

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

APPLICATION NO. 20 OF 2025

BETWEEN

FAFA GLASS INDUSTRIES LIMITED:..... APPLICANT

AND

MINISTRY OF WORKS AND TRANSPORT:..... RESPONDENT

**APPLICATION FOR REVIEW IN RESPECT OF THE PROCUREMENT
FOR COMPLETION OF REHABILITATION AND EXPANSION OF
FACILITIES AT CENTRAL MATERIALS LABORATORY UNDER
PROCUREMENT REFERENCE NO. MOWT/WRKS/2024-
2025/00013.**

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

DECISION OF THE TRIBUNAL

A. BRIEF FACTS

1. Ministry of Works and Transport (the Respondent) invited bids for the completion of rehabilitation and expansion of facilities at Central Materials Laboratory under procurement reference No. MOWT/WRKS/2024-2025/00013 on June 3, 2025. The bid notice was advertised on June 3, 2025, in the EGP CYCAD Portal.
2. Receipts of bids was through the Electronic Government Procurement (e-GP) portal via <https://www.egpuganda.go.ug> and was closed on July 11, 2025.
3. Bids were opened through the Electronic Government Procurement (e-GP) portal on July 11, 2025, at 11:00 am.
4. At the time of the bid opening, four bidders, namely BLOCK TECHNICAL SERVICES LIMITED, PALM CONSTRUCTION COMPANY LTD, NEWTON TECHNICAL SERVICES LTD, and SELEMANI CONSTRUCTION LTD, had submitted their bids.
5. FAFA Glass Industries Limited alleged that it attended a pre-bid meeting on June 26, 2025, but the minutes of the pre-bid meeting and the attendance list did not record the attendance of FAFA Glass Industries Limited.
6. FAFA Glass Industries Limited (the Applicant) then purchased the bid document in the impugned procurement on June 30, 2025, having paid the fees in Diamond Trust Bank.
7. On July 11, 2025, the Applicant attempted to submit its bid through the Electronic Government Procurement (e-GP) portal

but was unsuccessful. The portal displayed the following error message:

“Oops! An Error Occurred

The server returned a “413 content too large”

Something is broken. Please let us know what you were doing when this error occurred. We will fix it as soon as possible. Sorry for any inconvenience caused”.

8. The Applicant states that it sought assistance from the e-GP office and was referred to the responsible Procuring and Disposal Unit, namely the Ministry of Works and Transport, for further support.
9. On July 11, 2025, the Applicant addressed a letter to the Respondent's Accounting Officer requesting an extension of the bid submission deadline so that it could submit its bid. The Respondent did not respond.
10. On July 15, 2025, the Respondent concluded the evaluation process and awarded the contract to **BLOCK TECHNICAL SERVICES LIMITED** as the best evaluated bidder at a contract price of UGX 6,834,817,798/=.
11. On July 31, 2025, the Applicant, being aggrieved with the Respondent's decision, filed the instant Application before the Tribunal for review of the Respondent's decision.

B. SUBMISSIONS

During the oral hearing, the Applicant and Respondent highlighted their written submissions and responses and made oral arguments before the members of the Tribunal.

Applicant

1. The Applicant contended that the bidding process was flawed and discriminatory. That despite several attempts to submit its bid on the final day, system failures beyond its control prevented successful submission. The Applicant further faulted the Respondent for failing to reflect the true attendance of bidders at the pre-bid meeting, yet the Applicant's representatives, together with others, attended the meeting, but the uploaded attendance list showed only one participant without any proof of the presence of the Applicant's representatives.
2. The Applicant averred that it lodged a complaint to the Accounting Officer on 11 July 2025, in accordance with Section 106 of the PPDA Act, but received no response as required by law. The Applicant argued that this failure to respond, combined with the refusal to grant their request for an extension of time to submit documents, demonstrated unfairness and discrimination contrary to the guiding principles of fairness, transparency, and non-discrimination stated in public procurement under Section 46 of the *Public Procurement and Disposal of Public Assets Act, Cap 205*, as well as the constitutional guarantees under Articles 21(3) and 28 of the 1995 Constitution of Uganda.
3. The Applicant cited the High Court's decision in ***Clear Channel Independent Uganda Ltd v PPDA Authority Misc. Appl. No. 350 of 2008***, where Justice Yorokamu Bamwine underscored the need for transparency and fairness in public procurement. The Applicant also relied on the Supreme Court's decision in ***Galleria in Africa v Uganda Electricity Distribution Company Ltd (Civil Appeal No. 08 of 2017)*** to argue that a procurement conducted contrary to established procedures is null and void.

4. The Applicant then prayed for the process to be repeated in the interest of fairness and also prayed for an award of damages and costs.

Respondent

1. The Respondent adopted its written submissions filed on August 13, 2025 and prayed that the Application be dismissed with costs.
2. The Respondent contended that the Applicant's letter of 11 July 2025, requesting an extension for the procurement (MoWT/WRKS/2024-2025/00013), did not constitute a formal administrative review under the PPDA Act, nor was the prescribed UGX 5,000,000 fee paid as required under the PPDA (Administrative Review) Regulations, 2023. Therefore, the claim that the Accounting Officer failed to respond within 10 working days was invalid. The Respondent argued that the Ministry treated the letter as a request for clarification, which was submitted after the deadline for such requests on 27 June 2025, and after the bid submission deadline of 11:00 am on 11 July 2025, making any extension impossible.
3. The Respondent further explained that the pre-bid meeting on 26 June 2025 provided guidance on the proper use of the EGP system, advising bidders to engage competent staff and seek technical support if necessary. While the uploaded minutes lacked an attendance list, they were signed by the Chairperson and made available to all potential bidders to ensure transparency. The Respondent argues that fairness was maintained, as the minutes were intended to provide equal information to all, and the absence of an attendance list did not prejudice any bidder.

4. Regarding the failed bid submission issues, the Respondent contended that the EGP system was fully functional, with bids received from 25 June to 10 July 2025, and that the Applicant's failure to submit was due to exceeding the system's maximum file size of 25 MB. The system returned an error ("413 Content Too Large"), and the Applicant sought assistance instead of compressing the file or attaching a link as advised in the EGP FAQs, which are readily available on the website (<https://egpuganda.go.ug/images/help-guides/revisedfaqs.pdf>).
5. The Respondent asserted that this was not a system malfunction that warranted an extension, and the Applicant had provided no evidence to substantiate their claim of prior successful upload attempts.
6. The Respondent also emphasized that the principles of fairness and competition were observed throughout the process. Four bids were successfully submitted, opened, and evaluated, and repeating the process would be unfair to those bidders. The procurement was conducted via the EGP system to enhance transparency and was, therefore, fair, competitive, and compliant with the PPDA Guidelines.
7. The Respondent prayed that the application be dismissed.

C. THE ORAL HEARING

The Tribunal held an oral hearing via Zoom software on August 14, 2025. The appearances were as follows:

1. **Luwambya Musa** from Wetaka, Nukenya & Kizito Advocates as counsel for the Applicant. In attendance was **Rebecca Komugisha**, a Quantity Surveyor.

2. **Andrew Aribaruho**, an Assistant Commissioner and the Head of the Procurement and Disposal Unit of the Respondent, represented the Respondent's Accounting Officer. In attendance were **Musa Mwine**, a Civil Engineer in charge of Construction Standards and Quality Management, **Raymond Mugabi**, a senior Engineer, and **Lillian Bamukulage**, a procurement officer.

D. RESOLUTION BY THE TRIBUNAL

Issues

The Application did not raise any issues for determination. The Tribunal has framed the following issues for determination.

- 1) *Whether there is a competent Application for determination before the Tribunal?*
- 2) *Whether the Respondent acted unlawfully and improperly in refusing to allow the Applicant to submit its bid despite the technical errors encountered during the submission process on the Electronic Government Procurement (e-GP) portal?*
- 3) *What remedies are available to the parties?*

Resolution of Issues

Issue No. 1:

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

5. The Application is brought under Section 106(1)(a) of the *Public Procurement and Disposal of Public Assets Act*, on the grounds that the Applicant lodged a complaint with the Accounting Officer on July 11, 2025, but had not received any response as of July 31, 2025, in contravention of the law.

6. The determination of this issue is premised on two critical questions: whether the Applicant has locus standi to file the Application and whether the Application was brought following the right procedures.
7. 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.***
8. The Act provides a remedy for any bidder who is aggrieved by a decision of the Accounting Officer, as set out under Section 115(1)(a)-(c) of the *Public Procurement and Disposal of Public Assets Act, Cap 205*.
9. The central question in the present Application is whether the Applicant qualifies as a "bidder" within the meaning of Section 115 of the Act.
10. Section 2 of the Act defines a "bidder" as any natural or legal person who intends to participate, or is participating, in public procurement or disposal proceedings. A "procurement process" is described as the sequence of stages in the procurement cycle, which includes planning, selecting the procurement method, soliciting offers from bidders, examining and evaluating those offers, awarding the contract, and managing the contract.
11. In Application No. 1 of 2025, *Xian Electric Engineering Co. Ltd v Mukono District Local Government*, the Tribunal emphasized that simply inspecting the bidding documents or attending a pre-bid meeting does not make one a bidder. Recognition as a bidder

requires taking additional concrete steps, such as submitting a formal written application to purchase the bidding documents and completing the purchase by paying the stipulated non-refundable fee.

12. We are satisfied that the Applicant purchased the bidding document for the impugned procurement from the Respondent on June 30, 2025 and attached an e-payment receipt from Diamond Trust Bank, No. 2250016739182, showing payment of UGX 100,000/= (Annexure 1 to the Application).
13. The Applicant prepared its bid and attempted to submit it via the Electronic Government Procurement (e-GP) portal, but was unsuccessful due to an error message. The act of purchasing the bid document and trying to submit the bid shows that the Applicant made clear efforts to participate in the procurement process. The Applicant was therefore a bidder.
14. The next question to answer is whether the Applicant lodged a complaint with the Respondent's Accounting Officer in accordance with Section 106 (1) and (2) of the *Public Procurement and Disposal of Public Assets Act, Cap 205*, read together with Regulation 4 of the *Public Procurement and Disposal of Public Assets (Administrative Review) Regulations, 2023*.
15. A bidder's complaint to the Accounting Officer should include the factual and legal grounds of the complaint, such as the specific breach and, if known, the parties involved; the requested corrective measures, supporting evidence in the bidder's possession, and any other relevant information. See Regulation 4(3), (a)-(f) of the *Public Procurement and Disposal of Public Assets (Administrative Review) Regulations, 2023*.

16. Guideline 17 (9) of the *Public Procurement and Disposal of Public Assets (Electronic Government Procurement) Guidelines No.1 of 2020* states that if system failures occur before the submission deadline, the entity must extend the deadline by at least 48 hours from the original bid submission time.
 17. On July 11, 2025, the Applicant sent a letter to the Respondent's Accounting Officer requesting an extension of the bid submission deadline to enable it to submit its bid.
 18. At the hearing, the Applicant's lawyer also admitted that the letter dated July 11, 2025, was a request for an extension of time to file a bid and not an administrative review complaint.
1. We find that the letter addressed to the Accounting Officer in this application was a request for an extension of the bid submission deadline, intended to allow the Applicant to submit its bid. The request aimed to prompt the Respondent to grant an extension of at least 48 hours beyond the original deadline, citing system failures encountered before the submission time, in accordance with Guideline 17(9) of the *Public Procurement and Disposal of Public Assets (Electronic Government Procurement) Guidelines No. 1 of 2020*.
 2. The letter sent to the Respondent dated July 11, 2025, was not an administrative review complaint within the requirements of section 106(1) and (2) of the *Public Procurement and Disposal of Public Assets Act, Cap 205* and regulation 4(3), (a)-(f) of the *Public Procurement and Disposal of Public Assets (Administrative Review) Regulations, 2023*.
 3. A bidder may approach the Tribunal under only three circumstances under section 115 (1) (a) and (b) of the *Public Procurement and Disposal of Public Assets Act, Cap 205*: first,

when they are aggrieved by the decision of an Accounting Officer following an administrative review complaint; second, when the Accounting Officer fails to make and communicate a decision following an administrative review complaint; and third, when the bidder reasonably believes that the Accounting Officer has a conflict of interest, and files an application direct with the Tribunal without first making an administrative review complaintss. This principle is affirmed in ***Apple Properties Limited v Uganda Human Rights Commission, Application No. 6 of 2023***.

19. There was no application for Administrative Review filed with the Respondent's Accounting Officer, and as a result, the Applicant has no legal basis to invoke the Tribunal's jurisdiction. The Applicant did not pursue the Tribunal's review powers under or pursuant to the provisions outlined in *section 115(1)(a)-(c) of the Public Procurement and Disposal of Public Assets Act, Cap 205*. The applicant has no locus, and therefore, the Tribunal cannot exercise jurisdiction in this case. See ***Application No. 15 of 2021, Beautiful Engineering Equipment Limited v Uganda Electricity Transmission Company Limited, pages 11-12***.
20. The instant application filed directly with the tribunal, without first submitting a complaint to the accounting officer and without alleging any conflict of interest, is fundamentally defective and therefore lacking in jurisdiction.

E. DISPOSITION

1. The Application is struck out.
2. The Tribunal's suspension order dated July 31, 2024, is vacated.
3. Each party shall bear its own costs.

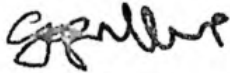
Dated at Kampala, this 19th day of August 2025.



FRANCIS GIMARA SC.
MEMBER



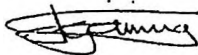
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