



ZIMBABWE ANTI-CORRUPTION COMMISSION

*Refuse, Resist and Report Corruption*

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**REPORT ON THE EXAMINATION OF  
PROCUREMENT PROCEDURES FOR TENDER  
NUMBER -INTERNATIONAL NAT ITCB FWWK  
04/2020- LABORATORY EQUIPMENT, REAGENTS  
AND CONSUMABLES FOR COVID-19  
MANAGEMENT AT NATPHARM,  
31<sup>ST</sup> AUGUST– 4 SEPTEMBER 2020**

**COMPLIANCE AND SYSTEMS AND PROCESSES DEPARTMENT**

**SEPTEMBER 2020**

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## **1. BACKGROUND**

The Zimbabwe Anti-Corruption Commission, as prescribed by Section 12 of the Anti-Corruption Commission Act (Chapter9:22) is mandated, amongst other functions, to monitor and examine the practices, systems and procurement procedures of the public and private institutions; to advise and assist agency or institution in the elimination of minimization of corruption; and to assist in the formulation of practices, systems and procurement procedures of public institutions with a view to the elimination of corrupt practices.

It is against this background that the Commission assigned Compliance and Systems Department to carry out a Compliance and Systems Spot Check Exercise on the procurement procedures for Tender Number– International NAT TCB FWWK 04/2020- laboratory equipment, reagents and consumables for COVID-19 at Natpharm. The exercise was necessitated by allegations raised in the anonymous letter to ZACC dated 18<sup>th</sup> August 2020 that Natpharm and Ministry of Health and Child Care did not follow proper procurement procedures for the procurement of laboratory equipment, reagents and consumables for COVID-19 management (tender reference number: INT NAT ITCB FWWK 04/2020).

## **2. OBJECTIVES**

The objectives of the exercise were to ascertain the allegations made in the anonymous letter, which were as follows:-

- a) The tender was awarded to a non-deserving company (Young Healthcare), whose products were sub-standard and do not meet World Health Organization and FDA specifications; and CE marked;
- b) The price quoted by Young International was higher than other competitors whose products were approved by WHO, FDA; and CE marked;

- c) Deputy Minister of Health and Child Care, Dr. Mangwiro convened a meeting with the adjudication team, where he queried the reasons why the team did not award the tender to Young HealthCare Limited. Members were threatened with dismissal;
- d) To examine the systems, procurement procedures and practices related to Tender Number : International NAT TCB FWWK 04/2020- laboratory equipment, reagents and consumables for COVID-19; and
- e) To come up with recommendations to plug loopholes and measures in view of the above allegations.

### **3. METHODOLOGY**

#### **1. Interviews**

Interviews with members of the adjudication team for the tender for laboratory equipment, reagents and consumables, were held to ascertain what transpired during the procurement process with a view of ascertaining the allegations, tracing the systems used, identify weaknesses and possible remedies. The individuals interviewed were the Acting Managing Director of Natpharm, officers from National Microbiology Reference Laboratories (NMRL) and the procurement officer at Natpharm.

#### **2. Documents Analysis**

In order to confirm some statements made by the interviewees, the team requested for a number of documents listed below:

- Tender documents for 04/2020;
- Summary Report of the tender; and
- Young HealthCare Limited company profile and communication with Natpharm and Ministry of Health and Child Care.

### **4. FINDINGS**

- 4.1 Non-Compliance with provisions of PRAZ Circular 1 of 2020, Public Finance Management Act [Chapter: 22:19] and the Public Entities

Corporate Governance Act [Chapter 10:31] by Ministry of Health and Child Care.

**4.1.1 Numerous directives from the Ministry of Health and Child Care (MoHCC), particularly Deputy Minister Dr. Mangwiro to Natpharm Management**

- (i) Procurement process of the tender 04/2020 was marred by directives from the Deputy Minister of Health and Child Care, Dr Mangwiro, resulting in delaying of the procurement. A letter from the then Acting Secretary of Health Dr. Mhlanga dated 15 July 2020, instructing Nat-Pharm to make direct procurement of supplies from Young Health Care (attached) was issued when the company was not registered with PRAZ. This is violation of some provisions of PRAZ Circular 1 of 2020 which stipulates that, only PRAZ listed suppliers are sources of COVID-19 supplies. When Natpharm insisted on competitive bidding, the tender process had to be postponed to allow Young Health Care Limited to register with PRAZ. This delayed the procurement of COVID-19 materials.

**(ii) The Deputy Minister has usurped the authority of the Permanent Secretary as the accounting Officer.**

The Deputy Minister does not have the powers and mandate to undertake administrative duties, which are the responsibility of the Permanent Secretary. The Deputy Minister reportedly issued numerous directives to the Nat-Pharm management throughout the tender process.

**4.1.2 Price-inflation by Young Health Care on Direct Procurement quotation (\$5 600 000)**

- Initial quotation by Young Health Care for supply of commodities under direct procurement, where prices quoted by Young Health Care Limited were exorbitant amounting to USD\$5 600 000-00, which was coincidentally the same amount that was in the Ministry coffers, suggesting that the company had inside information.
- When Nat-Pharm insisted on competitive bidding, Young Health Care Limited subsequently submitted a bid price of USD\$ 3 600 000-00 for the same items. This saw a reduction of 36% in the price. (see attached two quotations).

4.1.3 **Interference with the bidding process by the Deputy Minister of Health and Child Care, Dr. Mangwiro. (see attached report from Natpharm).**

Natpharm settled for competitive bidding, which saw other bidders coming on board to compete with Young Health Care. The tender was eventually floated on the 5<sup>th</sup> of August and closed 7<sup>th</sup> of August 2020, in line with PRAZ Circular 1 of 2020 which provides for emergency procurement, allowing tenders to be floated for 48hrs instead of 40 working days under normal circumstances. A total of 22 bidders participated. The adjudication of the tender started from the 8<sup>th</sup> to 10<sup>th</sup> of August 2020 and resumed from the 13<sup>th</sup> and 14<sup>th</sup> of August 2020.

4.1.4 The results of the winners were announced except for tender item 24, 25 and 26 which are yet to be concluded to allow further technical evaluation of the samples from bidders.

4.1.5 Natpharm Acting MD reported that he received a phone call from the Deputy Minister instructing him to convene with his adjudication team during odd hours to explain why the tender was not awarded to

Young Healthcare Limited. The Deputy Minister also demanded that a purchase order be issued that same night. The adjudication team was picked from their homes around 2200 hours and were interrogated by the Deputy Minister until early hours of the following day.(see attached report) The Deputy Minister threatened the team with dismissal for failing to award Young Health Care the contracts.

**4.1.6 Violation of the terms and conditions of Supply Contract by Young Healthcare Limited and the Deputy Minister**

- (i). Young Health Care Limited was genuinely awarded the contract to supply nucleic acid and purification machines, transport media and reagents. To date, Natpharm has received supplies worth US\$124 630, 40 as follows:

**Young Healthcare Deliveries on the 31<sup>st</sup> of August 2020**

<b>Item</b>	<b>Quantity Ordered</b>	<b>Quantity Received</b>	<b>%</b>
Purification machines	4	2	50
Nucleic Acid	220 000	13 824	6.3
Transport Media	220 000	14 000	6.4

**Source: Natpharm**

Young Health Care Limited managed to deliver a paltry 6% of Nucleic Acid and another 6% of Transport Media but went on to request prepayment for the awarded contract, including undelivered supplies ( see attached request), contrary to the terms and conditions of the contract signed with Nat-Pharm, which stipulates that payment should be made 7 days after delivery.(post-payment)

- (ii) The Deputy Minister of Health and Child Care, Dr. Mangwiro reportedly insisted on pre-payment and tasked the technical team from laboratory and Natpharm procurement to visit Young Health Care Limited in their country office and verify available stock ( see letter dated 25<sup>th</sup> August 2020) in order to compel the Natpharm Acting MD to make a prepayment to Young Health Care Limited. Such actions violated the

evaluation process since the technical team did not have the mandate to carry out the verification of supplies.

Natpharm Acting MD wrote a letter on the 26<sup>th</sup> of August 2020 (attached) to the Permanent Secretary for Health and Child Care informing him of the pre-payment issue and seeking guidance on how to proceed. However, there was no response from the Ministry, prompting the Acting MD to decline taking the Deputy Minister's instruction to pre-pay Young Health Care and he referred him to the signed contract (attached). Verification team noted that items amounting to US\$127,643.20 were in-stock instead of US\$922, 000.00 requested for prepayment.

## **5. RECOMMENDATIONS**

- 5.1 Given the extent to which the Deputy Minister was involved in the said tender process, indications are that he was acting on his own capacity and not on behalf of the Ministry. The actions of the Deputy Minister signal a personal interest in the tender and this should have prompted him to declare his interest.
- 5.2 The conduct of the Minister during this tender process warrants further investigations for Criminal Abuse of Office for possible violation of Section 174 of the Criminal Law Codification Act [Chapter 9:23]. Apart from this provision, further investigations should be conducted to ascertain possible violation of Section 14 of the Public Finance Management Act [Chapter 22:19] by the Deputy Minister through giving ministerial directives having financial implications when he demanded prepayment of undelivered goods to Young Health Care.
- 5.3 There is need for further investigations into the possible violation of the Public Procurement and Disposal of Public Assets Act [Chapter 22:23] as



the conduct of the Deputy Minister might have compromised the independence of Natpharm as a procurement entity.

- 5.4 The Commission should closely follow the re-floated tender laboratory equipment, reagents and consumables for COVID-19 to ensure competitive bidding and that undeserving bidders are not awarded the contracts.
- 5.5 Best practices and good corporate governance should always be applied during procurement processes. Officials who are appointed to carry out procurement process should be allowed to do so independently without interference.
- 5.6 Investigations into possible violation of the Cabinet Directive that granted Natpharm exclusive powers for procurement of Covid 19 materials.

## **6. CONCLUSIONS**

- (i) The timeous intervention by the Commission has resulted in the cancellation of the controversial tender awarded to Young Health Care Limited, thus saving the nation from a potential loss of USD\$2million, had the tender been awarded.
- (ii) The Systems and Review Team recommendation - for cancellation of the tender- has however been pre-empted by NatPharm`s decision to cancel the tender. The Team is satisfied with this positive outcome which signals the importance of conducting such spot checks.

## **7. CLIENT'S COMMENTS ON RECOMMENDATIONS**

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**8. IMPLEMENTATION OF RECOMMENDATIONS**

The implementation of these recommendations should be immediate considering the urgency of the matter.

**11. MONITORING AND EVALUATION**

The Commission should monitor the bidding process of the re-floated tender to be carried out in two weeks time.

## **11. ANNEXURES**

**A. Anonymous to ZACC dated 18 August 2020**

**B. Framework Agreement Reference Number** :International NAT TCB  
FWWK 04/2020- Laboratory Equipment, Reagents and Consumables for  
COVID-19 at Natpharm

**C. Summary Report of the tender** ( official communication from  
Ministry, Young Healthcare Limited and Natpharm); and

**D.** Young HealthCare Limited company profile