conducted to procure the design service. As the PE had presumably decided to award the service contract directly to MH Engineering PLC (the consultant) and in the absence of any information as there is no enough document presented on the whole process, it is very hard to conclude that the process was transparent.

4.1.3.5. OBJECTIVITY OF THE TENDER AND THE AWARD CRITERIA

The procurement directive stipulates “A Public Body using a method of procurement other than open bidding, pursuant to article 33/3 of the Proclamation. Shall record a statement of the grounds and circumstances on which it relied to justify the use of that method.”

According to the proclamation of procurement of the Federal Republic of Ethiopia, it is required by the PE to conduct a procurement process using the STANDARD BIDDING DOCUMENT (SBD) for Procurement of Consultancy Services to select a Consultancy Services so the process will be objective. In this case for the fact that there was no bid process conducted to procure the design service. as the PE had presumably decided to award the service contract directly to MH Engineering PLC (the consultant) and in the absence of sufficient information as there was no adequate document presented on the whole process, it is very hard to conclude that the process was objective.

4.1.3.6. COMPETITIVENESS OF THE AWARD PRICE

The procurement proclamation of the Federal Republic of Ethiopia and the Directive, states that any public procurement must ensure economy. However, as the PE had presumably decided to award the service contract directly to MH Engineering PLC (the consultant) as a supplementary agreement, there was no bid process conducted to procure design service. Furthermore, the document so far presented does not show if PE had made any effort to verify that the service price is competitive.

4.2. DISCLOSURE OF CONTRACT INFORMATION

4.2.1. OVERVIEW OF THE CONTRACT

According to the single page document presented by the PE, The Contract for the design of the G+3 Class Room building was signed on June 11/2015. It is a supplementary agreement of the previously existing main agreement which was originally signed between GTZ-IS representing the Ministry of Education and the MH-engineering PLC-consulting Engineers and & architects for the supervision of the building works of the 13 universities.

The contract design fee is ETB 74,406.15 including 15% VAT. The document does not show the scope of the contract, the duration of the contract and so on.

Furthermore there are no documents presented which shows other information such as when the preliminary and final design were completed, the payments effected and the preliminary and final design reports submitted and so on.

4.2.2. VERIFICATION OF THE DISCLOSED CONTRACT INFORMATION

4.2.2.1. COMPLETENESS OF THE DISCLOSED CONTRACT INFORMATION

In the absence of major documents, which might have shown the scope of the contract, the contract duration, and the amount of payment made, when and if the preliminary and final design were completed, the payments effected and the preliminary and final design reports submitted and so on. It is very hard to conclude that the disclosure of the procurement information is complete.

4.2.2.2. ACCURACY OF THE DISCLOSED CONTRACT INFORMATION

The accuracy of the disclosed information is dependent on the availability of original documents so that one can compare or check the accuracy of the information. In the absence of major documents, it is very hard to conclude that the disclosed information is accurate.

To make sure that the disclosed procurement information is accurate, the AP had tried to collect documents from both the PE and The consulting firm MH Engineering PLC by indicting the required documents. Even though it was clearly stated that the verification and analysis process would continue on the available documents only, it was not possible to collect some of the documents that were mentioned in the Introduction. Thus this condition, were the whole documents might not be presented, would cast doubt on the accuracy of the disclosed procurement information.

4.2.3. ANALYSIS OF THE DISCLOSED CONTRACT INFORMATION

4.2.3.1. ISSUES RELATED TO THE CONTRACT PRICE

As there are, no documents presented by the PE, which show the payment effected, if there had been a change of price compared to the contract price, and as the contract includes other projects that are out of the scope of this report. one cannot give analysis about issues related to the price.

4.2.3.2. ISSUES RELATED TO THE CONTRACT DURATION.

As there are, no documents presented by the PE, which show the duration of the contract, if there had been a change of duration compared to the contract duration, and as the contract includes other projects which are out of the scope of this report one cannot give analysis about issues related to the duration.

4.2.3.3. ISSUES RELATED TO THE CONTRACT SCOPE

As there are, no documents presented by the PE, which show the scope of contract, if there had been a change of scope compared to the contract price, and as the contract includes other projects, which are out of the scope of this report one cannot give comments about issues related to the scope.

5. DISCLOSURE OF PROCUREMENT AND CONTRACT INFORMATION FOR CONSTRUCTION SUPERVISION & CONTRACT ADMINISTRATION SERVICE CONTRACT.

5.1. DISCLOSURE OF PROCUREMENT INFORMATION

5.1.1. OVERVIEW OF THE PROCUREMENT PROCESS

The construction supervision & contract administration service contract is being executed by MH-engineering PLC-consulting Engineers and & architects.

According to the available documents, the university is executing different projects simultaneously. This project, among other projects in the university, is being supervised by MH-engineering PLC, according to the supplementary agreement signed with Wollo University.

The supplementary agreement is part of the main agreement, which was originally signed between GTZ-IS representing the Ministry of Education and the MH-engineering PLC-consulting Engineers and & architects for the supervision of the building works of the 13 universities, which were being

built in the whole country. The main agreement was then transferred to the individual university and other supplementary agreements, for additional works have continued since then.

The agreement to **construction supervision & contract administration** service of the **G+3 Class Room** building includes many other projects in the university. In addition, there are no enough documents presented that show information concerning the first and other supervision agreement for the project, The scope of the contract agreement, payment effected for the work and so on.

For this service contract, the construction supervision & contract administration agreement document is the only document that is presented by the PE. The contact document only shows there is an agreement between the two parties. Documents for, the total payment effected, and so on are not presented for reference.

Thus, from the available documents one can deduce that the contract is awarded directly to the consultant in spite of the proclamation for procurement. Article 25/1 of The Proclamation stipulates that “Except as otherwise provided in the Proclamation and this Directive, public bodies shall use open bidding as the preferred procedure of procurement.”

5.1.2. VERIFICATION OF THE DISCLOSED PROCUREMENT INFORMATION

5.1.2.1. COMPLETENESS OF THE DISCLOSED PROCUREMENT INFORMATION

In the absence of major documents which might have shown the justification why the construction supervision & contract administration service had to be assigned directly to MH Engineering PLC (consultant), the amount of payment made, if the service was completed in the contract duration, if there is any change of price, duration and scope, and so on. It is very hard to conclude that the disclosure of the procurement information is complete.

5.1.2.2. ACCURACY OF THE DISCLOSED PROCUREMENT INFORMATION

The accuracy of the disclosed information is dependent on the availability of all and original documents so that one can compare or check the accuracy of the information. In the absence of major documents of the service contract, it is very hard to conclude that the disclosed information is accurate.

To make sure that the disclosed procurement information is accurate, the AP had tried to collect documents from both the PE and The consulting firm MH Engineering PLC by indicting the required documents. Even though it was clearly stated that the verification and analysis process would continue on the available documents only, it was not possible to collect some of the

documents that were mentioned in the Introduction. Thus this condition, were the whole documents might not be presented, would cast doubt on the accuracy of the disclosed procurement information.

5.1.3. ANALYSIS OF THE DISCLOSED PROCUREMENT INFORMATION

5.1.3.1. COMPLIANCE OF THE PROCUREMENT PROCESS WITH THE RULES OF ADVERTISEMENT

As it was previously mentioned, the PE has presumably decided to award the construction supervision & contract administration service contract directly to MH consult PLC without conducting any procurement process as a supplementary agreement of an existing agreement. The agreement includes many other projects which the PE is conducting in parallel.

Thus, one can conclude that the procurement process of advertisement is not in compliance with regulations of PPPA STANDARD BIDDING DOCUMENT (SBD) for Procurement of Consultancy Services. Version 1, July 2011.

5.1.3.2. EFFICIENCY OF THE PROCUREMENT PROCESS

As the PE had presumably decided to award, the service contract directly to MH Engineering PLC (the consultant) and thus, in the absence of procurement procedure for the procurement of the design contract according to the proclamation of the procurement one cannot decide if the process is inefficient.

5.1.3.3. FAIRNESS OF THE PROCUREMENT RULES ON PARTICIPATION

The procurement proclamation and the Public Procurement Manual stipulate that, there should be a procurement process that is conducted according to the SBD for Procurement, to select and award a service provider. In deciding to award the supervision and contract administration service directly to MH consult PLC, the PE had ruled out the fairness of the procurement rules on participation.

5.1.3.4. TRANSPARENCY OF TENDER EVALUATION PROCESS

According to the proclamation of procurement of the Federal Republic of Ethiopia, it is required by the PE to conduct a procurement process using the STANDARD BIDDING DOCUMENT (SBD) for Procurement of Consultancy Services to select a Consultancy Services so the process will be transparent.

In this case for the fact that there was no bid process conducted to procure the service. As the PE had presumably decided to award the service contract directly to MH Engineering PLC (the consultant) and in the absence of any information as there is no enough document presented on the whole process, it is very hard to conclude that the process was transparent.

5.1.3.5. OBJECTIVITY OF THE TENDER AND THE AWARD CRITERIA

The procurement directive stipulates “A Public Body using a method of procurement other than open bidding, pursuant to article 33/3 of the Proclamation. Shall record a statement of the grounds and circumstances on which it relied to justify the use of that method.”

According to the proclamation of procurement of the Federal Republic of Ethiopia, it is required by the PE to conduct a procurement process using the STANDARD BIDDING DOCUMENT (SBD) for Procurement of Consultancy Services to select a Consultancy Services so the process will have award criteria, which is objective.

In this case for the fact that there was no bid process conducted to procure the supervision and contract administration service. As the PE had presumably decided to award the service contract directly to MH Engineering PLC (the consultant) and in the absence of sufficient information as there was no adequate document presented on the whole process, it is very hard to conclude that the process was objective.

5.1.3.6. COMPETITIVENESS OF THE AWARD PRICE

The procurement proclamation of the Federal Republic of Ethiopia and the Directive, states that any public procurement must ensure economy. However, as the PE had presumably decided to award the service contract directly to MH Engineering PLC (the consultant) as a supplementary agreement, there was no bid process conducted to procure the **construction supervision & contract administration service**. Furthermore, the document so far presented does not show if PE had made any effort to verify that the service price is competitive.

5.2. DISCLOSURE OF CONTRACT INFORMATION

5.2.1. OVERVIEW OF THE CONTRACT

According to the two pages of documents presented by the PE, The Contract for the supervision and contract administration service of the administration building includes many other buildings of the university, which are out of the scope of this report. The contract which was signed on September 1/2017 is a supplementary agreement of the previously existing main agreement which was originally signed between GTZ-IS representing the Ministry of Education and the MH-engineering PLC-consulting Engineers and & architects for the supervision of the building works of the 13 universities and many other supplementary agreements.

The contract supervision and contract administration service fee including the other projects (which are out of the scope of this study) is ETB 94,300.00/ month, including 15% VAT. The document show that the duration of the contract is between September 1, 2017 and June 30/2018.

Furthermore, there are no documents presented which shows other information such as scope and conditions of the agreement, payments affected and so on.

5.2.2. VERIFICATION OF THE DISCLOSED CONTRACT INFORMATION

5.2.2.1. COMPLETENESS OF THE DISCLOSED PROCUREMENT INFORMATION

In the absence of major documents, which might have shown, when and if there is any change of scope, price, and duration of agreement, the payments effected so far and so on. It is very hard to conclude that the disclosure of the procurement information is complete.

5.2.2.2. ACCURACY OF THE DISCLOSED CONTRACT INFORMATION

The accuracy of the disclosed information is dependent on the availability of original documents so that one can compare or check the accuracy of the information. In the absence of major documents, it is very hard to conclude that the disclosed information is accurate.

To make sure that the disclosed procurement information is accurate, the AP had tried to collect documents from both the PE and The consulting firm MH Engineering PLC by indicting the required documents. Even though it was clearly stated that the verification and analysis process would continue on the available documents only, it was not possible to collect some of the documents that were mentioned in the Introduction. Thus this condition, were the whole documents might not be presented, would cast doubt on the accuracy of the disclosed procurement information.

5.2.3. ANALYSIS OF THE DISCLOSED CONTRACT INFORMATION

5.2.3.1. ISSUES RELATED TO THE CONTRACT PRICE

As there are no documents presented by the PE, which show the payment effected, if there had been a change of price compared to the contract price, and as the contract includes other projects which are out of the scope of this report one cannot give analysis about issues related to the price.

5.2.3.2. ISSUES RELATED TO THE CONTRACT DURATION

As there are, no documents presented by the PE, which show the payment effected, if there had been a change of duration compared to the contract duration, and as the contract includes other projects, which are out of the scope of this report, one cannot give analysis about issues related to the duration.

5.2.3.3. ISSUES RELATED TO THE CONTRACT SCOPE

As there are no documents presented by the PE, which show the payment effected, if there had been a change of scope compared to the contract scope, and as the contract includes other projects which are out of the scope of this report one cannot give analysis about issues related to the scope

6. DISCLOSURE OF PROCUREMENT AND CONTRACT INFORMATION FOR WORKS (CONSTRUCTION) CONTRACT.

6.1. DISCLOSURE OF PROCUREMENT INFORMATION

6.1.1. OVERVIEW OF THE PROCUREMENT PROCESS

The procurement process of this project was conducted according to the open national tendering procedure contained in the public procurement procedure of the federal Government of Ethiopia.

The announcement to invite bidders for the construction of Wollo University **G+3 Class Room building** was advertised (issued) on Addis Zemen 73rd year No 346 newspaper on 16/12/06 E.C. the opening day was 05/01/2007 E.C. with other projects that the PE planned to execute. The evaluation process included technical and financial evaluation stages.

According to the minute of tender opening document the bid was opened on the same opening day specified on the newspaper, during the opening process, documents of nine bidders had been opened.

There was no mention of bidders rejected on the opening day. There is no document present showing the attendants who chose to watch the opening ceremony.

The technical evaluation was conducted and completed on 08/01/20014 (30/04/2007 E.C.) As mentioned on the evaluation and qualification criteria section (section 3) of the bid document the PE used a two stage procedure to evaluate the bidders. It states, “Bidders that score 70% and above are to be considered responsive and their financial proposal will be opened .”

Evaluation criteria according to the evaluation document attached to technical bid evaluation minutes.

No	criteria	Max Point
1	General Experience record	40
2	proposed construction methodology and schedule	8
3	proposed man power	20
4	proposed construction plant and equipment	15
5	Working Capital	17
	Total	100

According to the technical evaluation minute, three bidders were rejected due to incomplete documents, and thus six bidders passed to the technical evaluation stage. Finally, after technical evaluation three bidders were successful to pass to financial evaluation stage.

Technical Evaluation results (R responsive, NR none responsive)

No	Bidders' Name	Point Score d (%)	R/ NR	Remark
1	Lusy Engineering	79		
2	Solomon Abiye Building contractor	76		
3	A.AM.B Building contractor	82		
4	man General contractor	39		
5	Semere Dessta Building contractor	67.5		
6	B. Tech Construction	43		
7	Getachew Athsibeha Building contractor			Rejected
8	Neway Adem Building Contractor			Rejected
9	Abenet Building Contractor			Rejected

The financial evaluation was completed on 23/01/20015 (15/05/2007 E.C) by recommending the contract to the least bidder of the financial stage.

Financial Evaluation results

No	Bidders' name	Evaluated Offer/after arithmetic correction	remark
1	Lusy Engineering	17,877,597.23	3rd
2	Solomon Abiye Building contractor	16,561,837.39	1st
3	A.AM.B Building contractor	17,670,333.96	2nd

On 16/04/2015 (08/08/2007 E.C) a letter of acceptance was issued for the bidder who has been selected for the job. There is no document presented, which shows if the unsuccessful bidders were notified and if the PE had received any complaint. The contract for the construction work was signed on 22nd of April 2015.

The process of procurement, from bid opening up to the award took 203 days i.e.

- The technical evaluation took 115 days (from 05/01/2007 up to 30/04/2007 E.C)
- The financial evaluation took 15 days (from 30/04/2007 to 15/05/2007) and
- Finally awarding the project to the winner took 83 days (from 15/05/2007 to 08/08/2007).

6.1.2. VERIFICATION OF THE DISCLOSED PROCUREMENT INFORMATION

6.1.2.1. COMPLETENESS OF THE DISCLOSED PROCUREMENT INFORMATION.

The completeness of the disclosed information is very much dependent on the documents which are made available by the PE. Even though important documents of the process such as bid invitation announcement, bidders who submitted their bid and technical and financial evaluation documents are made available. as mentioned previously some documents such the number of bidders which purchased the bid document, Engineering Cost Estimate and Content of any complaint lodged on bid evaluation result are not presented. Therefore, it would be very hard to conclude that the disclosed procurement information is complete.

6.1.2.2. ACCURACY OF THE DISCLOSED PROCUREMENT INFORMATION.

The accuracy of the disclosed information is dependent on the availability of original documents so that one can compare or check the accuracy of the information. In the absence of major documents, it is very hard to conclude that the disclosed information is accurate.

To make sure that the disclosed procurement information is accurate, the AP had tried to collect documents from both the PE and The consulting firm MH Engineering PLC by indicting the required documents. Even though there are some documents not presented the AP has succeeded in collecting most of the documents for the works contract and in comparing them for their accuracy. Thus, unless for those documents that were not presented the AP was able compare and insure the accuracy of the disclosed contract information.

6.1.3. ANALYSIS OF THE DISCLOSED PROCUREMENT INFORMATION.

6.1.3.1. COMPLIANCE OF THE PROCUREMENT PROCESS WITH RULES OF ADVERTISEMENT

As stated above the tender invitation to select a contractor for the construction of the G+3 class room Building was released through Addis Zemen 73rd year No 346 newspaper on 16/12/06 EC with other projects and was opened on 05/01/2007 EC after being on air for 25 days.

There is no document or print out presented that shows the bid announcement was released on the P.P.P.A web site.

General

The major point that the AP realized during checking the bid document is that the PE did not use the correct standard bidding document for that particular time, i.e. **The standard bidding document (SDB) for procurement of works (August 2011)**. The PE used the previously available document, which had been replaced with the previously mentioned document. However, the AP continued with the analysis process with the understanding that the assurance processes has to continue with the available document.

The Bid notice

The main information included in the bid announcement were date of opening, address for obtaining information, how and where to return the document, the amount and type of security (300,000.00) and the bid price. The PE also mentioned that the bid is an open bid process.

The PE had allowed the use of different types of bid security forms; this type of step encourages more bidders to participate in the process.

- It would have been good however to indicate or mention The Place of bid opening and the evaluation criteria on the bid notice as indicted in the user's guide for the preparation standard bidding document states. It is stated that bid notices should be designed to provide information that enables potential bidders to decide whether to participate in a bidding process or not.

“Apart from the essential items, the Invitation to Bid Notice should also indicate any important bid evaluation criteria (for example, the application of a margin of preference in bid evaluation) or qualification requirements (a minimum level of turnover or experience)”.

- The tender invitation was on air from 16/12/2006 EC to the opening day i.e. 28/09/2014 (05/01/2007 E.C)for a total of 25 days. The user guide indicates that, “In deciding the deadline for Bid Submission, the PE should allow Bidders sufficient time for obtaining and studying the Bidding Document, preparing complete and responsive bids and submitting the bids. Procuring Entities are required to comply with the minimum bidding periods given in the Directives.”Thus accordingly, This is compliant to the federal Public Procurement directive (June /2010) article 16.9 Setting of bid floating periods, which states

“Without prejudice to article 19.6.1 above of this directive, the floating period shouldn't be less than the minimum date stated in Annex 3 of this directive.”

Annex 3 states that “the minimum period for submission of bids shall be 21 days or non-complex and 30 days for complex type procurement process of work.”

- There is no document presented that shows of record of bidders to whom bidding document have been issued.

According to the user guide to bid preparation, “A record must be kept of the Bidders to whom Bidding Documents have been issued. Receipts must be issued for all fees paid”.

These documents would have helped the PE to know among other things the number of bidders who chose not to return the bid, so to inquire why they did not return the bid and avoid those cases which hinder bidders not to return bids that the PE issue. Furthermore,

the PE will be able to identify those bidders, which try to participate in the process without buying the bid document from the PE.

The Bid opening process

- The Bid opening date and time was according to the opening day described on the newspaper. Bid opening date was on 28/09/2014 (05/01/2007 E.C) on 4:30 AM as stated on the notice.
- It is good to respect the opening dated and time.
- The PE had not rejected any bidder on the day of opening.
 - Which is good as according to the user guide to bid preparation The procuring proclamation states that: - "Do Not reject any bid at Bid Opening, except for late bids received after the date and time of bid submission deadline."
- There is no document presented which shows the attendants who chose to watch the opening ceremony and many other information about the opening day. Thus, it is advisable to use Bid opening manual i.e. Manual for Minutes on the public opening of bids, that is available in the Public Procurement Manual, December 2011 during bid opening.
- During the opening process, the PE has consulted bidders' representatives, who chose to attend the opening ceremony, for any questions and comments on the bidding procedure. This type of consultation is good, as it provides the PE for relevant feedback on the process of procurement that the PE is following.
 - The only comment it gets was, the length of time it took bidders to get back their bid securities when they participate in bids that the PE was issuing.
 - However, as we will see later, this very bid process took very long time (7 months) to reach its award stage.

6.1.3.2. EFFICIENCY OF THE PROCUREMENT PROCESS (TIME LINES)

The procurement process, from bid opening up to the award of contract took 213 days i.e.

- The technical evaluation was completed on 08/01/2014 (30/04/2007 EC) 115 days after bid opening.
- The financial evaluation was completed on 23/01/2015 (15/05/2007 EC) 130 days after bid opening 15 days after the completion of technical evaluation .
- The project was awarded to the winner on 16/04/2015 (08/08/2007 EC) which is 213 days from bid opening.

According to Public Procurement Manual (December 2011) APPENDIX 9: estimated procurement lead times, guidelines for determining completion timescales. The estimated lead-time for Tender Evaluation and Report Submission is 2 to 4 weeks, the estimated lead-time for Recommendation by Procurement Endorsing committee is 1 to 2 weeks, and the estimated lead-time for contract award is 1 to 2 weeks. If we take the maximum estimated durations, the total duration will be around 8 weeks or 60 days. The

maximum bid validity period according to section 2 ITB 15.1 is 60 days. Furthermore, the procurement directive June 2010 article 16.15.4 states that

“Public bodies have to complete bid proceedings within the validity period of bid documents and sign contracts with successful bidders however, where the Public Body realizes that for reasons beyond its control the price validity period expires before the completion of the bid proceeding, it shall request bidders to extend the validity period of their bid price.”

From the above condition, we can conclude that the time from the technical and financial evaluation process up to the award of the work contract took very long time. There is no document presented that shows if the PE had requested bidders to extend the validity period of their bid price nor if the bidders agreed to the request. This is because the procurement directive, June 2010 states that the bidders should express in writing of their agreement and how long they are willing to extend the period of their bid security.

There is no document presented that show the reason why the procurement process (evaluation process) took such a long time. However, it is clear that it is good to avoid such type of delays as it will cast doubts on the bid evaluation process and cause unnecessary inconveniencies on the bid participants.

6.1.3.3. FAIRNESS OF THE PROCUREMENT RULES ON PARTICIPATION

In order to get sufficient time for obtaining and studying the Bidding Document complete and responsive bids and submitting the bids the PE should allow Bidders to have sufficient preparation time. In this case The tender invitation was on air from 16/12/2006 EC to the opening day i.e. 28/09/2014 (05/01/2007 EC) for a total of 25 days.

This is compliant to the federal Public Procurement directive (June /2010) article 16.9 Setting of bid floating periods, which states

“Without prejudice to article 19.6.1 above of this directive, the floating period shouldn’t be less than the minimum date stated in Annex 3 of this directive.”

Annex 3 states that “the minimum period for submission of bids shall be 21 days or non-complex and 30 days for complex type procurement process of work.”

However, other matters should also be taken into consideration, one of them is there is no document presented that shows of record of bidders to whom bidding document have been issued. According to the user guide to bid preparation, “A record must be kept of the Bidders to whom Bidding Documents have been issued. Receipts must be issued for all fees paid.”

These documents would have helped the PE to know among other things the number of bidders who chose not to return the bid, so to inquire why they did not return the bid and avoid those cases which

hinder bidders not to return bids that the PE issue. Furthermore, the PE will be able to identify those bidders, which try to participate in the process without buying the bid document from the PE.

The other is as stated in the standard instruction To Bidders to participate in any public procurement, being registered in the suppliers list is a prerequisite. There is no document presented that show if the PE checked bid participants are registered in the suppliers list.

The standard instruction To Bidders section 4.6 stipulates that “To participate in this public procurement process, being registered in the suppliers list is a prerequisite (mandatory for domestic Bidders only)”.

6.1.3.4. TRANSPARENCY OF THE TENDER EVALUATION PROCESS

As stated in the procurement directive to participate in any public procurement, being registered in the suppliers list is a prerequisite. However, there is no document presented showing if the PE had checked if bidders are registered suppliers.

According to the technical and financial evaluation committees’ minutes, the evaluation was conducted pursuant to the evaluation and qualification criteria specified in the Bidding Documents.

- which the user guide to bid preparation describes
“Strictly apply only and all of the evaluation and qualification criteria specified in the Bidding Documents to determine the lowest evaluated bid and to make a recommendation for award of contract to the Tender Committee.”

However, there is no document presented that shows whether the technical evaluation result had been communicated in writing to all participating bidders at the same time or not, whether there have been complaint against the result of the evaluation.

The same thing is for the financial evaluation process. There is no document presented that shows whether the technical evaluation result had been communicated in writing to all participating bidders and whether there have been complaint against the result of the evaluation and if the date of the opening of the financial documents was respected.

As the procurement directive 45.2/ states, “The Public Body shall communicate the result of the technical evaluation in writing to all bidders at the same time.”

Furthermore, the directive 45.2/d states, “A Public Body may open the envelopes containing the financial proposals after 5 working days from the date of notification of the result of the technical evaluation to the bidders.”

Furthermore, as the opening day of the bid was on 28/09/2014, there was a long period of time (210 days from bid opening day) between the opening date and the award date of the contract to the

successful bidder, which was on 16/04/2015. As there is no document presented for this case also, it is not clear why the awarding process took such a long time.

Such type of inconsistency and delays will cast doubts on the Transparency of the bid evaluation process and will cause unnecessary inconveniences on the bid participants. It is to be recalled also that the bid participants raised the delay in result as a problem, during the bid-opening day.

6.1.3.5. Objectivity of the tender evaluation and the award criteria.

As stated previously, The PE did not use the correct standard bidding document for that particular time, i.e. **The standard bidding document (SDB) for procurement of works (August 2011)**. However, **the AP continued with the analysis process with the understanding that the assurance processes has to continue with the available document.**

According to the bid document section 3 (Evaluation and qualification criteria) the PE used a two-stage procedure for the evaluation of the bid. The technical evaluation being completed prior to any financial evaluation. Bidders should score above 70% out of 100 to pass to the next stage, which is the financial evaluation stage. In the financial stage, Bidder who passed to the financial stage and offered the least price will be the winner.

The PE distributed the technical qualification marking :-General experience 40%, proposed methodology 8%, proposed manpower 20%, proposed construction plant and equipment 15%, working capital 17%. These points were further divided and distributed into further subdivisions.

The PE has indicted the above Evaluation and Qualification Criteria (EQC), in detail, in the then section 3 of the bidding document. This is to ensure that the evaluation is fair and treats all Bidders in the same manner.

The AP believes, apart from not using the proper bidding document of August 2011, the evaluation and the award criteria is well prepared and well distributed to subdivisions. The points were given and distributed as far as possible, to measurable criteria, which helps to avoid subjective decisions.

6.1.3.6. Competitiveness of the award price

The minutes for the financial evaluation indicate that the evaluation committee had compared the awarded bid offer with the engineering estimate and had concluded that the offer is comparable. The indorsing committee also checked the price with other classroom building project of a similar plan that the PE was conducting. The committee found the new offer to be lesser than that of the existing classroom building.

In the event of the absence of the original engineering estimate document and as the number of bidders participated in the final financial evaluation process are three. It might be fair to take the average of their offer to compare the result with the award price to have an idea of the competitiveness of the offer.

Referring to the tender evaluation document for financial offer, the average value of the three bidders is 17,349,922.86. Considering the effort the PE put to check the offer with other projects and the engineer's estimate and comparing the average amount to the award price, which is Birr 16,561,837.39 we might conclude that the award price is competitive.

6.1.3.7. OVERVIEW OF CONTRACT MILESTONES : ORIGINAL SCOPE, TIME AND COST

In the absence of the document for project inception study as it is not presented, the AP cannot give an overview of the scope, time and cost milestones of the project.

6.2. DISCLOSURE OF CONTRACT INFORMATION

6.2.1. OVERVIEW OF THE CONTRACT

After the signing of the works contract with Solomon Abiye Building Contractor, with a contract amount of ETB 16,561,837.40 including VAT and contract duration of 365 Calendar Days. The contractor took the site on 29/04/15 (21/08/07 EC), and after completing the construction work provisionally transferred back the project to the PE on November 14 /2016.

The construction cost according to the agreement was 16,561,837.4 (sixteen million five hundred sixty one thousand eight hundred thirty seven and four cents). Which at the end of the construction rose to 19,645,292.83 (nineteen million six hundred forty five two hundred ninety two and 83 cents) due to:-

1. A variation caused by the addition of a retaining wall, which according to consultant was necessary, because the consultant realized as the construction commenced, that the soil due to the topography of the site has to be supported so it will not fall or slide on the building.
2. The other is due to, according to the consultant, "some work items in the bill of quantities were estimated lesser that the actually should have been".

The increase due to the site condition could have been avoided if the design had considered the site design was made or readjusted according to actual site condition or surveying data.

The increase due to the exceeding in quantity, could have also been avoided had the quantities of project were taken off properly.

Pursuant to The special condition of contract, the project's commencement date is 10 days after site hand over thus the commencement date is on 09/05/15 (01/09/07 EC).

There are Changes in contract duration also, which according to the consultant were caused by three different reasons. These are the issues related to boundary and site changes, late handover of new site and metrological condition. The additional time duration approved for the project was 120 days and the completion date was revised to August 19/2016.

6.2.2. VERIFICATION OF THE DISCLOSED CONTRACT INFORMATION

6.2.2.1. COMPLETENESS OF THE DISCLOSED CONTRACT INFORMATION.

The complete availability of all relevant documents of the works contract will determine the completeness of the disclosed contract information. Documents such as the agreement contract, variation orders, and time extension request approval documents and payment certificates are available. Thus the AP believes that the disclosed contract information is complete.

6.2.2.2. ACCURACY OF THE DISCLOSED PROCUREMENT INFORMATION.

To make sure that the disclosed procurement information is accurate, the AP had tried to collect documents from both the PE and The consulting firm MH Engineering PLC by indicting the required documents. Even though there are some documents not presented the AP has succeeded in collecting most of the documents for the works contract and in comparing them for their accuracy. Thus, unless for those documents that were not presented the AP was able compare and insure the accuracy of the disclosed contract information.

6.2.3. ANALYSIS OF THE DISCLOSED CONTRACT INFORMATION

6.2.3.1. ISSUES RELATED TO CONTRACT PRICE

- Changes as compared to the original contract price including VAT

Original contract price.	ETB 16,561,837.4
Variation order No one.ETB 517,067.15
Variation order No two.	ETB <u>2,951,346.98</u>
Total of variations ETB 3,468,414.13	

The Total change in contract price due to variation is 20.94 % of the project price

Variation order number 1.

According to the consultant, variation order No 1 Was necessary “Due to the topography causes the class room project requires a retaining wall.” (ref No. MHE/217/16 dated 14/01/2016).

Such kind of structures are needed when the site has slop and the soil had to be supported so it will not fall or slide on the building structure.

Variation order number 2.

According to the consultant, variation order No 2 was necessary as “some work items in the bill of quantities were estimated lesser than they actually should have been. Specially the sub structure works were considered and estimated for one block in the BoQ”

Finally, the PE has approved and accepted both variations.

Concerning variation order number one:-

- It is not clear why the consultant did not include the retaining structure during the design stage or right from the beginning.

The AP believes that any design work should include the “Site Investigation Reports “and surveying data of the plot were the building is supposed to rest on, So that one can determine the topography of the site among other things. The survey of the site will show the designer how he should place the building on the plot, with respect to the slop among other things and if there should be a retaining wall or not, where it should be placed and so on.

Accordingly, the consultant at the design stage should have included the retaining structure in the bid document. This might have avoided the extra cost and time caused by the variation order.

It is might be better for the PE to always check the final design documents of a project for completeness and should also understand and inquire for every detail.

Concerning variation order number two “exceeding quantity”:-

This also is a case of incomplete design or document preparation (BoQ) and the PE not following up and checking the bid documents and design properly.

The consultant at the design stage has to prepare a complete design and the PE should check every document for completeness. This might have avoided the extra cost and time caused by the variation order.

6.2.3.2. ISSUES RELATED TO CONTRACT DURATION

Changes of contract duration as compared to the original contract duration

- The total contract duration of the project was 365 calendar days.

- Additional time duration approved by the consultant for the project is 120 days “calendar”
- The new duration of the project is 485 calendar days.

The contract duration of the project was 365 days and the site handover was conducted on 29/04/15 (21/08/07 EC). According to the contract agreement special condition of contract the project commenced on 09/05/15 (01/09/07).

According to the consultant’s document, the contractor requested for time extension on 07/04/2016 with a letter reference number SABCD/34/16.the consultant approved the request on May 23/2016 and with a letter reference number MHE/UCBP/391/16.

The consultant approved the time extension request according to the following detail:-

1) Due to issues related to boundary and site changes	40 days
2) Late handover of new site	12 days
3) Metrological condition	90 days
Where Overlapping days are Deducted	<u>0 days</u>
Total additional time.....	<u>120days</u>

Time extension justification due to “adverse weather condition”

According to the time extension approval document, the reasons for the time extension approval of the third item (metrological condition) are rainy days. The consultant used metrological data to show that 90 days were rainy and time extension request for rainy days is appropriate. However, the contract agreement shows the contract duration is in calendar days not in sunny days. Neither the agreement nor the general condition of contract show time extension should be allowed for rainy days. The general condition of contract article 44, which states Compensation Events, does not include such a case. It is well known that rainy seasons are expected and are predictable in a calendar year. **Thus, the AP believes that there was no condition in the contract which allows or supports the consultant/engineer to grant time extension for rainy days.**

The other thing is, it might not be fair to consider full day as rainy day, as if nothing had been executed on that day. It is not shown if the consultant had taken these conditions into consideration.

Furthermore, even if there was an item in the contract, which allows the consideration of time extension for rainy days, the contractor’s program should also be checked to have an idea if and by how much rain had an effect on the particular job that the contractor planned to do on those days. It is also necessary to check if the contractor did not do any work on those days and if there were executed works during those days, then the time spent for those jobs should be deducted from the time extension request.

There is another issue that can be disputed about the extension time. The consultant approved the request for time extension on May 23/2016 with a letter ref No MHE/UCBP/391/16. On the same later the consultant showed that the revised completion day will be August 19/2016. However, the project completion day was on November 14/2016. Thus, it is not clear if there was another time extension approved for the extended time between August 19/2016 and November 14/2016 as there is no document presented.

6.2.3.3. ISSUES RELATED TO CONTRACT SCOPE

The presented documents have revealed that no significant changes have been made with regard to the scope.

7. CONDITIONS OF SAFETY PROVISIONS

The AP believes that it would be better if there can be some safety measure taken in around the project site So that people can be protected from unexpected fatalities.

The most common fatalities are caused by the fatal four: falls, being struck by an object, electrocutions, and being caught in between two objects. Therefore, it would be good if some steps were taken as the site is situated where many people move around it. One major incident involving the students living in the campus or any other person who entered the site may cause a major problem.

Therefore, one of the major steps should be delineation and fencing of the external border of the site and clearly marking it in order to keep away-unauthorized persons and to protect the public from site hazards. The others are:-

- Safe means of access to and egress from all workplaces.
- Signs and signals that convey the required cautionary messages.
- The building should be covered so that dust and other material will not spread in to the surrounding.
- Use of Personal Protective Clothing and Protective Equipment, Protective Clothing
- Persons working at elevated workplaces and other work places more than 2 meters in height should be protected by means of safety belts or other equivalent protection devices;

8. CONCLUSION AND RECOMMENDATION TO THE MSG

8.1. Conclusion

8.1.1. Findings of the assurance process

- According to the available documents, the PE, in spite of the proclamation for procurement, awarded the design service contract directly to a consultant without conducting open bidding procurement procedure.
- According to the available documents, the PE, in spite of the proclamation for procurement, awarded the supervision and contract administration contract directly to a consultant without conducting open bidding procurement procedure.
- The PE in spite of the proclamation for procurement is not maintaining records of procurements listed in article 23 of the proclamation and other pertinent documents.
- The procuring Entity should be advised to use up to date standard bidding document (SDB) for procurement of works, this can be done by checking the P.P.P.A web site or by consulting the P.P.P.A office.
- There is no Document presented that shows that the PE had checked if bidders are registered suppliers.
- The PE should use Bid opening manual and other manuals i.e. Manual for Minutes on the public opening of bids, that is available in the Public Procurement Manual, December 2011 during bid process.
- There is Long period of time (213 days from bid opening day) between the opening date and the award date of the contract to the successful bidder.
- Lack of Proper and complete design work especially the building design with respect to the condition and topography of the site during the design stage created a variation order for additional retaining structure, which incurred the PE unexpected additional cost.
- Furthermore, Lack of completeness, with respect to document preparation of BOQ and takeoff, incurred the PE unexpected additional cost.
- The PE has granted time extension for conditions that were not, according to the agreement and condition of contract, **compensable**. That is the consultant granted time extension of 90 days for rainy days, which were not compensable.
- Furthermore, it is not clear if there was another time extension approved for 85 calendar days which is the extended time between August 19 /2016 and November 14 /2016 (provisional acceptance day), as there is no document presented.

- The Final acceptance should have been completed on November 14/2017 but there is no document presented that shows if the Final acceptance had been conducted.

Furthermore, The PE shall make available the following Documents for further review:

- Environmental Impact assessment report.
- Land and settlement impact assessment report.
- Design and Supervision and contract administration agreements (full document with scope, duration, and cost), any change to the agreements, design reports and their completion time according to the agreement and the actual completion time, supporting documents to justify the direct assignment of the contracts.
- Payments issued for design and contract administration service.
- Document or print out showing if the bid announcement was released on the PPPA web site.
- Names and number of bidders who purchased the construction bid documents. (Not indicated on bid opening and bid evaluation documents).
- Engineering Cost Estimate (not indicated on bid opening and bid evaluation documents).
- Content of any complaint lodged on bid evaluation result. (Not indicated on bid opening and bid evaluation documents).
- Construction Payment documents
- accidents record (accident & death)

9. Glossary

“Bid” means a stage in the procurement process extending from advertisement of or invitation to bid up to signing of contract.

"Bill of Quantities" means the document forming part of the Bid and containing an itemized breakdown of the works to be carried out in a unit price contract, indicating a quantity for each item and the corresponding unit price.

"Completion" means the fulfillment of a Contract.

"Contract Documents" means the documents listed in the **General Conditions of Contract**, including all attachments, appendices, and all documents incorporated by reference therein, and shall include any amendments thereto;

"Contractor" means a natural or juridical person under contract with a Public Body to supply works;

"General Conditions of Contract" means the general contractual provisions setting out the administrative, financial, legal and technical clauses governing the execution of the Contract.

"In writing" shall be interpreted to include any document, which is recorded in manuscript or typescript.

"Intended Completion Date" means is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is specified in the Special Conditions of Contract. Only the Engineer may revise the Intended Completion Date by issuing an extension of time or an acceleration order;

"Liquidated damages" means the compensation stated in the contract as being payable by Contractor to the Public Body for failure to perform the contract or part thereof within the periods under the contract, or as payable by Contractor to the Public Body for any specific breach identified in the contract;

“Proclamation” means the Ethiopian Federal Government Procurement and Property Administration Proclamation No. 649/2009.

"Special Conditions of Contract" means the conditions attached to the Contract Agreement, which shall govern the Contract and shall prevail over these General Conditions of Contract;

"Standard Bidding Document" means the document prepared by the Agency to serve as a point of reference in the preparation of bidding documents by Public Bodies.

"Works" mean all work associated with the construction, reconstruction, upgrading, demolition, repair, renovation of a building, road, or structure, as well as services incidental to works, if the value of those services does not exceed that of works themselves;

10. Annex

10.1. Annex 1: Filled Infrastructure Data Standard (IDS)

DISCLOSURE OF PROCUREMENT & CONTRACT INFORMATION					
PHASE		ITEMS OF DISCLOSURE	CONSTRUCTION	DESIGN	SUPERVISION
PROCUREMENT INFORMATION	1	Date of disclosure	DNA	DNA	DNA
	2	Contract title	The construction of the of G+3 Class Room	DNA	DNA
	3	Location	Amhara region, south wollo Zone Dessie town, Wollo university. Dessie campus.		
	4	Procuring entity	Wollo University		
	5	Source for further information			
	6	Date of procurement notice	16/06/2006	DNA	DNA
	7	Floating period of the procurement notice	25	DNA	DNA
	8	Media used for procurement notice	Addis Zemen 73th No 346	DNA	DNA
	9	Method of Procurement	Open tender	DNA	DNA
	10	Type of Procurement	National competitive Bid	DNA	DNA
	11	Procurement Procedure	Open national tender procedure	DNA	DNA
	12	Evaluation criteria	(Technical and financial evaluation) two envelopes	DNA	DNA
	13	Type of contract & project delivery method	Admeasurements Contract	DNA	DNA
	14	Type and Amount of bid security	CPO, Cash or Bank guaranty/300,000	DNA	DNA
	15	content of any complaint lodged	DNA	DNA	DNA
	16	Engineer's estimate	DNA	DNA	DNA
	17	Date of bid opening	05/01/2007 EC 28/09/2014	DNA	DNA

18	Number of bidders: Participated, rejected and declined to submit	DNA	DNA	DNA
19	Awarded firm/contracting firm	Solomon Abiye Building Contractor.	DNA	DNA
20	Date of contract award	16/04/2015 (08/08/2007 EC)	DNA	DNA
21	Awarded price/contract price	16,561,837.40 Birr	DNA	DNA
22	Unit Contract price (price/km, price/Sq. meter)	DNA	NA	NA
23	Contract security type and amount	1,656,183.74 (10 % of contract price)	DNA	DNA
24	Date of contract signing	April 22/ 2015 (20/08/07)	DNA	DNA
25	Contract scope	The Construction of G+3 Class Rooms	DNA	DNA
26	Description of contract & Contract components	Construction of G+3 Class Rooms	DNA	DNA
27	Contract Administration entity	MH Engineering PLC	DNA	DNA
28	Contract duration	365	DNA	DNA
29	Contract start date	09/05/15 (01/09/07)	DNA	DNA
30	Intended Completion date	09/05/16 (01/09/08)	DNA	DNA

PHASE	CONTRACT INFORMATION	CONSTRUCTION CONTRACT	DESIGN CONTRACT	SUPERVISIO N CONTRACT	
CONTRACT IMPLEMENTATION	1	Contract status (on going (% progress), terminated , completed)	provisionally Completed	DNA	DNA
	2	Completion date (revised, projected, Actual)	Actual November 14/2016	DNA	DNA
	3	Changes to contract duration with reason	120	DNA	DNA
	4	Amount of liquidated damage if applied (penalty for delay)	NA	DNA	DNA
	5	Contract price (revised, projected, Actual)	16,561,837.40	DNA	DNA
	6	Changes to contract price with reason	19,823,656.84	DNA	DNA
	7	Scope to completion	Class Room G+3	DNA	DNA
	8	Changes to contract scope with reason	Class Room G+3 (with retaining wall)	DNA	DNA
	9	Total payment effected/ only 2.5% retention remaining	18,665,933.51/ 414,798.52	DNA	DNA
	10	Warranty type and description	Insurance (1,656,183.7)	DNA	DNA
	11	Details of termination if applied	NA	DNA	DNA
	12	Safety Measures (accident & death)	DNA	DNA	DNA
	13	Quality of work (very good, good, inferior, impossible to comment)			

PROJECT PHASE

[CoST - Ethiopia]

November 2018

PROJECT INFORMATION

		1	Date of disclosure		DNA
		2	Project owner		
	14	Disputed issues & award details		Wollo University	DNA
		3	Project name	The construction of the of G+3 Classroom Building	DNA
		4	Sector, Subsector	Building	
		5	Source for further information		
		6	Project Location	Amhara region south wollo Zone Dessie town, Wollo university Dessie campus	
		7	Purpose	Class Rooms (education)	
		8	Project description	Design, supervise, administer and build a G+3-class room building, to help the teaching and learning process of the university	
		9	Original Project Scope	The construction of the of G+3 Classroom Building	
		10	Project components	Design service /supervision and contract Administration /Works	
		11	Environmental Impact		DNA
		12	Land and settlement impact		DNA
		13	Estimated budget of the project with breakdown of components		DNA
		14	Funding sources	The government of the federal republic of Ethiopia	
		15	Project budget approval date		DNA
		16	Project start date (planned, actual)		DNA
		17	Planned / Original duration for completing the whole project		DNA
		18	Planned / Original cost of the project		DNA
		19	Cost of the project at completion.		DNA
		20	Changes of project cost with reason		DNA
		21	Project completion date (Revised, projected, actual)		DNA
		22	Actual duration for completing the whole project		DNA
		23	Changes of project duration with reason		DNA
		24	Project Scope at completion		DNA
		25	changes of project scope with reason	Wollo University G+3 Class Room Building project	44
		26	Reference to documents for		DNA

PRELIMINARY PROJECT INFORMATION

DNA – Document not available

NA – Not applicable