

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

APPLICATION NO. 22 OF 2026

BETWEEN

RENTCO AFRICA LIMITED:..... APPLICANT

AND

NATIONAL WATER AND

SEWERAGE CORPORATION :..... RESPONDENT

**APPLICATION FOR REVIEW ARISING FROM THE PROCUREMENT FOR
THE LEASING OF SINGLE AND DOUBLE CABIN PICKUPS UNDER A
FRAMEWORK CONTRACT FOR FORTY-EIGHT MONTHS UNDER
PROCUREMENT REFERENCE NUMBER NWSC-HQ/NCONS/25-26/181612**

**CORAM: NELSON NERIMA, GEOFFREY NUWAGIRA KAKIRA, PAUL
KALUMBA, CHARITY KYARISIIMA, AND KETO KAYEMBA; MEMBERS**

DECISION OF THE TRIBUNAL

A. BRIEF FACTS

1. National Water and Sewerage Corporation, the Respondent, initiated a procurement through an advertisement in the *New Vision* of May 21, 2026 for the Leasing of Single and Double Cabin Pickups (2 lots) under a Framework Contract for forty-eight months using Open Domestic Bidding procurement method under Procurement Reference Number NWSC-HQ/NCONS/25-26/181612.
2. Lot 1 concerned 27 4WD Single Cabin Pickups and Lot 2 concerned 18 4WD Double Cabin Pickups.
3. The deadline date for submission of bids was June 25, 2026. Seven bidders participated in the procurement by submitting bids. They were *Victoria Motors Limited*, *Bespoke Automotive Limited*, *Daks Toyota Limited*, *Motorcare Uganda Limited*, *Rentco Africa Limited*, *Ashland Motors Africa Limited* and *Grecca Limited*.
4. The Respondent's Evaluation Committee concluded the evaluation of bids and signed its Evaluation Report on September 1, 2026. The Contracts Committee approved the award of contract for both Lots on September 3, 2026.
5. The Respondent displayed the Notice of Best Evaluated Bidder on September 4, 2026.
6. In respect of Lot 1 for the leasing of 27 4WD Single Cabin Pickups, *Grecca Limited* was identified as the 1st Best Evaluated Bidder at a contract price of Uganda shillings 7,618,653,936. *Motorcare Uganda Limited* was identified as the 2nd Best Evaluated Bidder at Uganda shillings 8,384,982,624.

7. In respect of Lot 2 for the leasing of 18 4WD Double Cabin Pickups, Grecca Limited was identified as the 1st Best Evaluated Bidder at a contract price of Uganda shillings 5,095,033,056. *Motorcare Uganda Limited* was identified as the 2nd Best Evaluated Bidder at Uganda shillings 5,909,505,120.
8. The Notice of Best Evaluated Bidder recorded that the Applicant was unsuccessful for both Lot1 and Lot 2 at Preliminary Examination stage of evaluation. The reason stated by the Respondent was that *"The bidder provided alternative bid/offers; Alternative bids under ITB 16.1 was not acceptable."*
9. Under Lot 1, the Applicant submitted Option 1 comprising an Isuzu D-Max 4x4 2.5 litre vehicle at Uganda shillings 6,503,889,839.10 and Option 2 comprising a Mitsubishi Triton GL 2.5 litre vehicle at Uganda shillings 7,533,208,932.82. Under Lot 2, the Applicant submitted Option 1 comprising a Maxus T70 at Uganda shillings 4,381,710,604.44 and Option 2 comprising a Mitsubishi Triton GL 2.5 litre vehicle at Uganda shillings 5,229,070,197.80.
10. Aggrieved by its elimination, the Applicant lodged a complaint for administrative review before the Accounting Officer on September 16, 2026. The Applicant averred that it did not submit an alternative bid and therefore the reason for its elimination was erroneous. The Applicant also averred that the Respondent did not take into account the principles of economy and value for money when it eliminated its bid which was lower than those of the best evaluated bidders.
11. Accounting Officer upheld the finding that the Applicant submitted alternative bids and dismissed the complaint by a decision dated September 22, 2026, which the Applicant received on September 23, 2026.

B. APPLICATION TO THE TRIBUNAL

1. The Applicant, being aggrieved by the decision of the Accounting Officer, lodged the present Application before the Tribunal on September 29, 2026.
2. The Application raised 3 grounds: (1) that it was erroneous for the Respondent to eliminate the Applicants bid on the basis that it was an alternative bid; (2) that the evaluation criteria in the bidding document does not prohibit a bidder from submitting two options; (3) that the Respondent did not take into account the principles of economy and value for money when it eliminated its bid which was lower than those of the best evaluated bidders.
3. The Applicant challenges its elimination at Preliminary Examination and contends that the Respondent wrongly characterised its two options as alternative bids merely because more than one offer had been submitted.
4. The Applicant relies on Instruction to Bidders Clauses 16.1 and 16.2 in the bidding document and regulation 46 of the *Public Procurement and Disposal of Public Assets (Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services) Regulations, 2023*. It contends that an alternative bid is one which does not conform precisely to the Statement of Requirements but nevertheless satisfies the procurement objectives in another manner.
5. The Applicant maintains that both options were presented as complying with the requirements of the Bidding Document and that neither the Evaluation Committee nor the Administrative Review Committee identified any particular requirement in the Statement of Requirements from which either option departed.

6. The Applicant further relies on the Accounting Officer's statement in the administrative review decision that it was not eliminated for having failed to precisely conform to the Statement of Requirements. It argues that this finding is inconsistent with treating its offers as alternative bids under regulation 46(2), whose defining feature is departure from precise conformity with the Statement of Requirements.
7. The Applicant also relies on Instruction to Bidders Clause 16.4. It argues that where alternatives are permitted, that provision contemplates a main bid and an alternative bid being separately submitted, secured and identified. The Applicant maintains that it submitted one bid containing separately identified options and not a main bid together with a separately constituted alternative bid.
8. In the alternative, the Applicant contends that the disclosed evaluation criteria did not prohibit a bidder from submitting two options and did not provide that submission of more than one option would result in rejection of the entire bid. It relies on section 76(3) 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 (Evaluation) Regulations, 2023*.
9. In its written submissions, the Applicant identifies the Isuzu D-Max as its primary option for Lot 1 and the Maxus T70 as its primary option for Lot 2. It maintains that the secondary options did not render the bid non-complaint.

10. The Applicant also contends that its Option 1 prices were competitive. Its Lot 1 Option 1 price of Uganda shillings 6,503,889,839.10 was lower than *Grecca Limited's* notified price of Uganda shillings 7,618,653,936, while its Lot 2 Option 1 price of Uganda shillings 4,381,710,604.44 was lower than *Grecca Limited's* notified price of Uganda shillings 5,095,033,056. The Applicant does not rely on those prices as establishing an entitlement to award, but contends that its preliminary elimination prevented its offers from proceeding to the remaining stages of evaluation.
11. The Applicant sought orders setting aside of the award decision, re-evaluation of the bids, refund of the administrative review fees and costs.

C. RESPONDENT'S CASE

1. The Respondent maintains that the Applicant was properly eliminated at Preliminary Examination because Instruction to Bidders Clause 16.1 prohibited alternative bids and the Applicant submitted two separately identified and separately priced options under each Lot.
2. The Respondent contends that regulation 46 of the *Public Procurement and Disposal of Public Assets (Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services) Regulations, 2023* must be read as a whole. Regulation 46(1) requires a Procuring and Disposing Entity to specify whether alternative bids will be considered, while the provisions governing the submission and evaluation of alternatives apply where alternatives are permitted.
3. The Respondent further relies on regulations 15, 16, 18 and 19 of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023*. It contends that evaluation is sequential and that a bid which is not administratively compliant with the Bidding Document must be rejected at Preliminary Examination.
4. The Respondent denies applying an undisclosed evaluation criterion because the prohibition against alternative bids was contained in the Bidding Document and was known to all bidders.

5. The Respondent also contends that value for money does not require acceptance of the lowest priced offer irrespective of compliance with the Bidding Document. It asks the Tribunal to dismiss the Application with costs and uphold the Accounting Officer's decision and the Notice of Best Evaluated Bidder.

D. BEST EVALUATED BIDDER'S CASE

1. *Grecca Limited*, the 1st Best Evaluated Bidder for both Lots, supports the Respondent's position and contends that the procurement process was conducted in accordance with the applicable procurement requirements and the Bidding Document.
2. *Grecca Limited* submits that the procurement process from publication of the tender and the pre-bid meeting through submission and evaluation of bids and notification of the Best Evaluated Bidder followed the prescribed procedures. It maintains that the evaluation and notification were based on the stipulated requirements, demonstrated competencies and adherence to the Instructions to Bidders.
3. *Grecca Limited* further contends that permitting the Applicant's bid to proceed would be unfair to bidders who complied with the prohibition against alternative bids. In its view, other bidders refrained from submitting alternatives because the Bid Data Sheet, read together with Instruction to Bidders Clause 16.1, expressly provided that alternative bids were not permitted.
4. *Grecca Limited* accordingly maintains that the Applicant was properly eliminated at Preliminary Examination and asks the Tribunal to dismiss the Application, uphold the Accounting Officer's decision, maintain the Notice of Best Evaluated Bidder in its favour and permit the Respondent to proceed with the procurement.

E. THE ORAL HEARING

The Tribunal held an oral hearing via Zoom videoconferencing on October 12, 2026. The appearances were as follows:

The Applicant

John Kallemera - counsel for the Applicant
Robert Nyasimi - Group CEO of Applicant
Margaret Mucheru – Group Legal Director of Applicant

The Respondent

Kajjuka Aloysious-Director Legal Services, and Craven N. Barigye-
Manager Legal Services, counsel for the Respondent
Martin Busuulwa- Manager Procurement

The 1st Best Evaluated Bidder (BEB)

Denis Owili - Director, *Grecca Limited*

The 2nd Best Evaluated Bidder (BEB)

Benon Mascot - Deputy General Manager - *Motorcare Uganda Ltd*

F. RESOLUTION

1. The Tribunal has carefully studied the pleadings, the submissions, the procurement action file and the bids.
2. The Applicant's pleadings contained 3 grounds. Having considered the pleadings and submissions, the Tribunal has framed the issues as follows:
 - 1) Whether the Respondent erred when it eliminated the Applicant's bid during preliminary evaluation?
 - 2) What remedies are available to the parties?
3. An application made to the Public Procurement and Disposal of Public Assets Appeals Tribunal under section 115 of the *Public Procurement and Disposal of Public Assets Act, cap. 205* is an invocation of the Tribunal's jurisdiction to review the decision of a procuring and disposing entity.

4. The Tribunal is, therefore, a merits review body and has wide powers to set aside the original decision of a procuring and disposing entity and substitute a new decision of its own.
5. Implicit within the Tribunal's power is the authority to consider both the lawfulness of the procurement decision it is reviewing and the facts going to the exercise of discretion, whether raised by the Applicant or not, provided all interested parties are provided with an opportunity to present their case (the right to be heard), are notified in advance that a decision is to be made based on that material and are allowed to respond (procedural fairness), determine the matter in an unbiased manner (an absence of bias) and give reasons for the decision. See: *Arua Municipal Council v Arua United Transporters' SACCO*, High Court at Arua C.A No. 25 of 2017.
6. Mindful of its role, the Tribunal will now proceed to assess whether the impugned aspects of the evaluation were conducted in accordance with the law and the bidding document.

Issue no. 1- Whether the Respondent erred when it eliminated the Applicant's bid during preliminary evaluation?

Alternative bids

7. The Applicant submitted 2 options for each Lot.
8. For Lot 1, the Applicant submitted Option 1 comprising an Isuzu D-Max 4x4 2.5 litre vehicle at Uganda shillings 6,503,889,839.10 and Option 2 comprising a Mitsubishi Triton GL 2.5 litre vehicle at Uganda shillings 7,533,208,932.82.
9. For Lot 2, the Applicant submitted Option 1 comprising a Maxus T70 at Uganda shillings 4,381,710,604.44 and Option 2 comprising a Mitsubishi Triton GL 2.5 litre vehicle at Uganda shillings 5,229,070,197.80.

10. The reason for the Applicant's elimination is not in dispute. In the Notice of Best Evaluated Bidder displayed on September 4, 2026, the Respondent recorded the Applicant as unsuccessful for both Lots at Preliminary Examination and stated that "*The bidder provided alternative bid/offers; Alternative bids under ITB 16.1 was not acceptable.*"
11. The Applicant was therefore eliminated because the Evaluation Committee treated its submission of Option 1 and Option 2 under both Lots as alternative bids contrary to Instruction to Bidders Clause 16.1 of the Bidding Document.
12. The determination of the issue turns on whether those options constituted alternative bids within Instruction to Bidders Clause 16.1 and regulation 46 of the *Public Procurement and Disposal of Public Assets (Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services) Regulations, 2023* and, if so, whether the Bidding Document authorised rejection of the Applicant's entire bid on that basis.
13. Instruction to Bidders Clause 16.1 provided that alternative bids would not be considered unless otherwise indicated in the Bid Data Sheet. The Bid Data Sheet provided that alternative bids to the requirements of the Bidding Document would not be permitted.
14. The expression *alternative bid* is not defined in Instruction to Bidders Clause 16.1. Its meaning must therefore be understood from the Bidding Document read together with the applicable public procurement law.
15. Regulation 46(2) of the *Public Procurement and Disposal of Public Assets (Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services) Regulations, 2023* contemplates an alternative bid where a bidder offers supplies, works or non-consultancy services which do not conform precisely to the Statement of Requirements but nevertheless satisfy the objectives of the procurement in an alternative manner.
16. Instruction to Bidders (ITB) Clause 16.2 reflects the same concept. Regulation 46(4)(b) similarly distinguishes a main bid which conforms precisely to the Statement of Requirements from an alternative bid.

17. The defining feature of an alternative bid is therefore its relationship with the requirements prescribed in the Statement of Requirements.
18. The structure of regulation 46 of the *Public Procurement and Disposal of Public Assets (Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services) Regulations, 2023* supports that conclusion. The regulation identifies an alternative by reference to its departure from precise conformity with the Statement of Requirements. The first inquiry is therefore whether the proposed solution departs from what the Procuring and Disposing Entity prescribed.
19. Regulation 8(2) of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023* provides that for the purpose of evaluating an alternative bid, the detailed evaluation shall take into account the objectives or performance requirements prescribed in the statement of requirements and shall not conform precisely to the statement of requirements.
20. Item 12 of Section 3, Evaluation methodology and Criteria, provides for evaluation of alternative bids using the methodology and criteria used to evaluate the main bid except that the detailed technical evaluation shall take into account only the objectives and/or performance requirements in the Terms of reference.
21. Therefore, a holistic reading of the regulations and the bidding document shows that an alternative bid refers to a bid which offers an alternative to the objectives of the procurement or the statement of requirements. The determination of whether a bid is an alternative bid turns on whether it is a departure from the objectives of the procurement or statement of requirements. That determination can only be made during detailed evaluation. The Respondent therefore erred when it determined during preliminary evaluation that the Applicant had submitted an alternative bid.

Options

22. In the alternative, the Applicant contends that the disclosed evaluation criteria did not prohibit a bidder from submitting two options and did not provide that submission of more than one option would result in rejection of the entire bid. It relies on section 76(3) 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 (Evaluation) Regulations, 2023*.
23. The Tribunal does not agree with the Applicant.
24. ITB 7 of the Bidding Document states as follows:
7. One Bid per Bidder
Each bidder shall submit only one bid, either individually or as a partner in a JV. A bidder who submits or participates in more than one bid (other than as a subcontractor or in cases of alternatives that have been permitted or requested) shall cause all the bids with the bidder's participation to be rejected.
25. ITB 15.1 of the Bidding Document provides as follows:
15.1 The bidder shall submit the Bid Submission Sheet using the form provided in Section 4, Bidding Forms. This form must be completed without any alterations to its format, and no substitutes shall be accepted.
26. The format of the bid submission sheet provides as follows:
The total price of our bid, excluding any discounts offered in item (d) below Option 1, in case of one lot: [insert the total bid price in words and figures, indicating the various amounts and the respective currencies];
Or
Option 2, in case of multiple lots: Total price of each lot [insert the total price of each lot in words and figures, indicating the various amounts and the respective currencies]; payable in the following currencies:

27. A bidder was expected to make one Offer/Option for each Lot according to the format of the bid submission sheet. The prohibition of more than one bid per bidder cannot be circumvented by submitting multiple offers in one document. The Applicant's bid was non-compliant to ITB 7 and ITB 15, because it contained more than one offer/option for each Lot.
28. The Tribunal also noted that submission of more than one technical/financial offer/option for each Lot would undermine the cardinal principles of competition, fairness and efficiency. The submission of multiple offers in one bid may result in absurdities in evaluation whereby the same bidder can emerge as the best, second, third, etc., *ad infinitum*. Acceptance of an unlimited number of offers by each bidder would also impede the timely and efficient evaluation of bids.
29. Submission of multiple offers cannot be accepted unless, clearly provided for in the bidding document.
30. ITB 36.3 of the Bidding Document provides that the PDE shall confirm that administrative compliance documents and information have been provided in the bid. If any of those documents or information is missing or contrary to the requirements in the bidding document, the bid shall be rejected.
31. Regulation 16(2) of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023* provides that a bid which is not administratively compliant shall be rejected at the preliminary stage of evaluation.
32. Therefore, the Applicant's bid was liable to be rejected at the preliminary stage for administrative non-compliance.
33. The Tribunal would therefore uphold the rejection of the Applicant's bid at the preliminary stage, albeit for a different reason of administrative non-compliance.
34. Issue no. 1 is resolved in the negative.

Issue No: 2: What remedies are available to the parties?

35. Having found that the Applicant's bid was administratively non-compliant, the Applicant is not entitled to any remedy.

G. DISPOSITION

1. The Application is dismissed.
2. The suspension order dated September 29, 2026 is vacated.
3. Each party shall bear its own costs.

Dated at Kampala, this 15th day of October, 2026.



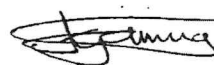
**NELSON NERIMA
MEMBER**



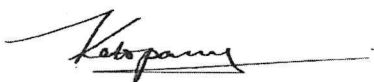
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