

**THE REPUBLIC OF UGANDA  
PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS APPEALS  
TRIBUNAL**

**APPLICATION NO. 21 OF 2025**

**BETWEEN**

**KRYSTAL CONCEPT LIMITED:..... APPLICANT**

**AND**

**UGANDA COMMUNICATIONS COMMISSION :..... RESPONDENT**

**APPLICATION FOR REVIEW IN RESPECT OF THE PROCUREMENT  
FOR PROVISION OF CANTEEN SERVICES FOR UCC STAFF FOR A  
PERIOD OF 12 MONTHS (RENEWABLE) UNDER PROCUREMENT  
REFERENCE NUMBER: UCC/NCONS/24-25/00166.**

**BEFORE: FRANCIS GIMARA SC,CHAIRPERSON; NELSON NERIMA,  
GEOFFREY NUWAGIRA KAKIRA, PAUL KALUMBA, CHARITY  
KYARISIIMA, KETO KAYEMBA, ENG. CYRUS TITUS AOMU; MEMBERS**

## DECISION OF THE TRIBUNAL

### **A. BRIEF FACTS**

1. Uganda Communications Commission (the "Respondent") initiated a procurement on April 15, 2025, for the provision of canteen services for UCC staff for a period of 12 months (renewable) using a restricted domestic bidding procurement method under procurement reference number: UCC/NCONS/24-25/00166. Ten potential bidders were invited to submit bids.
2. On May 1, 2025, the Respondent received bids from six (6) bidders, namely; *Omuka Restaurant Limited, Lucky Foods Limited, Amazima Restaurant Ltd, Classic Baking and Catering Uganda, Twin Tower Hotel, and Kystal Concepts Ltd* (the Applicant).
3. After the evaluation process was completed, the Respondent issued a Notice of Best Evaluated Bidder on July 21, 2025, stating that ***Omuka Restaurant Limited*** was the top bidder with a total contract price of UGX 19,000/= per plate VAT included.
4. On July 29, 2025, the Applicant, through its legal representatives Muwema & Co. Advocates, formally notified the Respondent's Accounting Officer of their intention to appeal the Respondent's decision to the Public Procurement and Disposal of Public Assets (PPDA) Appeals Tribunal.
5. The Applicant filed the instant Application on August 7, 2025, before the Tribunal to review the Respondent's decision.

## **B. CASE MANAGEMENT**

1. At the hearing, the Applicant's counsel informed the Tribunal that by a letter dated 20 August 2025 addressed to the Registrar, they sought an adjournment of the Tribunal hearing to Monday, 25 August 2025 at 2:30 PM, because they had only received the Respondent's reply on 19 August, 2025 contrary to Tribunal direction and that counsel in conduct of this instant Application had a prior matter pending in the Commercial Court. Although the Registrar denied the adjournment in writing, the Applicant's Counsel again presented to the Tribunal that he was in the corridors of the Commercial Division of court, having requested the presiding judicial officer at the High Court to stand over his matter briefly, and accordingly urged the Tribunal to overrule the Registrar's decision and grant the adjournment.
2. Counsel for the Respondent opposed the adjournment request, arguing that the Response to the Application had been filed in the Tribunal and served on the Applicant on August 18, 2025. Yet, the Applicant had neither filed written submissions nor taken steps to defend the case despite being issued with a hearing notice. The Respondent's Counsel further contended that the Applicant's counsel only raised the adjournment request on the hearing date without disclosing particulars of the alleged matter before the Commercial Court. The Respondent's counsel also submitted that they would be unable to attend on Monday, August 25, 2025, as they would be engaged the whole day before the Specialized Standards and Utilities Court, and therefore prayed that the adjournment request be denied and the matter proceed as scheduled.

3. The Tribunal, in an *ex tempore* ruling, held that under section 115(4) of the *Public Procurement and Disposal of Public Assets Act, Cap 205*, it must decide applications within fifteen working days, and it is the Applicant's duty to prosecute its case. The Applicant could not rely on the alleged late service of the Respondent's reply to justify the delay, especially where the Applicant had not filed submissions. However, to ensure fairness within the strict timelines, the Tribunal directed the Applicant to file submissions by midnight of August 20, 2025, the Respondent to file any written response by 5:00 p.m. on August 21, 2025, and the Applicant to file any rejoinder by 10:00 a.m. on August 22, 2025, after which the Tribunal would deliver its decision on August 26, 2025.
4. Accordingly, both parties complied with the directions issued by the Tribunal at the time of writing this decision.

**C. SUBMISSIONS**

The Tribunal has relied on the written submissions of both parties, responses and oral arguments made before the Tribunal.

Applicant

1. The Applicant electronically filed its written submission with the Registrar on August 20, 2025, at 7:05 p.m.
2. The Applicant argued that the Accounting Officer erred in law and fact by failing to investigate its complaint regarding the evaluation stage of procurement Ref. UCC/NCONS/24-25/0016, contrary to section 28(1)(j) of the PPDA Act, which mandates Accounting Officers to investigate complaints, and section 48,

which requires procurement to be conducted with transparency, accountability, and fairness.

3. Relying on *Kercon Prosper v Attorney General & 3 Others*, Misc. Cause No. 308 of 2017, the Applicant submitted that the refusal amounted to procedural impropriety, as it constituted a failure to observe statutory duties and the principles of natural justice, thereby undermining the fairness and integrity of the procurement process.
4. The Applicant contended that the Respondent's Accounting Officer erred in law and fact by upholding the Evaluation Committee's decision to disqualify its bid for failure to submit a KCCA/Municipal public health facility food handlers' testing certificate, arguing that such omission did not amount to a material deviation under Regulation 7(4) of the PPDA (Evaluation) Regulations, 2023. The Applicant maintained that the Accounting Officer ought to have considered the internationally recognized quality control ISO certificates it submitted, which demonstrate compliance with industry standards in the catering sector, and that under Regulation 6, the Evaluation Committee could have sought clarification rather than disqualifying the bid, since the omission did not substantially affect the scope, quality, or performance of the contract.
5. The Applicant argued that the Accounting Officer erred in law by neglecting his duty to request bidders to extend the bid validity period after the Applicant had lodged a complaint for administrative review under procurement cycle Ref. UCC/NCONS/24-25/0016. Relying on Regulation 62(4) and (5) of the PPDA (Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services), the Applicant maintained that while a procuring entity cannot ordinarily request an extension, it is mandatory to do so where an extension becomes

necessary. The Applicant submitted that such a necessity arose once its complaint was filed, and the Accounting Officer's failure to act accordingly rendered the process procedurally flawed.

6. The Applicant then prayed for the Application to be allowed and the prayers it sought to be granted.

Respondent

1. The Respondent adopted its Response filed on August 18, 2025, and its written submissions electronically filed on August 21 2025 and prayed that the Application be dismissed with costs.
2. **Preliminary Objection – Locus Standi.** The Respondent raised a preliminary objection questioning whether the matter is properly before the Tribunal, contending that the Applicant lacks locus standi. That Locus standi requires a party to have a right to appear and be heard in the proceedings. Under Section 115(1) of the PPDA Act, only an aggrieved bidder, a person whose rights are adversely affected by an Accounting Officer's decision, or a bidder alleging a conflict of interest may apply to the Tribunal. The Respondent argued that the Applicant prematurely filed its appeal without first seeking administrative review, in violation of the PPDA (Administrative Review) Regulations, 2023, and therefore does not fall within the statutory categories for standing, citing prior Tribunal decisions including *Trio Consultants Ltd v UNRA* Application No. 33 of 2024 and *Salongo Matovu v UNRA* Application No. 3 of 2025.
3. **Failure to Investigate Procurement Principles.** The Respondent contended that the Accounting Officer did not err in law or fact by allegedly failing to investigate the procurement process under Ref. UCC/NCONS/24-25/0016. The Applicant's letter of 29 July 2025 was merely a notice of intention to appeal, not a formal administrative review request as required by

Regulation 2 of the PPDA (Administrative Review) Regulations, 2023. Consequently, the Accounting Officer was not afforded an opportunity to consider the merits of any complaint or investigate the evaluation process. The Respondent submitted that the Applicant's premature filing denied the Accounting Officer the procedural chance to review the procurement.

4. **ISO Certificates and Material Deviations.** The Respondent argued that the Accounting Officer did not err by disregarding the Applicant's ISO certificates, as the bidding documents specifically required KCCA or equivalent municipal public health certificates for food handlers. ISO certification, while internationally recognized, does not substitute for the mandated medical fitness certification of individual staff, which was central to the procurement's technical requirements. The failure to submit the KCCA or municipal certificates constituted a material deviation, rendering the Applicant's bid non-responsive. Accordingly, the Accounting Officer's decision to disqualify the bid was consistent with the mandatory technical specifications.
5. **Bid Validity and Procedural Compliance.** Finally, the Respondent argued that it was not their duty to request an extension of bid validity because the Applicant did not file a complaint for administrative review. Instead, the Applicant issued a notice of intention to appeal after the bid had already expired on July 28, 2025. According to Regulation 62 of the PPDA (Rules and Methods for Procurement of Supplies, Works, and Non-Consultancy Services) Regulations 2023, a bidder can extend its bid validity at its own discretion, but the Applicant did not make such a request. The Tribunal's previous decision in *Kazini Frederick v PPDA, Application No. 16 of 2025*, confirms that the procurement process ends once bid validity expires. Therefore, the Applicant's claim that the Accounting Officer erred by not requesting an extension is unfounded.

#### **D. THE ORAL HEARING**

The Tribunal held an oral hearing via Zoom software on August 20, 2025. The appearances were as follows:

1. **Andrew Oluka** from Muwema & Co.Kizito Advocates and Solicitors as counsel for the Applicant. There was no representative from the Applicant
2. **Rita Zaramba Sekadde**, the Manager Litigation and Prosecution, as counsel for the Respondent. In attendance were **Emmy Moses Karuhanga**, the Head of the Procurement and Disposal Unit; **Gerald Musinguzi**, the Procurement Manager; **and Issa Batte**, a Procurement Officer.

#### **E. RESOLUTION BY THE TRIBUNAL**

##### **Issues**

The Application raised three issues for determination, which the Tribunal has reframed as follows:

- 1) *Whether the instant Application is competent before the Tribunal*
- 2) *Whether the Accounting Officer of the Respondent erred in law and fact by failing to investigate whether the fundamental principles of procurement, specifically transparency, accountability, and fairness, were adhered to during the evaluation of the Applicant's bid?*
- 3) *Whether the Accounting Officer of the Respondent erred in law and fact by failing to consider the Applicant's internationally recognized ISO quality control certificates during the evaluation of its bid?*



- 4) *Whether the Respondent's Accounting Officer erred in law and fact by neglecting to request bidders to extend their bid validity period after the Applicant filed a complaint for administrative review?*
- 5) *What remedies are available to the parties*

**Issue No. 1:**

**Whether there is a competent Application for determination before the Tribunal?**

**Locus Standi**

1. Under section 115(1)(a)–(c) of the *Public Procurement and Disposal of Public Assets Act, Cap 205*, a bidder can file an application to this Tribunal in three instances:
  - a) where the bidder is dissatisfied with an administrative review decision of the Accounting Officer under section 106 (7);
  - b) where the Accounting officer fails to make and communicate a decision on the bidder's administrative review complaint within ten days as required under section 106 (7);
  - c) where the bidder applies directly to the Tribunal if the Accounting Officer has a conflict of interest.
2. The Applicant contended that, being dissatisfied with the evaluation committee's decision, it engaged the Respondent's Accounting Officer to challenge the evaluation process. Furthermore, the Applicant claimed that the Accounting Officer informally dismissed its complaint, thereby upholding the evaluation committee's decision. See paras (i) and (h) on page 3 of the Application.
3. At the hearing, the Applicant's Counsel admitted that the Applicant had not submitted a formal written complaint to the Respondent's Accounting Officer, but had instead raised its concerns informally during a meeting with the Accounting Officer.

4. Pursuant to section 106(3)(a) of the *Public Procurement and Disposal of Public Assets Act, Cap 205*, and Regulation 4(1) of the *Public Procurement and Disposal of Public Assets (Administrative Review) Regulations, 2023*, an aggrieved bidder is required to submit a written complaint to the Accounting Officer of the procuring and disposing entity.
5. Instruction to Bidders clause 1.3 (a) of the bidding document on page 4 defines the term in **writing** to mean communicated in written form with proof of receipt.
6. It is our finding that the Applicant did not submit a written complaint to the Respondent's Accounting Officer, nor did the Applicant provide any proof of issuing such a complaint. Instead, the Applicant engaged in informal discussions with the Respondent's Accounting Officer, a practice neither stipulated by law nor by the bidding documents. Consequently, there was no formal complaint upon which the Accounting Officer could act under section 106(7) of the *Public Procurement and Disposal of Public Assets Act, Cap 205*.
7. Given that the Applicant failed to initiate a formal administrative review process and did not allege any conflict of interest, the application filed directly with the Tribunal is incurably defective and, therefore, incompetent. The Tribunal cannot exercise jurisdiction over matters that have not been properly brought before it in accordance with the established legal procedures. See section 115(1)(a)–(c) of the *Public Procurement and Disposal of Public Assets Act, Cap 205*; *Application No. 6 of 2023, Apple Properties Limited vs Uganda Human Rights Commission*; and *Application No. 15 of 2021, Beautiful Engineering Equipment*

*Limited vs Uganda Electricity Transmission Company Limited.* The Applicant has no locus standi.

8. The Tribunal cannot, therefore, exercise jurisdiction in the instant Application where the applicant lacks locus standi.

#### **Bid Expiry**

9. If an extension of the bid validity period becomes essential, an entity must formally request a bidder to extend the validity of its bid for a specific period to allow completion of the necessary procurement steps (such as evaluation, post-qualification, negotiation, and approvals). See regulation 62(4) and (5) of the *Public Procurement and Disposal of Public Assets (Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services) Regulations, 2023*.
10. If the procuring and disposing entity does not request an extension and the bid validity period is about to expire before the procurement process is finalized, a bidder may, at their own discretion, proactively extend the bid validity period to ensure the bid remains valid. See regulation 62(6) of the *Public Procurement and Disposal of Public Assets (Rules and Methods for Procurement of Supplies, Works, and Non-Consultancy Services) Regulations, 2023*.
11. Further, upon receiving a complaint, the Accounting Officer is obligated to immediately halt the procurement or disposal process and if the bid validity period is due to expire before a decision can be made, to promptly ask the bidders, in writing and before the expiry, to extend both their bid validity for the duration of the suspension. See section 106(6) of the *Public Procurement and Disposal of Public Assets Act, Cap 205*, and

regulation 5(2) of the *Public Procurement and Disposal of Public Assets (Administrative Review) Regulations, 2023*.

12. In paragraphs 2.3(b) and 2.4(c) on page 2 of the Application, the Applicant states that the bid validity period for the procurement was set to expire on July 28, 2025. The Applicant also argues that, after submitting its complaint, the Respondent's Accounting Officer did not formally request an extension of the bid validity. As a result, the bids expired and lapsed.
13. Expiry of a bid validity is a matter of law. Once the bid validity expires, the procurement process ends for the affected bidder(s). Any Application based on an expired bid is incompetent. See ***Application No. 44 of 2024- Meera Investment Limited Vs. National Lotteries and Gaming Regulatory Board & Riverstone Africa Ltd/Grand Capital Reality***, and ***Twed Property Development Limited vs. PPDA, Application No. 9 of 2015***
14. Having found that the Applicant failed to submit a written complaint to the Respondent's Accounting Officer, there was no legal basis for the Accounting Officer to request an extension of bid validity under Section 106(6) of the *Public Procurement and Disposal of Public Assets Act, Cap 205*. Moreover, the Applicant did not voluntarily extend the bid validity under Regulation 62(6) of the *Public Procurement and Disposal of Public Assets (Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services) Regulations, 2023*.
15. As a result, the Applicant's bid expired on 28 July 2025, ending its participation in the impugned procurement on that date. By the time the instant application was filed before the Tribunal on 7 August 2025, the Applicant was no longer a valid bidder and had no locus to bring an application before the Tribunal under

section 115 (1)(a) and (c) of the *Public Procurement and Disposal of Public Assets Act, Cap 205*.

16. Section 115(1)(b) of the *Public Procurement and Disposal of Public Assets Act (Cap. 205)* does not aid the Applicant's case. A bidder who actually participated in the impugned procurement cannot later reclassify as a “*person whose rights are adversely affected*” simply to gain standing before the Tribunal under that provision. This principle has been upheld by the High Court in ***Mbarara City & Anor v Obon Infrastructure Development JV (Civil Appeal No 45 of 2021)*** and the Tribunal in Application ***No.5 of 2024 Tijos Investment Ltd vs Lira City Council and Application no. 6 of 2023 Apple Properties Limited v Uganda Human Rights Commission***, where the High Court and Tribunal rejected attempts by bidders to shift their legal identity in pursuit of locus standi.
17. The Applicant has no locus before the Tribunal, and in the circumstances, we shall not delve into the merits of the Application.
18. **Issue no. 1 is resolved in the negative.**

**F. DISPOSITION**

1. The Application is struck out.
2. The Tribunal's suspension order dated August 7, 2025, is vacated.
3. Each party shall bear its own costs.

Dated at Kampala, this **26<sup>th</sup>** day of **August, 2025**.



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**FRANCIS GIMARA S.C.**  
**CHAIRPERSON**



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**NELSON NERIMA**  
**MEMBER**



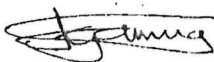
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**GEOFFREY NUWAGIRA KAKIRA**  
**MEMBER**



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**PAUL KALUMBA**  
**MEMBER**



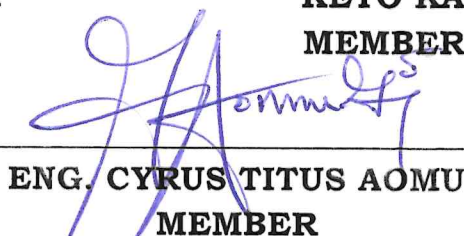
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**CHARITY KYARISIIMA**  
**MEMBER**



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**KETO KAYEMBA**  
**MEMBER**



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**ENG. CYRUS TITUS AOMU**  
**MEMBER**