

**THE REPUBLIC OF UGANDA
PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS
APPEALS TRIBUNAL
APPLICATION NO. 16 OF 2026**

BETWEEN

STAR DTV (UGANDA) CO. LIMITED :::::::::::::::::::::::::::APPLICANT

AND

MINISTRY OF HEALTH ::::::::::::::::::::::::::: RESPONDENT

**APPLICATION FOR REVIEW ARISING FROM THE PROCUREMENT
FOR THE SUPPLY, INSTALLATION, COMMISSIONING, OPERATION
AND MAINTENANCE OF SOLAR PHOTOVOLTAIC SYSTEMS,
ELECTRICAL WORKS AND LIGHTING FOR 172 SELECTED HEALTH
CENTRES IN UGANDA UNDER PROCUREMENT REFERENCE NO.
MOH/NCONS/25-26/00052 (LOTS 1 & 3)**

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

DECISION OF THE TRIBUNAL

A. BRIEF FACTS

1. The Ministry of Health (the Respondent) invited sealed bids from eligible bidders for the supply, installation, commissioning, operation and maintenance of solar photovoltaic systems, electrical works and lighting for 55 health centres under procurement reference MOH/NCONS/25-26/00052/Lot-1, 62 health centres under procurement reference MOH/NCONS/25-26/00052/Lot-2, and 55 health centres under procurement reference MOH/NCONS/25-26/00052/Lot-3, using the Open Domestic Bidding method. The Invitation to Tender was published in the New Vision newspaper on 22 October 2025.
2. Following the public receipt and opening of bids on 5 January 2026, the Respondent received 16 (sixteen) bids under Lot 1 and 19 bids under Lot 3.
3. Upon conclusion of the Evaluation Process, the Respondent issued a Notice of Best Evaluated Bidder dated 3 June 2026 declaring *SMT Works and Services Co. Ltd* the Best Evaluated Bidder for Lot 1 at a contract price of USD 3,311,290.81 exclusive of VAT, and *M/S Kenoc Services Ltd* the Best Evaluated Bidder for Lot 3 at a contract price of USD 3,428,398 exclusive of VAT. The Notice of Best Evaluated Bidder further stated that the Respondent had found the bids for Lots 1 and 3 of *Star DTV (Uganda) Co. Limited* (the Applicant) to be non-responsive at the preliminary evaluation stage because they did not consider the design parameters relating to days of autonomy, derating factor, oversize factor, peak sun hours and safety factor.
4. Being dissatisfied with the outcome of the evaluation process, the Applicant lodged a request for Administrative Review before the Respondent's Accounting Officer dated 16 June 2026. The Respondent received the request for Administrative Review on 17 June 2026 and, in their response dated 18 June 2026, indicated that the Respondent would respond to the Applicant within the

stipulated time and that they were suspending the procurement process.

5. In the Administrative Review request, the Applicant cited breaches of the provisions of sections 76 [*Evaluation*] and 51 [*Economy and Efficiency*] of the *Public Procurement and Disposal of Public Assets (PPDA) Act, Cap. 205* (the Act) and Regulation 16 [*Preliminary Examination*] of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023*. The Applicant stated that the Respondent erroneously used technical parameters to disqualify their bid from proceeding to detailed evaluation, even though their bid fully adhered to the requirements of the bidding document.
6. On 3 July 2026, the Accounting Officer issued an Administrative Review decision. In that decision, the Accounting Officer acknowledged that the Notice of Best Evaluated Bidder had erroneously stated that the Applicant's bid had failed at the preliminary examination stage, whereas the bid had in fact progressed to the detailed technical evaluation stage before being found non-responsive. The Accounting Officer described the error as an oversight but nevertheless elaborated other reasons for upholding the procurement outcome.
7. Before the Applicant received the Accounting Officer's decision, the Applicant decided that the Respondent had failed to determine its Request for Administrative Review within the statutory period of 10 days prescribed under section 106 (7) [*Administrative Review by the Accounting Officer*] of the *Procurement and Disposal of Public Assets Act, Cap. 205*. Consequently, the Applicant filed Application No. 16 of 2026 before this Tribunal and a supplementary application on 7 July 2026.

B. THE APPLICANT'S CASE

1. The Accounting Officer failed to discharge their statutory obligation under section 106 (7) of the *Procurement and Disposal*

of *Public Assets Act* when they determined the Administrative Review complaint outside the prescribed timelines. Additionally, the purported Administrative Review decision issued on 3 July 2026 introduced fresh findings indicating that: the bid only indicated equipment to be provided; it did not show which parameters had been used or omitted; the design was not provided; and the proposed equipment allegedly failed to satisfy the minimum design requirements. Yet, none of the foregoing reasons appeared in the Notice of the Best Evaluated Bidder. The Respondent seeks to justify the impugned evaluation on grounds different from those originally communicated to the Applicant.

2. The original complaint was that the Evaluation Committee fundamentally departed from the evaluation methodology prescribed by the bidding document by determining technical design considerations during the preliminary examination stage instead of the detailed technical evaluation stage – contrary to section 76(3) [*Evaluation*] of the Act and Regulation 5 of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023*. Consequently, the Evaluation Committee denied the Applicant the opportunity to have its technical proposal evaluated against the detailed technical evaluation criteria in the bidding document. The Respondent unlawfully conflated the preliminary examination with the detailed evaluation.
3. In part 6.4.1 (System Design Specifications), the bidding document expressly required that photovoltaic systems be designed in accordance with the prescribed system design guidelines referenced by the Respondent. The Respondent prescribed the applicable system design parameters and allowable system configurations that bidders were required to follow when configuring their proposed systems. The bidding document did not require bidders to submit separate engineering calculations demonstrating compliance with individual design assumptions.

4. The Applicant proposed to configure their equipment in accordance with the Employer's prescribed system design guidelines, allowable system configurations and technical specifications. So, the Respondent's finding that "the design was not provided" introduced a new requirement which the bidding document never prescribed, and the Respondent's criticism that the Applicant failed to indicate "which parameters were used or missed" introduced an evaluation criterion that the Respondent never disclosed to the bidders before bid submission.
5. Manufacturer's catalogues are not project-specific engineering designs. It was erroneous for the Respondent to evaluate manufacturers' catalogues as though they constituted the Applicant's engineering design and warranty covered by the performance security.
6. The Applicant prepared and submitted responsive bids for Lots 1 and 3 within the timelines prescribed in the bidding document. The bids comprised all documents required under the bidding documents, including technical proposals, equipment data sheets, documentation of conformity to quality and safety requirements, and design of power rooms and power cabinets, among other supporting documentation. The Respondent's stated grounds for elimination comprised technical design considerations which, under the evaluation methodology prescribed by the bidding documents and the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023*, fell for consideration during the technical evaluation rather than preliminary examination.
7. The Respondent acted in breach of the principles governing public procurement contained in the Procurement and Disposal of Public Assets Act, including fairness, transparency, competition, economy, efficiency and value for money.

C. THE RESPONDENT'S CASE

1. The Respondent filed a response to the Application on 10 July 2026 and a written submission on 14 July 2026.

2. The Respondent contended that the Applicant's Administrative Review complaint was initially non-compliant due to non-payment of administrative review fees but was considered in the interest of substantive justice. On the matter of administrative review fees, the Respondent relied on the Tribunal's decision in *China Railway No. 3 Engineering Company Limited v Kampala Capital City Authority - Application No. 46 of 2025*.
3. Furthermore, the Respondent contended that section 106 (10) of the *Procurement and Disposal of Public Assets Act* provides that a bidder intending to make an application to the Tribunal under sub-sections 8 and 9 shall give the Accounting Officer notice within five working days after the expiry of the period specified for the Accounting Officer to respond.
4. The Respondent contended that the Applicant issued that notice on 29 June 2026, before the five-day period had expired. The Accounting Officer issued a response on 3 July 2026, but the Applicant filed the Application with the Tribunal on the same date.
5. The Respondent contended that the Applicant's assertion that in administrative review the Accounting Officer was restricted only to the reasons in the Notice of the Best Evaluated Bidder, is misconceived. The Respondent contended that administrative review is an investigative process intended to establish whether the procurement process was conducted in accordance with the legal framework in the Act and whether corrective measures are required.
6. The Respondent buttressed this position with the Tribunal's decision in *Twed Property Development Limited v Uganda Revenue Authority - Application 13 of 2025* and Regulation 6 of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023*, which they contended permits the Accounting Officer to consider the complaint submitted by the Applicant, the

procurement records, information obtained from officers of the procuring and disposing entity and any other information necessary to determine the complaint.

7. The Respondent contended that they did not undertake a fresh evaluation or introduce new evaluation criteria. They examined whether the Applicant's bid complied with the mandatory requirements in the bidding document and found that the bid contained substantive non-compliances that rendered it non-responsive, regardless of the stage at which the deficiencies were identified.
8. The Respondent further contended that the reference to the preliminary examination stage in the Notice of Best Evaluated Bidder did not prejudice the Applicant and does not invalidate the procurement process. The Tribunal should consider the substance of the evaluation decision rather than an isolated description appearing in the Notice.
9. The Applicant was aware of the substantive basis upon which its bid was rejected, and has not demonstrated that the description of the evaluation stage deprived it of an opportunity to respond, prevented it from presenting their case, altered the applicable evaluation criteria, or changed the outcome of the procurement process. The alleged error was therefore merely descriptive and did not occasion any prejudice to the Applicant.

D. THE ORAL HEARING

1. The Tribunal held an oral hearing via Zoom videoconferencing on Thursday 16 July, 2026. The appearances were as follows:

The Applicant

Elias Tumwebaze, from Mugarura Kyarimpa & Co. Advocates, counsel for the Applicant.

Godfrey Magezi, Procurement Advisor; *Robert Kiwanuka*, Sales Manager; *Moses Dalia*, Solar Engineer; and *Lois*, Chief Financial Officer (CFO)

The Respondent

Crescent Muhumuza, Head of Procurement; *Richard Ahimbisibwe*, Senior Procurement Officer, and *Robert Nuwagaba*, Electrical Engineer.

The Best Evaluated Bidder (BEB) for Lot 3

Nassa Bbiira Kiwanuka, Managing Director, *Kenoc Services Limited*.

The Best Evaluated Bidder (BEB) for Lot 1

Kyabasinga Fred, Director, *SMT Works and Services Co. Ltd.*

E. RESOLUTION

1. The Tribunal has carefully studied the pleadings, the submissions, the procurement act in file and the bids. Before delving into the issues, this Tribunal shall briefly address the preliminary objections that the Respondent raised regarding administrative review fees and the Application being premature before the Tribunal.
2. The Applicant's pleadings contained five issues whilst the Respondent's pleadings contained three issues. The Tribunal has considered the pleadings and has reframed the issues as follows:
 - 1) Whether the Accounting Officer's decision dated 3 July 2026 is valid ?
 - 2) Whether the Respondent erroneously eliminated the Applicant's bid at the preliminary stage of evaluation?
 - 3) Whether the Respondent rightfully eliminated the Applicant's bid?
 - 4) What remedies are available to the parties?
3. The Respondent also raised 2 preliminary objections which the Tribunal shall dispose of first.

Administrative review fees

4. The Respondent contended that at the time of filing the Request for Administrative Review, the Applicant had not complied with the mandatory statutory requirement relating to payment of the prescribed administrative review fee. The Respondent's contention is that the submitted complaint ought to have been accompanied by a corresponding payment of administrative review fees and that regulation 7(4) of the *Public Procurement and Disposal of Public Assets (Administrative Review) Regulations, 2023* provides that an Accounting Officer shall not investigate a complaint where the prescribed fee has not been paid in accordance with the law. The Respondent contended that the Applicant paid the prescribed administrative review fee on 22 June 2026 (five days after they lodged the complaint on 17 June 2026).
5. Section 106(3)(a) of the Act requires that a complaint submitted to the Accounting Officer be accompanied by payment of the prescribed fee. Regulation 7(4) of the *Public Procurement and Disposal of Public Assets (Administrative Review) Regulations, 2023* further provides that an Accounting Officer shall not investigate a complaint where the prescribed fee has not been paid in accordance with the law.
6. It is the responsibility of the Accounting Officer to advise the complainant on how and where to pay the administrative review fees. The Tribunal has consistently held that a delay in payment of filing fees does not automatically invalidate an application. Even if court fees are initially unpaid, an application may proceed once the correct fees assessed and paid. See: *China Railway No. 3 Engineering Company Limited v Kampala Capital City Authority - Application No. 46 of 2025*.
7. The Applicant submitted an application for administrative review on 17 June 2026, paid the administrative review fees on 20 June 2026, and submitted proof of payment on 22 June 2026.

8. There is no evidence that the Accounting Officer guided or required the Applicant to pay the administrative review fees. The situation would have been different if the Applicant failed to pay the fees after being guided, in which case the Accounting Officer could make a decision to dismiss the Application for non-payment of fees.
9. Furthermore, the record shows that the Accounting Officer accepted the Request for Administrative Review, investigated it and rendered a determination. Having exercised jurisdiction over the complaint and determined it, the Respondent cannot now contend that the complaint was incompetent merely because the Applicant paid the prescribed fee after lodging the complaint.
10. The Respondent's reliance on the Tribunal's decision in *China Railway No. 3 Engineering Company Limited v Kampala Capital City Authority - Application No. 46 of 2025* does not alter the legal position on late payment of administrative review fees. That decision recognised payment of the prescribed fee as a statutory requirement but did not hold that payment of the prescribed fees after an Applicant has already submitted an administrative review request invalidates proceedings which the Accounting Officer has entertained and determined.
11. For these reasons, this preliminary objection fails.

Notice to the Accounting Officer

12. The Respondent contended that the Applicant issued a notice on 29 June 2026 three days before the expiry of the Accounting Officer's response period on 2 July 2026. That the Accounting Officer's response was issued on 3 July 2026 and the Applicant filed the present Application before the on 3 July 2026 before the five-day notice period had expired.
13. Section 106 (10) of the *Public Procurement and Disposal of Public Assets Act* provides that where a bidder intends to make an application to the Tribunal under subsection (8) or (9), the bidder

shall give the Accounting Officer notice **within** five working days after the expiry of the period specified in subsection (3) (b) or subsection (7), as the case may be. The notice is required to be given within the five working days, but not after the five working days prescribed.

14. Section 106(7) of the *Public Procurement and Disposal of Public Assets Act* requires an Accounting Officer to make and communicate a written decision addressed to a bidder within 10 days of receiving a complaint. The Accounting Officer is required to state the reasons for the decision and any corrective measures to be taken, where applicable. In this case, the Respondent received the Applicant's Administrative Review complaint on 17 June 2026. The statutory 10-day period in the Act commenced on 18 June 2026 and expired on 27 June 2026.
15. The five working days within which to give notice of intention to apply to the Tribunal commenced on 29 June 2026 and would have expired on 3 July, 2026.
16. The Applicant rightfully issued a notice to the Accounting Officer on 29 June 2026.
17. Be that as it may, this Tribunal has consistently held that where an Accounting Officer fails to determine an Administrative Review request The Tribunal considered the legal effect of non-compliance with the notice requirement under section 106(10) of the Act in *Elite Chemicals Ltd v Uganda Coffee Development Authority - Application No. 8 of 2021*, *APA Insurance Ltd v Uganda National Roads Authority, - Application No. 2 of 2022*, *EAA Company Ltd & Others v Uganda National Bureau of Standards & Others - Applications Nos. 15, 17 and 18 of 2023*, and *Mbarara City Truck Owners, Drivers & Loaders Co-operative Society Ltd v Mbarara City Council, Application No. 19 of 2024*. In these decisions, the Tribunal has consistently held that failure to serve the statutory notice upon the Accounting Officer does not deprive the Tribunal of jurisdiction or render an application incompetent.

18. The precise timing of the Notice requirement in section 106 (10) does not dictate whether the Tribunal is clothed with the jurisdiction to handle a case such as this one. Additionally, the Respondent's reliance on *Roko Construction Ltd v Uganda Bureau of Statistics - Application No. 2 of 2026* is misplaced, as that decision does not depart from the Tribunal's position in the cases highlighted above. Accordingly, this preliminary objection also fails.
19. Having discharged these preliminary objections, the Tribunal shall now discharge the issues in this case.

Issue 1 – Whether the Accounting Officer's decision dated 3 July 2026 was valid ?

1. Section 106(7) of the *Public Procurement and Disposal of Public Assets Act* requires an Accounting Officer to make and communicate a written decision addressed to a bidder within 10 days of receiving a complaint. The Accounting Officer is required to state the reasons for the decision and any corrective measures to be taken, where applicable. In this case, the Respondent received the Applicant's Administrative Review complaint on 17 June 2026. The statutory 10-day period in the Act commenced on 18 June 2026 and expired on 27 June 2026.
2. The Accounting Officer's decision is dated 3 July 2026. Accordingly, the Accounting Officer made a decision outside the 10-day timeframe mandated in the Act. This Tribunal has consistently held that where an Accounting Officer fails to determine an Administrative Review request within the timeframe set out in the Procurement and Disposal of Public Assets Act, any decision made thereafter is null and incapable of having any legal effect. See *Fleco Holdings Ltd v Ministry of Water and Environment - Application No. 4 of 2026*, and *Xinjiang and Beijing Shine Technology Consortium v Uganda Electricity Transmission Company Limited - Application No. 37 of 2025*.
3. This Tribunal therefore finds that the Accounting Officer's decision dated 3 July 2026 was made outside the statutory

period prescribed in section 106(7) of the Act and is consequently null and has no legal effect.

4. Where an Accounting Officer does not or omits to make and communicate a decision, in writing, addressed to Bidder who makes the complaint within ten days of receipt of a complaint, the aggrieved bidder may make an application for review by Tribunal within ten days from the date of expiry of the period specified in the section 106(7) of the *Public Procurement and Disposal of Public Assets Act Cap 205*. See section 106(8) and 115(2)(b) of the *Public Procurement and Disposal of Public Assets Act Cap 205*.
5. The Applicant was therefore within its statutory rights when it made the instant Application on 3 July 2026.
6. Issue no. 1 is answered in the **negative**.

Issue no. 2 – Whether the Respondent erroneously eliminated the Applicant’s bid at the preliminary stage of evaluation?

7. The Applicant asserts that the Respondent’s Evaluation Committee fundamentally departed from the sequential evaluation methodology prescribed by the bidding document and the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023* by determining substantive technical design considerations at the preliminary examination stage instead of the detailed technical evaluation stage. They argue that the Respondent consequently failed to evaluate its bid in accordance with the disclosed methodology, denied it the opportunity to have its technical proposal evaluated under the detailed technical evaluation criteria, applied undisclosed evaluation criteria contrary to section 76(3) of the Act, and thereby violated the principles of fairness, transparency, competition, economy, efficiency and value for money.
8. The Respondent disputes those allegations and pleads that although the Notice of Best Evaluated Bidder erroneously stated

that the Applicant's bid had been eliminated at the preliminary examination stage, the Applicant's bid had in fact progressed to the detailed technical evaluation stage, where it was found non-responsive. The Respondent characterises the error in the Notice of the Best Evaluated Bidder as a mere oversight which neither affected the evaluation methodology nor occasioned any prejudice to the Applicant. The Respondent further relied on *GAT Consults Ltd v National Water and Sewerage Corporation - Application No. 30 of 2021* and *ROKO Construction Limited v Uganda Bureau of Statistics - Application No. 2 of 2026*, to buttress their position.

9. The Tribunal has examined the Notice of Best Evaluated Bidder, the evaluation reports for Lot 1 and Lot 3 and the relevant provisions of the bidding document. With regard to the Notice of Best Evaluated Bidder, the Tribunal has noted that the Notice of Best Evaluated Bidder communicated that the Applicant's bids for Lot 1 and Lot 3 were found to be non-responsive at the preliminary examination stage for failure to consider the design parameters relating to days of autonomy, derating factor, oversize factor, peak sun hours and safety.
10. After conducting a detailed examination of the evaluation report for Lot 1, a different picture emerges. Specifically, on page 8 of the evaluation report, the Applicant is listed among the bidders who passed the preliminary bid examination stage. And on pages 17-18 of the same evaluation report, the Applicant's bid progressed beyond the preliminary examination stage and underwent detailed technical evaluation.
11. At the detailed technical evaluation stage, the Evaluation Committee assessed, among other matters, whether the Applicant's proposed photovoltaic array capacities met the minimum prescribed requirements, whether the proposed system design complied with the required energy output and design parameters, whether the battery, inverter and street-light warranties complied with section 6.4.1 of the bidding document, whether adequate financial resources had been allocated for

battery replacement, and whether the proposed key personnel satisfied the qualification and experience requirements.

12. These technical evaluation details are summarised in a table indicating a pass/fail for each criterion. The tail end of this table cross-references a more detailed analysis of this information in an appendix to the evaluation report. Upon considering those technical requirements, the Evaluation Committee found the Applicant's bid non-responsive.
13. Similarly, at page 8 of the evaluation report for Lot 3, the Applicant is listed amongst those bidders that passed the preliminary bid examination stage. And on page 16 of the same evaluation report, the Applicant's bid progressed beyond the preliminary examination stage and underwent detailed technical evaluation. The evaluation report for Lot 3 also includes a more detailed analysis of this information in an appendix at the end of the report. As the Respondent did for Lot 1, they considered the technical requirements in the bidding document and found the Applicant's bid non-responsive.
14. The Tribunal therefore finds that, notwithstanding the contents of the Notice of Best Evaluated Bidder, the procurement record clearly proves that the Applicant's bids for Lot 1 and Lot 3 successfully progressed beyond the preliminary examination stage and were eliminated only after undergoing detailed technical evaluation.
15. The statement in the Notice of the Best Evaluated Bidder that the Applicant had been eliminated at the preliminary examination stage was therefore inaccurate and constituted a misdescription of the actual stage at which the Applicant's bids were found non-responsive.
16. The Tribunal further finds that the erroneous description contained in the Notice of the Best Evaluated Bidder did not alter the evaluation methodology adopted by the evaluation committee, introduce undisclosed evaluation criteria, or deprive

the Applicant of an opportunity to have its technical proposal evaluated under the detailed technical evaluation methodology and criteria prescribed in the bidding document. The evaluation reports clearly establish that the evaluation committee adhered to the sequential evaluation methodology and assessed the Applicant's bids against the disclosed technical requirements before arriving at its decision.

17. The Tribunal therefore reaches the same conclusion as it did in *GAT Consults Ltd v National Water and Sewerage Corporation - Application No. 30 of 2021*, and *ROKO Construction Limited v Uganda Bureau of Statistics - Application No. 2 of 2026*, that an erroneous description contained in a Notice of the Best Evaluated Bidder, is insufficient to invalidate an otherwise lawful evaluation where the procurement record demonstrates that the prescribed evaluation methodology was followed and no prejudice was occasioned to the bidder.
18. Accordingly, the Tribunal finds that the Evaluation Committee did not depart from the evaluation methodology prescribed in the bidding document or act in contravention of section 76(3) of the Act.
19. Issue no. 2 is answered in the **negative**.

Issue 3 – Whether the Respondent rightfully eliminated the Applicant's bid ?

20. The Tribunal's jurisdiction under section 115 of the *Procurement and Disposal of Public Assets Act* is one of merits review. Additionally, in *Arua Municipal Council v Arua United Transporters' SACCO*, Civil Appeal No. 25 of 2017, the High Court held that a merits review tribunal has the power to reverse an impugned decision and exercise the same powers and discretions as the original decision-maker. This Tribunal reaffirmed that principle in *Yoya Technologies Limited and Others v Uganda Revenue Authority – Applications 30 and 31 of 2025*, where it held

that it has wide powers, including the power to set aside an original decision and substitute its own.

21. The Tribunal shall now determine whether the Applicant's bid was properly found non-responsive. As a merits review body, this tribunal has independently assessed the substance of the Evaluation Committee's findings against the mandatory requirements, evaluation criteria and methodology set out in the bidding document.
22. In exercising that jurisdiction, the Tribunal shall examine the procurement record and determine whether the impugned decision is correct.
23. The Notice of Best Evaluated Bidder stated that the Respondent had found the bids of *Star DTV (Uganda) Co. Limited* (the Applicant) for Lots 1 and 3 to be non-responsive at the preliminary evaluation stage because they did not consider the design parameters relating to days of autonomy, derating factor, oversize factor, peak sun hours and safety factor.
24. The Notice of Best Evaluated Bidder must indicate the unsuccessful bidders, the stage at which their bids failed or were eliminated and the reasons for the failure or elimination. See regulation 3 (2) of the *Public Procurement and Disposal of Public Assets (Contracts) Regulations, 2023*.
25. Section 106 (4) of the *Public Procurement and Disposal of Public Assets Act* provides that a procuring and disposing entity against which a complaint is made shall on request provide the bidder with a report indicating the reasons for the rejection of the bidder and the stage at which the bidder was rejected and the report shall be used only for the administrative review process. The Applicant did not avail itself of this opportunity.
26. The Tribunal noted that the reasons given in the Notice of Best Evaluated Bidder were abridged and did not fully disclose the reasons as indicated in the evaluation reports.

27. The evaluation report for Lot 1 provided the following reasons for non-responsiveness of the Applicant's bid for Lot 1:
- a) M/S Star DTV Uganda provided systems with NMOT array of 4,587wp for MP3 3,669.6wp for SH3 10,091wp for MP4 and 7,339.2wp for SH4 which are all below the minimum requirement per package given the design parameters provided.
 - b) Bidder provided a battery warranty of 5 years contrary to the bid requirement under section 6.4.1 of the bid.
 - c) Bidder provided a design that provides an energy shortfall deficit of 1,742Wh/day equivalent to 8.7% and 264w short on array NMOT for peak power for MP3 package; An energy shortfall deficit of 1,025 Wh/day equivalent to 6.5% for SH3 package; energy shortfall deficit of 3,031 Wh/day equivalent to -7.0 % and 1.65kw short on array NMOT for peak power for MP4 package and energy shortfall deficit of 4,401 Wh/day equivalent to -13 % for SH4 package.
 - d) Bidder provided a battery warranty of 5 years contrary to the bid requirement under section 6.4.1 of the bid and did not demonstrate to allocate financial resources to make battery investments.
 - e) Bidder provided a battery with a warranty of 5 Years which contravenes the bid requirements under section 6.4.1.
 - f) Bidder provided a Solis inverter with a warranty of 5 years contrary to the bid requirement under section 6.4.1 of the bid.
 - g) Bidder did not submit the street light warranty of > 5 years.
 - h) Bidder submitted Nicholas Wakatama who graduated in January 2015 but his CV indicates that he has experience from 2011 which the evaluation committee disagreed with

and subsequently rejected his experience in off grid standalone solar PV systems.

- i) The evaluation report provided the following reasons for non-responsiveness of the Applicant's bid for Lot 1:
28. The evaluation report for Lot 3 provided the following reasons for non-responsiveness of the Applicant's bid:
- a) M/S Star DTV Uganda provided systems with NMOT array of 4,587wp for MP3; 3,669.6wp for SH3; 10,091wp for MP4 and 7,339.2wp for SH4 which are all below the minimum requirement per package given the design parameters provided.
 - b) Bidder provided a battery warranty of 5 years contrary to the bid requirement under section 6.4.1 of the bid.
 - c) Bidder provided a design that provides an energy shortfall deficit of 1,742Wh/day equivalent to - 8.7% and 264w short on array NMOT for peak power for MP3 package; An energy shortfall deficit of 1,025 Wh/day equivalent to 6.5% for SH3 package; energy shortfall deficit of 3,031 Wh/day equivalent to -7.0 % and 1.65kw short on array NMOT for peak power for MP4 package and energy shortfall deficit of 4,401 Wh/day equivalent to -13% for SH4 package.
 - d) Bidder provided a battery warranty of 5 years contrary to the bid requirement under section 6.4.1 of the bid and did not demonstrate to allocate financial resources to make battery investments.
 - e) Bidder provided a battery with a warranty of 5 Years which contravenes the bid requirements under section 6.4.1.
 - f) Bidder provided a Solis inverter with a warranty of 5 years contrary to the bid requirement under section 6.4.1 of the bid.

- g) Bidder did not submit the street light warranty of > 5 years.
 - h) Bidder submitted Sekamatte Michael as the Construction Manager who is not registered engineer with UIPE/ERB and this contravenes the bid requirements.
 - i) Bidder submitted Marian Atuhaire as Technical supervisor 1 who lacks specific experience in solar PV, electrical installation, power inverters and off-grid standalone solar PV systems with 3 projects of minimum installed capacity of 50kWp each which contravenes the bid requirements.
29. The Tribunal has considered the Applicant's contention that the Respondent introduced new evaluation standards and methodology.
30. In Part 1, Section 3 (evaluation methodology and criteria) of the bidding document, the prescribed method for the evaluation of bids received is the Technical Compliance Selection (TCS) methodology.
31. In Part 1, Section 3 (evaluation methodology and criteria) of the bidding document, the detailed evaluation criteria of the technical parts of the bid are stated under item section 6 [*Technical Criteria*] as follows:
- 6.1 Technical responsiveness shall be evaluated in accordance with ITB Clause 31.*
- 6.2 The Terms of Reference detail the minimum technical requirements.*
- Responsiveness is determined by comparison of the specification offered to the specification required in Section 6, and the evaluation is conducted on a pass/fail basis. Substantial responsiveness shall be considered a pass.*
32. Section 6.2.1 of the bidding document (Daily Energy Requirement) states that the solar PV systems will be required to

deliver prescribed minimum power and energy requirements. Sections 6.2.1.1 and 6.2.1.2 of the bidding document provide that the determination of minimum power and energy requirements is based on the assessment provided.

33. Section 6.4. of the Bidding document (System Design Specifications) provides that the solar PV systems shall be designed in compliance with the 'System Design Guidelines for Component-Based Off-Grid Solar Energy Systems'. That these guidelines were originally developed for the Government of Uganda under the World Bank Energy for Rural Transformation project (ERT III) and can be accessed via the link provided.
34. Section 6.4.1 of the bidding document (System Design Parameters) provided the following design parameters to be used with the system design guidelines:
 - a) Allowable system configurations.
 - b) Allowable battery chemistry.
 - c) Battery depth of discharge design target.
 - d) Load type requirements.
 - e) System voltage requirements (battery array voltage).
 - f) Solar PV array mounting options.
 - g) Minimum required days of autonomy.
 - h) Ambient Temperature.
 - i) Minimum cell temperature.
 - j) Maximum cell temperature.
 - k) Design month daily insolation (Peak Sun Hours).
 - l) Derating factor due to dirt or other foreign materials on the module surface.
 - m) Energy transmission efficiency of the cabling between the PV array and the battery (%).
 - n) Battery Watt-hr Efficiency (%).
 - o) Battery Coulombic Efficiency (%).
 - p) Oversize factor for the Solar PV Array (%).
 - q) Sub-system efficiencies (%).

35. Section 6.4.1 of the bidding document provided for details of required documentation to provided in the technical

specifications and includes: 1) Equipment data sheets 2) Warranty 3) Documentation of conformity to quality and safety requirements 4) Maintenance and service requirements 5) Replacement requirements 6) Additional manufacturer information.

36. Based on Sections 3 and 6 of the bidding document and ITB Clause 12.1(f), the Tribunal finds no merit in the Applicant's contention that Evaluation Committee introduced new evaluation standards and methodology.
37. The bidding document expressly required bidders to submit project-specific system designs and prescribed the technical design parameters against which those designs were to be evaluated. The Applicant failed to comply with several mandatory requirements relating to battery lifespan, manufacturer warranties, financial provision for replacement of major components, inverter warranties and streetlight warranties.
38. The required system design parameters that the bidders were required to comply with are stated in section 6 (statement of requirements). Section 6.4 contains the overarching system design guidelines, and section 6.4.1 lists the system design parameters that bidders were required to use with those guidelines.
39. During the hearing, the Applicant asserted that the Respondent computed the system requirements based on NMOT (Nominal Module Operating Temperature) and yet the bidding document specified system requirements for STC (Standard Test Conditions). The Tribunal however noted that in the bidding document, STC was prescribed **only** within the context of (a) assessing protection against electric shock in wiring materials and accessories for the Solar PV system; and (b) for the PV inverter, determining maximum short circuit current (at STC), and maximum short circuit current (at STC) per PV input.

40. NMOT represents a module's performance under more realistic outdoor operating conditions. The Evaluation Committee used NMOT to determine that the Applicant's design provides an energy shortfall deficit in solar PV systems. Having considered the broad parameters of the statement of requirements, the Tribunal cannot fault the Evaluation Committee in this respect.
41. The Tribunal has also considered the findings relating to the Applicant's proposed key personnel. In Part 1, Section 3 of the evaluation methodology and criteria in the bidding document for each lot, the bidders were required to propose a contract manager with ten years of general experience and five years of specific work experience and two technical supervisors each with five years of general experience and three years of specific work experience. The academic qualifications for the contract manager and technical supervisors were stated as follows:

Contract Manager - Minimum Engineering Degree in Electrical/Energy/Mechanical, 5 years specific experience in off-grid standalone solar PV systems with three (3) projects of 50Kwp minimum capacity and must be a registered engineer with UIPE/ERB.

Technical supervisor - Minimum Diploma in Electrical/Energy/Mechanical Engineering; specific experience in solar PV, electrical installation, power inverters and off-grid standalone solar PV systems with 3 projects of minimum installed capacity of 50kWp each (either as a single installation or sum of multiple installations under one contract).

42. The evaluation reports showed that for Lot 1, the Applicant's proposed construction manager, Nicholas Wakatama, graduated in January 2025, but the Applicant had attributed experience dating back to 2011 and this experience could not properly be credited towards the minimum experience required in the bidding document. For Lot 3, the Applicant's proposed Construction Manager, Sekamatte Michael, was not a registered

Engineer with the local Engineers Registration Board and one of the proposed technical supervisors, Marian Atuhaire, lacked the prescribed specific work experience in solar photovoltaic systems, electrical installations, power inverters and off-grid standalone solar photovoltaic systems involving at least three projects each having a minimum installed capacity of 50 kWp. These requirements were mandatory and were deficient in the Applicant's bids.

43. Having compared the findings recorded in the evaluation reports with the corresponding provisions of the bidding document, the Tribunal is satisfied that every deficiency identified by the Evaluation Committee relates to an express mandatory technical requirement disclosed to bidders before bid submission. The procurement record does not support the Applicant's contention that the Evaluation Committee evaluated the Applicant's bid contrary to the criteria in the bidding document.
44. The Tribunal is mindful that the statutory responsibility for evaluating bids rests with the Evaluation Committee. In *CSM Technologies Pvt Ltd and Sybyl Ltd JV v National Information Technology Authority-Uganda, Application No. 11 of 2025*, the Tribunal observed that the Evaluation Committee is vested with the statutory discretion to evaluate bids and that, provided it applies the prescribed evaluation criteria correctly, the Tribunal cannot and should not assume the role of the Evaluation Committee or substitute its own technical opinion for that of the Evaluation Committee. The Tribunal's mandate is confined to reviewing whether the evaluation was conducted in accordance with the law, the bidding document and the prescribed evaluation methodology.
45. The Tribunal is satisfied that each of the impugned findings was anchored in disclosed provisions of the bidding document and formed part of the technical assessment entrusted by statute to the Evaluation Committee.

46. The Tribunal therefore finds that the Evaluation Committee properly exercised their mandate when they found that the Applicant failed to demonstrate substantial responsiveness to the mandatory technical requirements relating to system design, technical performance, manufacturer's warranties, operation and maintenance obligations and key personnel qualifications. Those deficiencies were material and, whether considered individually or collectively, justified the determination that the Applicant's bid was technically non-responsive.
47. Once satisfied that the Committee applied the prescribed methodology contained in the Solicitation Document, the Tribunal cannot substitute its own technical opinion for that of the Evaluation Committee.
48. This Applicant in effect invites the Tribunal to revisit the technical assessments undertaken during evaluation. To revisit that determination would require the Tribunal to undertake its own technical assessment of the proposed equipment and system architecture, which falls outside its review mandate.
49. The Tribunal therefore finds no basis upon which to interfere with the Evaluation Committee's conclusions. Accordingly, the Tribunal finds that the Respondent rightfully eliminated the Applicant's bid.
50. Issue no. 3 is resolved in the **negative**.

Issue 4 - What remedies are available to the parties?

51. Having found that the Applicant failed to establish the substantive grounds upon which this application is founded, particularly that the Evaluation Committee departed from the prescribed evaluation methodology and criteria or that the Respondent wrongfully determined the Applicant's bid to be technically non-responsive, the Tribunal finds that the Applicant has not established any basis warranting its intervention under section 115 of the Act. Accordingly, the Applicant is not entitled

to any of the declarations, orders or other reliefs sought, and the application shall be dismissed.

F. DISPOSITION

1. The Application is dismissed.
2. The Tribunal's suspension order dated 6 July 2026 is vacated.
3. Each party shall bear its own costs.

Dated at Kampala, this 21st day of July 2026.



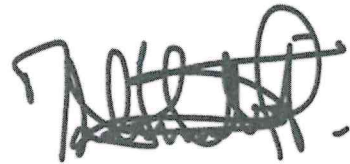
**FRANCIS GIMARA, S.C.,
CHAIRPERSON**



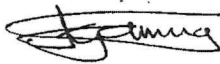
**NELSON NERIMA
MEMBER**



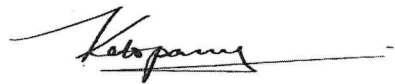
**GEOFFREY NUWAGIRA KAKIRA
MEMBER**



**PAUL KALUMBA
MEMBER**



**CHARITY KYARISIIMA
MEMBER**



**KETO KAYEMBA
MEMBER**



**ENG. CYRUS TITUS AOMU
MEMBER**