

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

APPLICATION NO. 28 OF 2025

BETWEEN

EYERE COMPANY SMC LTD:..... APPLICANT

AND

ARUA CITY COUNCIL:..... RESPONDENT

**APPLICATION FOR REVIEW IN RESPECT OF THE
PROCUREMENT FOR REVENUE COLLECTION FROM LOADING
AND OFFLOADING UNDER PROCUREMENT REFERENCE NO.
ARUA601/SRVCS/25-26/00005**

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

DECISION OF THE TRIBUNAL

A. BRIEF FACTS

1. Arua City (the Respondent) initiated a procurement for the collection of revenue from loading and offloading in Arua Central Division at an estimated monthly revenue of UGX. 25,000,000 (Twenty-Five Million Shillings) for a period of twelve months under procurement reference number ARUA601/SRVCS/25-26/00005 on June 27, 2025.
2. The Respondent received bids from four (4) bidders, namely; *Eyere Company SMC Ltd* (the Applicant), *Hopeway Limited*, *Osidito Investments* and *Mau-Summit Agency Ltd* on July 17, 2025.
3. Upon conclusion of the evaluation process, the Respondent issued a Best Evaluated Bidder Notice on August 1, 2025, stating that *Eyere Company SMC Ltd* was the Best Evaluated Bidder at a Contract Price of UGX 48,150,000/= per month.
4. *Hopeway Limited (the Applicant)*, being aggrieved with the conduct and outcome of the procurement process, filed a complaint with the Respondent's Accounting Officer on August 7, 2025. The complaint was that the chairperson of the Evaluation Committee was not chosen by the members but was nominated by the Procurement and Disposal Unit, contrary to regulation 3 (1) of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023*. It was further alleged that the Procurement and Disposal Unit had a conflict of interest in single-handedly nominating the chairperson of the Evaluation Committee.

5. The Respondent's Accounting Officer constituted an Administrative Review Committee on August 8, 2025.
6. The Respondent's Accounting Officer responded to the administrative review on August 8, 2025, wherein he informed the complainant that he had constituted an Administrative Review Committee to re-evaluate their bid.
7. The Respondent's Accounting Officer made and communicated a decision on August 14, 2025, wherein they found merit in the complaint and declared *Hopeway Limited* as the best evaluated bidder at a contract price of UGX. 45,550,000.

B. APPLICATION TO THE TRIBUNAL

1. The Applicant, aggrieved by the decision of the Respondent's Accounting Officer, then filed the instant Application on August 26, 2025, before the Tribunal, for review of the decision of the Respondent.
2. The Application is premised on six substantive grounds:
 - 1) *The Accounting officer erred in his decision regarding the Administrative Review by evaluating and awarding the contract for Revenue collection from Loading and Offloading vide procurement reference no: Arua601/Srvcs/25-26/25-26/00005 to Hopeway Limited without any powers to do so because under Section 31 of PPDA Cap 205 the power to award Contracts is given by law to the Contracts Committee in accordance with applicable procurement or disposal procedures as the case may be.*

- 2) *The Accounting officer erred when he evaluated and awarded for Revenue collection from Loading and Offloading vide procurement reference no: Arua601/Srvcs/25-26/25-26/00005 to Hopeway Limited without cancelling and setting aside the award of contract to Eyere Company SMC Limited as the best evaluated bidder by the Contracts committee.*
- 3) *The Accounting Officer erred in failing to indicate corrective measures to be taken in his decision regarding the Administrative Review, contrary to 106 (7) of PPDA Cap 205, which requires the Accounting Officer to make a decision in writing within ten working days, indicating the reason for the decision and the corrective measures to be taken, if any.*
- 4) *The Accounting Officer erred in selectively cancelling only the best evaluated bid of Eyere Company SMC Limited and awarding the contract to Hopeway Limited. Yet, the same Evaluation Committee, whose Chairperson was alleged in the Administrative Review to have been unlawfully appointed by the Procurement and Disposal Unit, handled so many procurement references and objects/ subjects for the same entity.*
- 5) *The Accounting officer erred in awarding the Contract without any legal basis, to Hopeway Limited, whose bid was not responsive because Hopeway Limited lacked the minimum of two (2) years specific experience in revenue collection for loading and offloading and five (5) years general experience in undertaking similar services in the last ten years, that is from 2015-2025. Hopeway Limited also lacked the minimum value of Ug Shs 30,000,000/= and above for each contract performed/undertaken in the last 10 years (2015-2025).*

- 6) *The Accounting officer acted in conflict of interest by appointing the same Assistant Deputy Town Clerk as Chairperson of the Administrative Review Committee, yet he was the same person who signed and issued letters appointing members of the Evaluation Committee, which became the subject of Administrative Review by Hopeway Limited.*
3. The Applicant prayed that the Tribunal set aside the Accounting Officer's decision, order a fresh evaluation, and award the Applicant costs.

C. APPLICANT'S SUBMISSIONS

The Applicant filed written submissions on September 4, 2025.

Issue no:1

Whether the Accounting officer erred in his decision regarding the Administrative Review by evaluating and awarding the contract for revenue collection from Loading and Offloading to Hopeway Limited without any powers to do so?

1. Under section 31 of the *Public Procurement and Disposal of Public Assets Act*, the Contracts Committee is legally given the power to award contracts.
2. It was wrong, unlawful, improper and unjustified for the Accounting officer to proceed in his decision to declare *Hopeway Limited* as the best evaluated bidder based on his own evaluation after finding merit in the application for administrative review in ground one (1) that the Chairperson of the evaluation committee was wrongly nominated by the procurement and disposal unit and approved by the Contracts Committee.

3. After finding that the Chairperson of the evaluation committee was wrongly nominated by the Procurement and Disposal Unit and approved by the Contracts Committee, the proper, just, and logical decision was for the Accounting officer to cancel and set aside the evaluation and the award of the contract.

Issue no. 2:

Whether the Accounting officer erred when he evaluated and awarded the contract for Revenue collection from Loading and Offloading to Hopeway Limited without cancelling and setting aside the award of contract to Eyere Company SMC Limited as the best evaluated bidder approved by the Contracts committee?

4. The purported declaration by the Accounting Officer of *Hopeway Limited* as the complaint best evaluated bidder and award of contract to *Hopeway Limited* without the Accounting Officer cancelling and setting aside the contract award and the notice of the best evaluated bidder issued to the Applicant *Eyere Company SMC Limited* was erroneous, unlawful, wrong and unjustified.

Issue no. 3:

Whether the Accounting Officer erred in failing to decide and indicate corrective measures to be taken in his decision regarding the Administrative Review

5. We submit that the Accounting Officer erred when he failed to decide and indicate a corrective measure taken regarding the Administrative Review within ten (10) days, contrary to section 106 (7) of the *Public Procurement and Disposal of Public Assets Act*.

6. The purported decision of the Accounting Officer made on August 14, 2025, but communicated to the complainant, the Applicant, and other bidders on August 20, 2025, after the lapse of the statutory timeline of 10(ten) days, is a nullity and no decision at all.

Issue no. 4:

Whether the Accounting Officer erred in selectively cancelling Eyere Company SMC Limited's best-evaluated bid and awarding the contract to Hopeway Limited?

7. The Accounting Officer erred in selectively cancelling only the best-evaluated bid of *Eyere Company SMC Limited* when the chairperson of the Evaluation Committee for all the procurements was wrongly chosen.

Issue no. 5:

Whether the Accounting officer erred in awarding the Contract without any legal basis to Hopeway Limited, whose bid was not responsive?

8. The Accounting officer erred in awarding the Contract without any legal basis to *Hopeway Limited*, whose bid was not responsive. *Hopeway Limited* lacked a minimum of two (2) years specific experience in revenue collection for loading and offloading, and five (5) years general experience undertaking similar services in the last ten years, that is, from 2015 to 2025.

Issue no. 6:

Whether the Accounting officer acted in conflict of interest in appointing the same Assistant Deputy Town Clerk as Chairperson of the Administrative Review Committee?

9. The Accounting officer acted in conflict of interest in appointing the same Assistant Deputy Town Clerk as Chairperson of the Administrative Review Committee, yet he was the same person who signed and issued letters appointing members of the Evaluation Committee, which became the subject of Administrative Review by *Hopeway Limited*.

Corrective measures

10. The Applicant prayed that the Tribunal allows this Application; sets aside the decision of the Accounting Officer; orders fresh evaluation; and orders the Respondent to pay costs.

D. REPLY BY THE RESPONDENT

1. The Respondent filed a reply on September 1, 2025, through its Legal Unit.

Issue no. 1:

Whether the Accounting officer erred in his decision regarding the Administrative Review by evaluating and awarding the contract for revenue collection from Loading and Offloading to Hopeway Limited without any powers to do so?

2. The whole procurement process was still under review, and no contract had been signed. Section 28 of the Public Procurement and Disposal of Public Assets Act empowers the Accounting Officer to have overall responsibility for the Procurement and Disposal process in the procuring and disposing entity; he is the one who appoints the Contracts Committee; the Contracts Committee reports to him and is answerable to him, and he is the last person who signs the Contracts to bind the entity. The Accounting Officer did the right thing to uphold the recommendation of the Administrative Review Committee.

Issue no. 2:

Whether the Accounting officer erred when he evaluated and awarded the contract for Revenue collection from Loading and Offloading to Hopeway Limited without cancelling and setting aside the award of contract to Eyere Company SMC Limited as the best evaluated bidder approved by the Contracts committee?

3. Upon receipt of the application for administrative review, the appointing officer immediately suspended the procurement process and requested the bidders to extend the bid validity and bid security.

Issue no. 3:

Whether the Accounting Officer erred in failing to decide and indicate corrective measures to be taken in his decision in respect to the Administrative Review

4. The Accounting Officer rightly indicated the corrective measures for the decision as the Administrative Review Committee recommended.

Issue no. 4:

Whether the Accounting Officer erred in selectively only cancelling the best evaluated bid of Eyere Company SMC Limited and awarding the contract to Hopeway Limited?

5. The chairperson of the Evaluation Committee was appointed prior to the committee sitting, which was erroneous. This is a point of law that overrides everything, but does not amount to selectively cancelling Eyere Company SMC Limited's award, as the Applicant insinuated.

Issue no. 5:

Whether the Accounting officer erred in awarding the Contract without any legal basis to Hopeway Limited, whose bid was not responsive

6. Hopeway Limited met the requirements and qualified to be awarded the contract.

Issue no. 6:

Whether the Accounting officer acted in conflict of interest in appointing the same Assistant Deputy Town Clerk as Chairperson of the Administrative Review Committee?

7. The Assistant Deputy Town Clerk acted in a delegated capacity for the Accounting Officer in signing the appointment of members of the Evaluation Committee; he signed the appointment for the Accounting Officer, but he did not appoint himself to chair the Administrative Review Committee; rather, he was appointed to chair the Committee based on his competence and experience in this field.

Reliefs

8. The Respondent prayed that the Application be dismissed with costs.

E. SUBMISSIONS BY HOPEWAY LTD AS AN INTERESTED PARTY

1. *Hopeway Ltd* filed written submissions as an Interested party on September 3, 2025.

Non-compliance with legal requirements for the selection of the Evaluation Committee chairperson

2. The violation of regulation 3 (1) of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023*, rendered the entire procurement process fundamentally flawed and contrary to the legal framework. Any outcome derived from the procedurally defective process, including the contract award to the applicant, had to be declared null and void.

Wrong bid submission by the Applicant

3. The Applicant erroneously conflated two distinct and separate procurement processes: revenue collection from loading and offloading, and revenue collection from the tipper lorry park. The Applicant's bid submission sheet, bid security and operational chart reference "*revenue collection from loading and offloading and lorry parking fees*".
4. The Applicant's bid constitutes a material deviation from the bidding requirements, was fundamentally defective and should have been rejected at the preliminary examination stage.

Fraudulent documentation by the Applicant

5. The Applicant submitted a purported recommendation letter from the office of the Town Clerk ostensibly dated 9th July, 2023- a date that pre-dates the tender advertisement by nearly two years.

However, the same document inexplicably bears signatures and official stamps dated 9th July, 2025.

Award to Hopeway Ltd without cancelling the award to Eyere Company SMC Ltd

6. An award decision is not a contract. The law contemplates award changes within the standstill period.

Corrective measures

7. The Accounting officer's decision fully satisfies the statutory requirements, providing both clear reasoning and appropriate corrective measures.

Responsiveness of Hopeway Limited's bid

8. Hopeway Limited met all legal requirements and was properly awarded the contract.

Selective cancellation of the Applicant's award

9. The Applicant cannot claim to be aggrieved or to have had its rights adversely affected by procurement processes in which it did not participate.

Conflict of interest by the Assistant Deputy Town Clerk

10. The Applicant has failed to adduce any evidence to satisfy the Tribunal that a genuine conflict of interest existed.

Whether the Applicant was qualified

11. The Applicant's bid suffered from fundamental defects, including confusion between two distinct processes, submission of fraudulent documentation, and material deviations from basic tender requirements.

Prayers

12. The Interested Party prayed that the Application be dismissed.

13. In the alternative, the Interested Party prayed that a fresh procurement process be conducted with a new evaluation committee.

F. THE ORAL HEARING

The Tribunal held an oral hearing via Zoom software on September 10, 2025. The appearances were as follows:

For the Applicant

1. *Abiko Ritah Geria*, Counsel (M/S Alaka & Co Advocates).
Opidrabho Hassan Iema and *Mawa Azizi*.

For the Respondent

2. *Angudubo Emmanuel*, Assistant Deputy Town Clerk and Chairperson of the Administrative Review Committee. *Omale Jimmy*, Senior Procurement Officer. *Afuru Irene*, Inventory Management Officer and Member of the Evaluation Committee. *Afreda Bosco*, Assistant Mechanical Engineering Officer and Chairperson of the Contracts Committee. *Adia Charles*, Senior Revenue Officer and Chairperson of the Evaluation Committee. *Odama Henry*, Senior Legal Officer. *Odabo John*, Senior IT Officer.

For the Interested Party

3. *Hope Brendah*, Counsel (M/S Sebugwawo & Co Advocates).
Taban Jamaes, Managing Director.

G. RESOLUTION BY THE TRIBUNAL

1. The Tribunal has perused the pleadings, the procurement action file, and considered the written and oral submissions. The Application raised six issues for determination. However, given the pleadings and submissions of both parties, the Tribunal has reframed the issues as follows;
 - 1) *Whether the Applicant has locus standi before the Tribunal?*
 - 2) *Whether the Accounting Officer made and communicated his administrative review decision within the statutory timeline?*
 - 3) *Whether the Accounting Officer failed to decide and indicate corrective measures to be taken in his decision regarding the administrative review?*
 - 4) *Whether the designation of the chairperson of the Evaluation Committee by the Procurement and Disposal Unit invalidated the evaluation process?*
 - 5) *Whether the Procurement and Disposal Unit and the Evaluation Committee had a conflict of interest in the procurement process due to the prior nomination of the chairperson of the Evaluation Committee by the Procurement and Disposal Unit instead of being elected by the Evaluation Committee members?*
 - 6) *Whether the Accounting Officer erred when he Evaluated and Awarded the Contract for Revenue collection from loading and offloading to Hopeway Limited without cancelling and setting aside the award of the contract to Eyere Company SMC Limited as the best evaluated bidder approved by the Contracts Committee?*

- 7) *Whether the Accounting Officer erred in his decision regarding the administrative review by evaluating and awarding the contract for revenue collection from Loading and Offloading to Hopeway Limited without any powers to do so?*
- 8) *Whether the Assistant Deputy Town Clerk had a conflict of interest when he was appointed as Chairperson of the Administrative Review Committee?*
- 9) *Whether the bid of the Applicant was responsive?*
- 10) *Whether the bid of Hopeway Limited was responsive?*
- 11) *What remedies are available to the parties?*

Issue No. 1

Whether the Applicant has locus standi before the Tribunal?

2. The Interested party (*Hopeway Ltd*) submitted that the Applicant has no locus standi because it did not bid for the impugned tender. It is alleged that the Applicant erroneously conflated two distinct and separate procurements: revenue collection from loading and offloading, and revenue collection from the tipper lorry park.
3. The term *locus standi* means a place of standing. It means a right to appear in court, and conversely, to say that a person has no *locus standi* means that he has no right to appear or be heard in a specified proceeding. To say that a person has no *locus standi* means the person cannot be heard, even if he has a case worth listening to. See ***Njau & Others v City Council of Nairobi [1976- 1985 1 EA 397 at 407.***

4. Under section 115 (1)(a)-(c) of the *Public Procurement and Disposal of Public Assets Act, Cap 205*, the following may apply to the Tribunal for review of a decision of a procuring and disposing entity—
 - i. a bidder who is aggrieved, as specified in section 106 (7) or (8);
 - ii. a person whose rights are adversely affected by a decision made by the Accounting Officer; and
 - iii. a bidder who believes that the Accounting Officer has a conflict of interest as specified in section 106(9).
5. A "bidder" means a physical or artificial person intending to participate or participating in public procurement or disposal proceedings. See section 2 of the *Public Procurement and Disposal of Public Assets Act, Cap 205*.
6. The Bid Notice designated the tender for revenue collection from Loading and Offloading under Procurement Reference No. ARUA601/SRVCS/25-26/00005. The Applicant submitted a bid on July 17, 2025, in respect of Procurement Reference No. ARUA601/SRVCS/25-26/00005. The Applicant's bid, however, erroneously refers to *Revenue collection from loading and Offloading/Lorry Parking*. There was no tender for Lorry Parking in the Bid Notice.
7. There is, however, no indication that the Respondent was misled about the tender for which the Applicant was bidding. The erroneous reference to *Lorry Parking* is a misnomer that did not vitiate the bid. It would have been a violation of the core principle of fairness to disqualify the applicant's bid because of a mere addition of inapplicable words to its bid, which, for all intents and purposes, was for *Revenue collection from Loading and Offloading*.

8. The Applicant is a bidder for Revenue *collection from Loading and Offloading* under Procurement Reference No. ARUA601/SRVCS/25-26/00005. Therefore, the Applicant has locus standi as a bidder.
9. Issue No. 1 is resolved in the affirmative.

Issue No. 2:

Whether the Accounting Officer made and communicated his administrative review decision outside the statutory timeline?

10. The Applicant submitted that the Accounting Officer erred when he failed to decide and indicate a corrective measure taken regarding the Administrative Review within ten (10) days, contrary to section 106 (7) of the *Public Procurement and Disposal of Public Assets Act*. That the purported Accounting Officer's decision was made on August 14, 2025, but communicated to the complainant, the Applicant, and other bidders on August 20, 2025, after lapse of the statutory timeline of 10 (ten) days, is a nullity and no decision at all.
11. The Best Evaluated Bidder Notice was issued on August 1, 2025, stating that *Eyere Company SMC Ltd* was the Best Evaluated Bidder at a Contract Price of UGX 48,150,000/= per month.
12. *Hopeway Limited*, being aggrieved with the conduct and outcome of the procurement process, filed a complaint with the Respondent's Accounting Officer on August 7, 2025.

13. Section 106 (7) of the *Public Procurement and Disposal of Public Assets Act, Cap 205*, provides as follows:

(7) The Accounting Officer shall, within ten days of receipt of a complaint, make and communicate a decision, in writing, addressed to the bidder who makes the complaint and which shall indicate the reasons for the decision taken and the corrective measure to be taken, if any.

14. Regulation 8 of the *Public Procurement and Disposal of Public Assets (Administrative Review) Regulations, 2023* provides as follows:

8. The Accounting Officer shall, within ten days of receipt of a complaint, make and communicate a decision, in writing, addressed to the bidder who makes the complaint and which shall indicate the reasons for the decision taken and the corrective measure to be taken, if any.

15. The ten days started to run on August 8, 2025, and would have elapsed on August 18, 2025.

16. *The Accounting Officer communicated his decision to Hopeway Limited, the complainant, on August 14, 2025. The decision was therefore made and communicated to the complainant within the statutory timeline of ten days. The decision was also copied to the Applicant and other bidders, i.e. Osdito Investments and Mau Sumit Agency Limited.*

17. Section 106 (7) of the *Public Procurement and Disposal of Public Assets Act, Cap 205*, and regulation 8 of the *Public Procurement and Disposal of Public Assets (Administrative Review) Regulations, 2023* require the Accounting Officer to make and communicate an administrative review decision to

the bidder who makes the complaint within ten days. The law does not require that the decision be communicated to interested parties within ten days. Therefore, no illegality was committed when the decision was allegedly communicated to the Applicant on August 20, 2025.

18. Issue No. 2 is resolved in the negative.

Issue No. 3:

Whether the Accounting Officer erred in failing to decide and indicate corrective measures to be taken in his decision regarding the administrative review?

19. Section 106 (7) of the *Public Procurement and Disposal of Public Assets Act, Cap 205*, and regulation 8 of the *Public Procurement and Disposal of Public Assets (Administrative Review) Regulations, 2023*, require the Accounting Officer to make and communicate an administrative review decision, the reasons for the decision taken and the corrective measure to be taken, if any.

20. Therefore, corrective measures are not mandatory in all decisions. For instance, no corrective measures may be issued if the complaint is dismissed. The overriding obligation is to make and communicate a decision within the statutory timeline, and to give reasons for the decision. It depends on the decision made and the reasons for the decision.

21. In the instant case, the Accounting Officer found merit in the administrative review complaint and communicated a decision on August 14, 2025, with reasons and the following pronouncements:

- 1) *Hopeway Limited* has been evaluated as the compliant best evaluated bidder based on the evaluation criteria.
 - 2) *Hopeway Limited* will be awarded the contract at a bid price of UGX 45,550,000 (Forty-Five Million Five Hundred Fifty Thousand shillings only).
 - 3) In accordance with Regulation 10 (2) of the PPDA (Administrative Review) Regulations 2023, the administrative review fee worth UGX. 500,000 will be refunded to *Hopeway Limited* by the entity.
22. The Accounting Officer's letter dated August 14, 2025, was a decision, and the purported directives therein, whether correct or not, were "corrective" measures.
23. Issues No. 3 is resolved in the negative.

Issue No. 4:

Whether the designation of the chairperson of the Evaluation Committee by the Procurement and Disposal Unit invalidated the evaluation process?

24. Section 39 of the *Public Procurement and Disposal of Public Assets* provides that the evaluation of bids is conducted by an Evaluation Committee, which reports to the Procurement and Disposal Unit. The Procurement and Disposal Unit recommends the membership of the Evaluation Committee.
25. Section 34 (a) of the *Public Procurement and Disposal of Public Assets* provides that a Procurement and Disposal Unit shall have the powers to recommend the composition of the evaluation and negotiation committees, for the approval of the Contracts Committee

26. Regulation 3(1) of *the Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023* provides that the members of an Evaluation Committee shall select a chairperson from amongst themselves.
27. In the instant case, the Evaluation Committee members were informed of their appointment by one *Angudubo Emmanuel* on behalf of the Town Clerk vide a letter dated July 10, 2025. The letter informed the members that the Contracts Committee had approved them as members of the Evaluation Committee. The appointment letter designated *Adia Charles* as the chairperson of the Committee.
28. It would appear that *Angudubo Emmanuel* acted on behalf of the Town Clerk to communicate the members of the Evaluation Committee, and to designate a chairperson in advance, instead of leaving the selection to the members.
29. The advance designation of a chairperson of the Evaluation Committee instead of leaving the selection to the members of the Evaluation Committee was therefore contrary to regulation 3(1) of *the Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023*.
30. The administrative review committee determined that the illegality invalidates the entire evaluation process.
31. The Tribunal disagrees with the finding of the Administrative Review Committee. The unconventional selection of the Evaluation Committee chairperson did not compromise the integrity of the evaluation process. This irregularity in the chairperson's appointment did not materially affect the outcome.

32. No member of the Evaluation Committee protested the chairperson. The Evaluation Committee's report in the impugned procurement had no dissenters, and no disagreement was recorded. Under regulation 4(9) of *the Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023*, evaluation must be conducted jointly. The decision of an Evaluation Committee must be unanimous, and, by consensus, unless the methodology permits individual assessments. The Tribunal is satisfied that the members of the Evaluation Committee accepted the chairperson by conduct.
33. Subject to the provisions of the Act, the Accounting Officer, the Contracts Committee, the Procurement and Disposal Unit, the User Department, and the Evaluation Committee are authorized to act independently regarding their respective functions and powers. See section 40 of *the Public Procurement & Disposal of Public Assets Act, Cap 205*.
34. There is no evidence that, as a result of the irregular designation of the chairperson, the Evaluation Committee did not discharge its functions independently.
35. Issue no. 4 is resolved in the negative.

Issue No. 5:

Whether the Procurement and Disposal Unit and the Evaluation Committee had a conflict of interest in the procurement process?

36. The administrative review complaint to the Accounting Officer alleged that the Procurement and Disposal Unit had a conflict of interest in single-headedly nominating the chairperson of the Evaluation Committee.

37. The administrative review committee determined that there was no evidence of conflict of interest.

38. The Accounting Officer however, found merit in the complaint that the chairperson of the Evaluation Committee was single-headedly nominated by the Procurement and disposal Unit and approved by the Contracts Committee contrary to Regulation 3(1) of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023*.

39. In the case of ***Uganda vs Patricia Ojangole Criminal Case No. 1/2014***, Justice Gidudu held that;

“Conflict of interest has also been generally defined as any situation in which an individual or corporation is in position to exploit a professional or official capacity in some way for their personal or corporate benefit”

40. There is no evidence of any actual or potential conflict of interest due to the Procurement and Disposal Unit Head designating a chairperson of the evaluation Committee. There is no evidence that the Procurement and Disposal Unit Head or the evaluation Committee chairperson exploited their positions for personal benefit.

41. Issue no. 5 is resolved in the negative.

Issue No. 6:

Whether the Assistant Deputy Town Clerk had a conflict of interest when he was appointed as Chairperson of the Administrative Review Committee?

42. Upon receiving the complaint from *Hopeway Limited*, the Accounting Officer appointed a three-member administrative review committee to investigate it. The committee comprised *Angudubo Emmanuel*, the Assistant Deputy Town Clerk; *Odama Henry*, the Senior Legal Officer; *Akua Fred*, the Senior Revenue Officer; and *Omale Jimmy*, the Senior Procurement Officer.
43. *Angudubo Emmanuel*, the Assistant Deputy Town Clerk, is the same person who communicated the designation of the impugned chairperson of the Evaluation Committee on behalf of the Town Clerk. He was not acting on his own but on behalf of the Town Clerk.
44. The Accounting Officer has the power to investigate a complaint by considering information provided by the staff of the procuring and disposing entity. See regulation 6 (c) of the *Public Procurement and Disposal of Public Assets (Administrative Review) Regulations, 2023*.
45. Therefore, the appointment of the Assistant Deputy Town Clerk as the chairperson of the administrative review Committee was within the Accounting Officer's discretion to consider information from staff. However, the recommendations of an administrative review committee are only advisory and not binding on an Accounting Officer, who is required to make and communicate an administrative decision within the statutory deadlines, as the Accounting Officer did in this case on August 14, 2025.

46. There is no evidence that the Assistant Deputy Town Clerk exploited his position for personal benefit.

47. Issue no. 6 is resolved in the negative.

Issue No. 7:

Whether the Accounting Officer erred in his decision regarding the administrative review by evaluating and awarding the contract for revenue collection from Loading and Offloading to Hopeway Limited without any powers to do so?

48. In the instant case, the Accounting Officer found merit in the administrative review complaint and communicated a decision on August 14, 2025, with the following pronouncements:

- 1) *Hopeway Limited has been evaluated as the compliant best evaluated bidder based on the evaluation criteria.*
- 2) *Hopeway Limited will be awarded the contract at a bid price of UGX 45,550,000 (Forty-Five Million Five Hundred Fifty Thousand shillings only).*
- 3) *In accordance with Regulation 10 (2) of the PPDA (Administrative Review) Regulations 2023, the administrative review fee worth UGX. 500,000 will be refunded to Hopeway Limited by the entity.*

49. Under section 26 of the *Public Procurement and Disposal of Public Assets Act, Cap 205*, a procuring and disposing entity consists of five distinct organs, including the Accounting Officer, a Contracts Committee, a Procurement and Disposal Unit, a User Department, and an Evaluation Committee. Subject to the provisions of the Act, each organ is expected to act independently regarding its respective functions and powers. See section 40 of the *Public Procurement and Disposal of Public Assets Act, Cap 205*.

50. The Accounting Officer, having upheld the complaint filed by *Hopeway Limited*, was only authorized to set aside the award to *Eyere Company SMC Limited*. The Accounting Officer had no power to evaluate *Hopeway Limited's bid* and declare it compliant. That power is vested in the Evaluation Committee. The Accounting Officer also had no power to award the contract and declare *Hopeway Limited* the best evaluated bidder. That power is vested in the Contracts Committee. The Accounting Officer, therefore, acted illegally when he usurped the power of the Evaluation Committee and the Contracts Committee.

51. Issue No. 7 is resolved in the affirmative.

Issue No. 8:

Whether the Accounting Officer erred when he evaluated and awarded the contract for Revenue collection from Loading and Offloading to Hopeway Limited without cancelling and setting aside the award of the contract to Eyere Company SMC Limited as the best evaluated bidder approved by the Contracts Committee?

52. The Best Evaluated Bidder Notice issued on August 1, 2025, declared that *Eyere Company SMC Ltd* was the Best Evaluated Bidder at a Contract Price of UGX 48,150,000/= per month.

53. Following an administrative review complaint the Accounting Officer made a decision declaring *Hopeway Limited* as the best evaluated bidder at a bid price of UGX 45,550,000.

54. This tender envisaged only one provider to collect revenue from Loading and Offloading.

55. There was no possibility of having two best evaluated bidders. Having decided to declare a new best evaluated bidder, the Accounting Officer should have set aside the prior award and notice of best evaluated bidder in favour of the Applicant. Therefore, the Accounting Officer's omission to set aside the prior contract award to the Applicant was irrational and erroneous.

56. Issue No. 8 is resolved in the affirmative.

Issue no. 11:

What remedies are available to the parties?

57. The Tribunal has found that the Accounting Officer prescribed corrective measures which were beyond his powers and usurped the authority of the Evaluation Committee and Contracts Committee.

58. The allegations of non-responsiveness of bids are best determined by the Evaluation committee. The Applicant prayed for re-evaluation. Accordingly, the procurement shall be remitted to the Respondent for re-evaluation by a newly constituted Evaluation Committee in strict compliance with the law. In the circumstances, it is unnecessary for the Tribunal to pronounce itself on issues 8 and 9 since it would pre-empt the re-evaluation.

H. DISPOSITION

1. The Application is allowed.
2. The decision of the Respondent's Accounting Officer dated August 14, 2025, is set aside.
3. The award of contract in the impugned procurement to *Rainbow Market Vendors Association*, as communicated in the Accounting Officer's decision dated August 14, 2025, is set aside.
4. The award of contract in the impugned procurement to *Eyere Company SMC Limited*, as communicated in the Best Evaluated Bidder Notice dated August 1, 2025, is set aside.
5. The Respondent is directed to re-evaluate the bids in the impugned procurement in a manner not inconsistent with this decision, the bidding document and the law.
6. The re-evaluation in no. 4 above should be conducted by a fresh lawfully appointed Evaluation Committee, within 10 working days from the date of this decision.
7. The Tribunal's suspension order dated August 25, 2025, is vacated.
8. The Respondent shall refund the Interested Party's administrative review fees.
9. Each party shall bear its own costs.

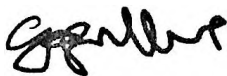
Dated at Kampala, this 15th day of **September, 2025**.



FRANCIS GIMARA SC.
MEMBER



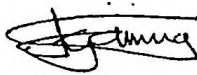
NELSON NERIMA
MEMBER



GEOFFREY NUWAGIRA KAKIRA
MEMBER



PAUL KALUMBA
MEMBER



CHARITY KYARISIIMA
MEMBER



KETO KAYEMBA
MEMBER



ENG. CYRUS TITUS AOMU
MEMBER