

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

REGISTRY APPLICATION NO. 34 OF 2025

BETWEEN

KAKOOBA MATOOKE TRADERS
CO-OPERATIVE LTD:.....APPLICANT

AND

1. MBARARA CITY COUNCIL
2. KACYBER SECURITY TECHNOLOGIES LTD:.....RESPONDENTS

**APPLICATION FOR ADMINISTRATIVE REVIEW IN RESPECT OF
THE PROCUREMENT FOR COLLECTION OF REVENUE FROM
VARIOUS SOURCES IN MBARARA CITY, INCLUDING THE
COLLECTION OF REVENUE FROM NYAMITYOBORA MATOOKE
DAILY MARKET UNDER PROCUREMENT REFERENCE NO. MBAR
609/SCRV/2025/2026/00001 (LOT 19)**

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

DECISION OF THE TRIBUNAL

A. BRIEF FACTS

1. Mbarara City (the “Respondent”) initiated a procurement for collection of Revenue from various sources in Mbarara City, including the collection of revenue from Nyamityobora Matooke Daily Market under Procurement Reference No. MBAR 609/SCRV/2025/2026/00001 (Lot 19) on June 18, 2025.
2. The Respondent received proposals from two (2) bidders *Kakooba Matooke Traders Co-operative Ltd* (the Applicant) and *Kacyber Security Technologies Ltd* on June 27, 2025.
3. On 10th September, the 1st Respondent issued a best evaluated bidder notice for the impugned procurement stating that *Kacyber Security Technologies Ltd* was the best evaluated bidder at a weekly contract price of Uganda shillings Four Million and Ten Thousand Shillings (UGX 4,010,000/=).
4. The notice also stated that the applicant was an unsuccessful bidder having quoted a low price of Uganda shillings Three Million, Five Hundred and Thirty-Nine Thousand Shillings (UGX 3,539,000/=) per week VAT inclusive.
5. On 18th September 2025, the Applicant, through its legal representatives, *Ngaruye Ruhindi, Spencer & Co. Advocates*, lodged a complaint with the Accounting Officer of the 1st Respondent challenging the evaluation process.
6. On 25th September 2025, the Accounting Officer of the 1st Respondent issued an administrative review decision dismissing the Applicant’s complaint of 18th September 2025 for lack of merit.
7. The Applicant being aggrieved with the decision of the 1st Respondent’s Accounting Officer, filed the instant application before the Tribunal on 1st October 2025, for review of the decision of the 1st Respondent. *Kacyber Security Technologies Ltd* was joined as the 2nd Respondent to the Application.

8. The Application and the corresponding Response by the Respondent raised the following issues for determination. The Tribunal has reframed the issues as follows.

(i) *Whether the instant Application was filed outside prescribed timelines and was therefore incompetent?*

(ii) *Whether the Respondent erred when it awarded the contract in the impugned procurement to the 2nd Respondent in breach of the said Government Policy Decision on the Development and Management of Markets in the City, Municipalities and Towns?*

(iii) *Whether there are available remedies to the Parties?*

B. THE ORAL HEARING

1. The Tribunal held a virtual hearing on 15th October 2025 by Zoom Cloud Application. The appearances were as follows:

- 1) **Paddy Vincent** from *Ngaruye Ruhindi, Spencer & Co. Advocates* as Counsel for the Applicant.
- 2) **Alauterio Ntegyereize**, Senior Legal Officer, as Counsel for the 1st Respondent. In attendance for the Respondent was **Atwiine Edgar Rwabutwagu**, Senior Procurement Officer.
- 3) **Kiiza Joseph** the operations manager of the 2nd Respondent and Best Evaluated Bidder.

C. SUBMISSIONS

The parties highlighted their written submissions and made oral submissions as follows:

Applicant

1. Counsel for the Applicant relied on the written submissions filed on October 1, 2025, along with the rejoinders to the 1st and 2nd Respondents' statements in reply and the written submissions in rejoinder, all filed on October 14, 2025.
2. The Applicant requested an administrative review of the decision made by the Accounting Officer of Mbarara City Local Government on September 2025. This decision dismissed its earlier request to overturn the award of the revenue collection tender at Nyamityobora Matooke Daily Market, which was awarded to *Kacyber Security Technologies Ltd*, the 2nd Respondent. The Applicant stated that it has been managing the revenue collection at the market since April 2024, serving over 400 vendors, and has performed its duties satisfactorily. It argued that the contested procurement process deviated from the previous year's bidding framework, which had included the government policy favoring associations of existing market vendors.
3. The Applicant argued that the Accounting Officer made a mistake in dismissing its complaint on the basis that its members were not vendors or traders in the market, without conducting a verification exercise to confirm that fact. It stated that no notice or opportunity was provided for such verification, and if it had been done, it would have shown that its members were sitting vendors in the market. The Applicant asserted that the Accounting Officer's conclusion was based on speculation and was procedurally flawed.

4. The Applicant further submitted that it was an undisputed fact that it was the incumbent tender holder and that its members were active traders in the market. It argued that the Accounting Officer ignored these clear facts and reached an erroneous conclusion in dismissing the complaint. In its view, the decision disregarded readily available evidence of its ongoing presence and performance in the market.
5. The Applicant argued that the Accounting Officer failed to implement the binding Government Policy requiring priority for associations of sitting tenants and market vendors when awarding tenders for market management and revenue collection. It referenced ministerial directives issued in 2007 and 2010 by the then Ministers of Local Government and cited Tribunal and court precedents—*Mbarara City United Bikadde Market Vendors Association Ltd v Mbarara City Council (2023)*, *Arua Kubala Park Operators and Market Vendors SACCO v PPDA (2015)*, and *PPDA v Pawor Park Operators and Market Vendors SACCO (2016)*—to support the claim that tenders awarded against this policy have previously been overturned.
6. The Applicant also claimed that the tendering process was unfairly biased in favor of the 2nd Respondent. It argued that the 1st Respondent intentionally removed the reservation clause from the 2025 bidding document, which previously reflected the Government Policy, aiming to exclude the Applicant and facilitate an award to a private company. The Applicant argued that this omission violated the principles of fairness and transparency and made the procurement process irregular.
7. In response to the 1st Respondent's reply to the Application, the Applicant argued that its letters dated August 18 and September 8, 2025, did not constitute applications for review, as no decision had been made at that time. It maintained that its formal review application was properly submitted on September 18, 2025, following the publication of the notice of the best evaluated bidder, and that the current application was filed within the statutory

deadline. The Applicant also asserted that the evaluation committee never carried out the required verification visit to the market, and that the committee's own recommendations highlighted the continued application of the reservation scheme.

8. In rejoinder to the 2nd Respondent's statement in reply to the Application, the Applicant denied the authenticity of the alleged Memorandum of Understanding relied upon by the 2nd Respondent, arguing that it was neither served nor properly filed. It reiterated that it is the legitimate umbrella association representing the sitting vendors of Nyamityobora Matooke Daily Market. In contrast, the 2nd Respondent is a private company and therefore ineligible under the Government Policy. The Applicant accordingly prayed that the Tribunal allow the application, set aside the award to the 2nd Respondent, and direct that the tender be awarded to it as the rightful and eligible bidder.
9. Regarding timeliness, the Applicant argued that the claim that the application was time-barred was mistaken. It stated that the Accounting Officer's decision was made on September 24, 2025, and that the current application, filed on October 1, 2025, was well within the ten working days allowed under section 115(2)(a) of the *Public Procurement and Disposal of Public Assets Act* Referencing section 106(7) of the same Act, the Applicant argued that the latest date to file was October 7, 2025, meaning the application was submitted three working days before the deadline. The Applicant maintained that its prior correspondence was only to raise procedural issues before a final decision was made and did not qualify as an application for review.
10. The Applicant therefore urged the Tribunal to find that the application was properly filed on time and that the objection based on limitation should be dismissed. It argued that the Respondents had not effectively challenged its substantive claim that it is a cooperative society composed of currently active market vendors entitled to priority treatment under Government policy.

11. The Applicant further contended that the 1st Respondent's failure to conduct a verification exercise before dismissing its complaint demonstrated procedural irregularity, and that the committee's own recommendations acknowledged that the Government policy had not been followed.
12. The Applicant prayed that the Tribunal allow the application, set aside the award to the 2nd Respondent, and direct that the tender be awarded to it as the rightful and eligible bidder.

1st Respondent, Mbarara City Council's submissions

1. The 1st Respondent adopted its response filed on the 7th day of October 2025 and written submissions electronically filed with the Tribunal on 10th October 2025.
2. The 1st Respondent submitted that the procurement process for collecting revenue from Nyamityobora Matooke Daily Market under Procurement Reference No. MBAR 609/SCRV/2025/2026/00001 (Lot 19) was carried out fully in accordance with the *Public Procurement and Disposal of Public Assets Act*. It stated that bids were invited on June 18, 2025, and the bidding process concluded and opened on June 27, 2025, attracting two bidders; the Applicant and Kacyber Security Technologies Ltd. The evaluation process was completed on August 11, 2025, and the 2nd Respondent was recommended as the Best Evaluated Bidder for submitting the highest financial quotation. The Contracts Committee, after confirming that the evaluation followed the criteria outlined in the bidding documents, approved the contract award to the 2nd Respondent on September 2, 2025.
3. The 1st Respondent explained that the Applicant's complaint about the omission to reserve the tender for sitting tenants or vendors was submitted after the evaluation process had been completed and was therefore premature and irregular. It stated that the Applicant had every opportunity to raise such a concern before the bidding process closed but failed to do so. It was further noted that the Applicant first raised its complaint on August 18, 2025, long after the evaluation process was finalized, and that its subsequent complaint after the display of the Best

Evaluated Bidder Notice was considered and dismissed by the Accounting Officer on September 24, 2025.

4. The 1st Respondent raised a preliminary objection to the jurisdiction of the Tribunal, contending that the Applicant's failure to adhere to the mandatory timelines under section 115 of the PPDA Act rendered the application incompetent. It argued that the Applicant should have filed its appeal to the Tribunal when the Accounting Officer failed to render a decision on the earlier complaint of 18th August 2025, but instead filed it out of time. The 1st Respondent relied on the Tribunal's decision in *Goldstar Insurance Company Limited v Bank of Uganda* (Registry Application No. 22 of 2025), to emphasize that limitation periods under procurement law are strict and inflexible. That failure to comply with them is fatal to any application.
5. Without prejudice to its objection on jurisdiction, the 1st Respondent further contended that the Applicant is not an umbrella market association representing all sitting tenants or vendors within Nyamityobora Matooke Daily Market and is thus not entitled to any preferential treatment under the Government's reservation policy. It stated that the committee constituted by the Accounting Officer reviewed the Applicant's bye-laws and confirmed that it did not meet the requirements under Directive (g) of the Minister of Local Government's 2010 Policy on the Management of Markets.
6. The 1st Respondent added that the recognized umbrella market association for vendors in Nyamityobora Matooke Daily Market is Nyamityobora Vendors and Traders Cooperative Society Ltd, which did not participate in the procurement. Consequently, the 2nd Respondent, like the Applicant, was eligible to compete for the tender, and the award to the 2nd Respondent was proper and lawful.
7. The 1st Respondent prayed that the application be struck out with costs for being time-barred, incompetent, and lacking in merit.

The 2nd Respondent's submissions

1. The 2nd Respondent and Best Evaluated Bidder, *Kacyber Security Technologies Ltd*, adopted its statement in response to the Application, filed with the Tribunal on October 8, 2025.
2. The 2nd Respondent opposed the application, asserting that the procurement process for the collection of revenue from Nyamityobora Matooke Daily Market was lawfully conducted. It stated that the 1st Respondent invited bids on 18th June 2025, and that both the Applicant and the 2nd Respondent duly submitted bids by the closing date of 27th June 2025. The 2nd Respondent maintained that the Applicant was aware of its participation from the time of bid opening but did not raise any objection or complaint at that stage, thereby waiving its right to challenge the process later.
3. The 2nd Respondent contended that the Applicant is not an umbrella association of sitting tenants or vendors within Nyamityobora Matooke Daily Market and is therefore not entitled to any preferential treatment under the Government's reservation policy. It further pointed out that the Applicant's offices are located in AGIP Cell while the market itself lies in Central Cell. The 2nd Respondent stated that it lawfully partnered with the recognized leadership of the actual market vendors, evidenced by a Memorandum of Understanding dated 20th June 2025, through which the vendors mandated it to participate in the bidding process on their behalf.
4. It was further argued that under the terms of the Memorandum of Understanding, the 2nd Respondent was tasked with introducing an electronic revenue management system to enhance efficiency and accountability for the benefit of the vendors, who had previously not benefited from the Applicant's collections. The 2nd Respondent emphasized that the bidding documents permitted participation by companies, associations, and individuals, and that it therefore qualified to bid and was rightly awarded the tender.

5. The 2nd Respondent accordingly prayed that the Application be dismissed with costs for lack of merit and the suspension order to be vacated.

D. RESOLUTION BY THE TRIBUNAL

Issue no. 1

Whether the instant Application was filed outside prescribed timelines and was therefore incompetent?

1. Section 106(1) and (2) of the *Public Procurement and Disposal of Public Assets Act* provides that a bidder aggrieved by a decision or action of a procuring and disposing entity may lodge a complaint with the Accounting Officer, and that such a complaint may relate to any omission or breach of the Act, its regulations, guidelines, or any provision of the bidding documents.
2. Section 106(3)(b) of the *Public Procurement and Disposal of Public Assets Act* requires that any complaint against a procuring and disposing entity must be made in writing and submitted to the Accounting Officer within ten working days from the date the bidder first becomes aware, or ought reasonably to have become aware, of the circumstances giving rise to the complaint.
3. In *VCON Construction (U) Ltd v Uganda Development Bank*, Application No. 22 of 2021, the Tribunal emphasized that while a bidder may seek administrative review at any stage of the procurement process, such a complaint must in all cases be lodged within ten working days from the date the bidder first became aware of the facts or events giving rise to the grievance.
4. In procurement practice, bidders are ordinarily deemed to become aware of circumstances giving rise to a complaint either during the bidding process, particularly upon issuance or perusal of the bidding documents, or after the Accounting Officer has communicated the results of the evaluation process.

5. In the instant application, the substance of the Applicant's letter dated August 19, 2025, was that the bidding document failed to include a reservation scheme for special interest groups, contrary to Sections 59B and 97 of the *Public Procurement and Disposal of Public Assets Act* and the Minister of Local Government's policy directives of 17th September 2007 and 23rd December 2020, which remain operative. The Applicant requested the Accounting Officer to ensure compliance with these policy directives in the award of the contract.
6. The record shows that the Applicant obtained the solicitation document on June 23, 2025, as evidenced by Form 8 (Record of Sale or Issue of Bidding Documents) and submitted its bid on June 27, 2025. It therefore became aware of the alleged omission to prioritize SACCOs for park management on June 23, 2025. In accordance with section 106(3)(b) of the Act, the ten working days within which to lodge a complaint challenging the terms of the bidding document commenced on June 24, 2025, and expired on July 7, 2025.
7. The Applicant, however, waited for a period of 53 days after submitting its bid before raising the complaint regarding the omission of the preference scheme for special interest groups based on the Government's policy on market and park management. The Tribunal finds that this delay rendered the complaint both an afterthought and time-barred under section 106(3)(b) of the *Public Procurement and Disposal of Public Assets Act*.
8. Having voluntarily participated in the procurement process and submitted its bid under the terms of the solicitation document, the Applicant is estopped from later challenging the same terms it had accepted. This position reflects the doctrine of approbation and reprobation, which precludes a party from simultaneously accepting and rejecting an instrument, as articulated in *Halsbury's Laws of England* (4th Ed., Reissue, Vol. 16, para. 957) and by Lord Russell in *Evans v Bartlam* [1937] AC 473 at 483.
9. We perused through the procurement action filed and observed that before the evaluation of bids was concluded, the Applicant, by letter dated 18th August 2025 and received by the 1st Respondent on 19th August 2025, complained to the Accounting

Officer of the 1st Respondent regarding the contract award process in the impugned procurement.

10. Our examination of the Applicant's letters to the 1st Respondent dated August 19, 2025, and September 9, 2025, reveals that the letter of August 19, 2025, clearly constituted a *complaint* within the meaning of regulation 4(3)(a)–(f) of the *Public Procurement and Disposal of Public Assets (Administrative Review) Regulations, 2023*. It set out the substantive and factual grounds of grievance, identified the specific provisions of the Act and Regulations alleged to have been breached, detailed the events and facts forming the basis of the complaint, and specified the corrective measures sought.
11. The law permits a bidder to communicate with a Procuring and Disposing Entity (PDE) in only two circumstances. The first is when a prospective bidder seeks clarification of the Bidding Document before submitting a bid, by writing to the PDE at the address specified in the Bid Data Sheet, as provided under Part 1, Section 1, Instruction to Bidders, Sub-Clause ITB 7.1 of the *Standard Bidding Document for Non-Consultancy Services (PPDA, March 2014)*, now reproduced in Sub-Clause 13 of the *2025 Standard Bidding Document for Non-Consultancy Services (Open or Restricted Bidding)*.
12. The second instance arises where the PDE, through the Evaluation Committee, requests a bidder to clarify information or to submit documents in situations of non-conformity or omission that do not amount to a material deviation, in accordance with regulation 3(2)(e) and regulation 6(2) of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023*.
13. Consequently, where a bidder such as the Applicant in this instant application, elects to communicate with the Accounting Officer regarding the contents of the bidding documents or the conduct of the evaluation process outside the two instances prescribed above, such communication cannot be treated as ordinary correspondence. Rather, it constitutes a formal complaint duly made in accordance with the law.

14. Therefore, upon receipt of the compliant, the 1st Respondent was under duty to respond to the complaint within 10 days from the date of receipt, in accordance with section 106(7) of the *Public Procurement and Disposal of Public Assets Act*, Cap. 205. This timeline commenced on August 20, 2025 and elapsed on August 29, 2025.
15. The Tribunal has consistently held that bidders should not wait indefinitely for a decision from the Accounting Officer once the statutory timelines have expired. In such cases, bidders are required to act promptly and file an application with the Tribunal within the prescribed 10-day period, in accordance with section 115(2)(b) of the *Public Procurement and Disposal of Public Assets Act*, Cap. 205. This principle was affirmed in *Application No. 11 of 2025, CSM Technologies Private Ltd and Sybl Ltd JV v. National Information Technology Authority – Uganda*, at page 24, paragraph 29.
16. The period within which the Applicant was required to lodge an application before the Tribunal on those grounds, began on **August 30, 2025** and expired on **September 8, 2025**.
17. The Tribunal reviewed the Applicant's complaint dated 18th September 2025, authored by *Ngaruye Ruhindi, Spencer & Co. Advocates*, which referenced an earlier complaint of 19th August 2025. The Applicant raised six grounds, including its position as the incumbent contractor since 8th April 2024, that Kacyber Security Technologies Ltd's bid exceeded the reserve price, and that the award contravened the Minister of Local Government's policy directives, requesting that the tender be annulled and awarded to the Applicant.
18. The Tribunal notes that grounds (d), (e), and (f) relating to the Respondent's alleged failure to grant priority under the Minister's directives should have been challenged before bid submission. Having raised this issue in the 19th August letter, the Applicant is now estopped from revisiting it in a new complaint.
19. The jurisdiction of the Tribunal would be confined to reviewing aspects of the Applicant's complaint dated 18th September 2025 that are independent of the 1st Respondent's alleged failure to implement the Minister of Local Government's policy directives.

The Applicant abandoned certain original grounds, including its status as the incumbent contractor since 8th April 2024 and issues relating to the differences between its bid, the best evaluated bid, and the reserve price.

20. Instead, the Tribunal is invited by the Applicant to consider the five new grounds, which assert that the Accounting Officer/City Clerk erred by: (i) dismissing the complaint without conducting a verification exercise to establish whether the Applicant's members were vendors/traders in the market; (ii) disregarding that the Applicant's members were sitting vendors and the current holders of the tender; (iii) failing to apply the Government Policy that prioritizes sitting tenants and market vendors; (iv) wrongly holding that the Applicant's members were not physically present in the market despite their active role in revenue collection; and (v) failing to recognize that preferential treatment was given to the 2nd Respondent and that the procurement process had been irregularly altered, including the removal of provisions in the bidding document intended to ensure compliance with Government Policy.
21. The Tribunal finds that the five grounds all relate to the Respondent's alleged failure to grant the Applicant priority under the Minister of Local Government's policy directives of 17th September 2007 and 23rd December 2010. These grounds are time-barred, as the Applicant had abandoned other factual grounds such as its status as the incumbent contractor since 8th April 2024 and issues regarding differences between its bid, the best evaluated bid, and the reserve price that could have been validly reviewed.
22. The instant application, being focused solely on the alleged non-implementation of the Minister's policy directives, is therefore incompetent. Allowing it would amount to re-litigating administrative review in phases, contrary to the requirement that each stage of the procurement process, including administrative review, must be completed within the timelines prescribed under section 77 of the *Public Procurement and Disposal of Public Act Cap 205*.
23. The Tribunal observes that litigation and administrative review cannot be conducted in a fragmented or piecemeal manner. The issue of the 1st Respondent's alleged failure to implement the

Minister of Local Government's policy directives of 17th September 2007 and 23rd December 2010 was already raised in the Applicant's complaint of 19th August 2025. If the Applicant was dissatisfied with the Accounting Officer's inaction at that stage, it should have sought recourse before the Tribunal then. The Applicant is therefore precluded from raising new complaints based on the same policy directives. See *Application No. 6 of 2022, Technology Associates Limited in Consortium with Comviva Technology Limited v Post Bank Uganda Limited*, page 22.

24. The Tribunal reiterates that the timelines set under the PPDA Act are mandatory and cannot be extended or varied. Failure to act within the prescribed period deprives the Tribunal of jurisdiction. This principle has been affirmed in *Eclipse Edisoil JVC Ltd v Napak District Local Government* (High Court Civil Appeal No. 05 of 2024, arising from Tribunal Registry Application No. 33 of 2023) and *Application No. 33 of 2025, Sybl Ltd v National Information Technology Authority-Uganda*.

25. The Tribunal concludes that the present application, which centers exclusively on the alleged non-implementation of the Minister's policy directives, was filed after the prescribed deadline of 8th September 2025. As a result, the application is time-barred and cannot be entertained, rendering it incompetent.

26. Issue no. 1 is therefore resolved in the affirmative.

E. DISPOSITION

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

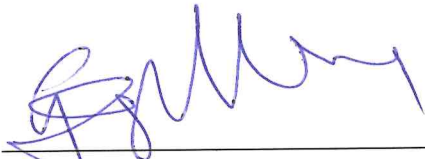
Dated at Kampala this 20th day of October 2025.



FRANCIS GIMARA S.C
CHAIRPERSON



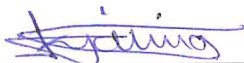
NELSON NERIMA
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