

**APPLICATION NO. 3 OF 2026**

BROKERS LIMITED:..... APPLICANT

**COMPANY LIMITED (UETCL) ::::::::::::::::::::::::::::::::::RESPONDENT**

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

Page 1 of 14

## **DECISION OF THE TRIBUNAL**

### **A. BRIEF FACTS**

1. Uganda Electricity Transmission Company Limited (UETCL) ("the Respondent") initiated a procurement process for the Uganda Electricity Transmission Company Limited (UETCL) initiated a procurement process for the provision of insurance brokerage services for the Financial Years 2025-2026 under procurement reference no. UETCL/NCON/2025 – 2026/00115, on 18 September 2026, using the Open Domestic Bidding method.
2. In response to the tender, the Respondent received bids from six (6) bidders, namely; *Minet Uganda Insurance Brokers Limited* (the Applicant), *Clarkson Insurance Brokers Ltd*, *Hub Insurance Brokers Ltd*, *Marsh Insurance Brokers Ltd*, *Padre Pio Insurance Brokers* and *Liaison (U) Insurance Brokers Ltd*, on 22 October 2025.
3. On 23 December 2025, the Respondent issued a Notice of the Best Evaluated Bidder, declaring *Clarkson Insurance Brokers Ltd* as the best evaluated bidder.
4. The Notice of the Best Evaluated Bidder further indicated that the Applicant's bid was unsuccessful at the financial comparison stage of evaluation on the ground that the average turnover of the bidder of (UGX 9,699,889,667) was lower than that of the best evaluated bidder of (UGX 12,128,983,380).
5. Dissatisfied with the elimination of its bid, the Applicant lodged an Administrative Review Complaint challenging the evaluation process with the Respondent's Accounting Officer on 7 January 2026.
6. The Respondent, in a letter dated 19 January 2026, responded to the Applicant's complaint, dismissing the complaint for being devoid of merit.

7. Consequently, the Applicant filed a Notice of Intention to file an application to the Tribunal with the Respondent on 28 January 2026.

## **B. APPLICATION TO THE TRIBUNAL**

8. Being aggrieved by the Respondent's acts and omissions, the Applicant, on 30 January 2026, filed Registry Application No. 3 of 2026 before the Tribunal, seeking a review of the Respondent's decision. The Application is premised on four issues as summarized hereunder.

### ***Issue 1: Whether the determination of the BEB was consistent with the Evaluation Methodology***

9. Section 76 of the Public Procurement and Disposal of Public Assets Act imposes a mandatory obligation on a Procuring and Disposing Entity to evaluate bids strictly in accordance with the evaluation criteria and methodology disclosed in the bidding documents, and prohibits the application of any criterion.
10. The bidding documents prescribed a sequential three-stage evaluation process, namely: Preliminary Examination; Detailed Technical Evaluation; and Financial comparison. Stages Preliminary Examination and Detailed Technical Evaluation were followed, but the procuring and disposing entity cancelled Stage 3 Financial comparison. Instead, the determination of the best evaluated bidder was based on the highest average turnover. The entity should have used the highest score in the detailed technical evaluation.
11. The determination of the Best Evaluated Bidder was ultimately made solely on the basis of the highest average annual turnover, with no demonstrable usage of the technical evaluation on the final outcome. The bidding document should have provided a weighting

criterion to assess the technical capability of the bidders, thus giving actual marks.

12. By elevating average annual turnover into a decisive and overriding determinant, the Respondent rendered the detailed technical evaluation illusory and inconsequential.
13. The Respondent defeated the purpose of assessing professional competence, experience, and service capability; and converted a sequential evaluation process into a de facto single-criterion selection.
14. This approach constitutes a material inconsistency with the approved evaluation methodology. It violates the principles of transparency, fairness, and predictability, as bidders reasonably expected that technical merit would play a meaningful role in determining the Best Evaluated Bidder.
15. The determination of the BEB was not merely procedurally irregular, but structurally wrong criteria as it subverted the disclosed evaluation framework and denied bidders the benefit of a genuine, multi-stage evaluation as promised in the bidding documents and the *Public Procurement and Disposal of Public Assets Act*.

***Issue 2: Whether using Average Annual Turnover is unfair, discriminative and non-competitive ?***

16. Average annual turnover is, by established procurement practice and jurisprudence, a financial capability qualification requirement, intended to confirm that a bidder has the minimum financial capacity to perform the contract.
17. In the present procurement, the bidding documents set a minimum turnover threshold of UGX 1,000,000,000/=. The Applicant exceeded

this threshold substantially, with an average turnover exceeding UGX 9 billion, and thus passed this requirement.

18. The subsequent elevation of turnover from a pass/fail qualification as the sole determinant of the BEB is legally problematic because: it converts a minimum requirement into a comparative scoring mechanism; it rewards size rather than suitability or competence to deliver the service; and it undermines fairness, proportionality, and value for money.
19. The application of turnover in this manner is irrational disproportionate, and offends the principles underpinning public procurement under the Public Procurement and Disposal of Public Assets Act, i.e. fairness, competition and non- discrimination.
20. The procurement used the minimum requirement method to determine the preliminary and technical requirements of bids. This will create a monopoly in the industry. The best option is the weighting of the technical evaluation, which was not done. The bidding document also failed to bring out the criteria to weigh the technical proposal.

***Issue 3: Whether Insurance Brokerage Services as Non-Consultancy can be classified as non-consulting services ?***

21. Insurance brokerage services are, by their very nature, professional advisory services; these are consulting services as defined under the *Public Procurement and Disposal of Public Assets Act* and regulations hereunder.
22. These functions are not mechanical or supply-driven but are knowledge-based, advisory, and judgment-dependent, falling squarely within the definition of consultancy services under the *Public Procurement and Disposal of Public Assets (Procurement of*

*Consultancy Services) Regulations, S.I. No. 101 of 2023, which defines consultancy services as services of an advisory or professional nature evaluated primarily on technical competence, experience, and professional capacity.*

23. The Respondent's decision to classify this procurement as non-consultancy and to apply the Technical Compliance Selection (TCS) method was therefore legally inappropriate and inconsistent with the nature of the services being procured. This misclassification had direct and material consequences for the evaluation process, including an undue and disproportionate emphasis on financial size and turnover; suppression of the qualitative assessment of professional expertise, experience, and advisory capacity; and the application of an evaluation method designed for routine or non-advisory services to a professional advisory engagement.
24. Where a wrong procurement classification is adopted, the resulting process is not merely irregular but fundamentally defective, as the evaluation is conducted on the basis of criteria unsuited to the service.
25. The application of the TCS method in this procurement reduced the assessment of bidders' professional competence to a threshold compliance exercise and allowed financial attributes to dominate the award decision. This outcome is incompatible with consultancy-type services, where technical quality must meaningfully influence selection, ordinarily through methods such as Quality- and Cost-Based Selection (QCBS).

#### ***Issue 4: Remedies***

26. The Applicant prayed for the following remedies;
  - 1) An order setting aside the decision determining the Best Evaluated Bidder.

- 2) An order cancelling the procurement and directing the Respondent to re-commence the process using the correct procurement classification and evaluation method and refund of the money for the bidding documents.
- 3) The Insurance Regulator and Insurance Brokerage Association Technical Committee be summoned to give evidence in regard to the best mode of the evaluation of insurance brokerage services and type of consulting services it falls under.
- 4) Refund of the Administrative Review fees.
- 5) Costs.

#### **C. RESPONSE TO THE APPLICATION**

1. The Respondent filed a response to the Application on 4 February 2026.

##### ***Issue 1: Whether the determination of the BEB was consistent with the Evaluation Methodology ?***

2. Clause 6.2 of Section 3 of the Bidding document provided that a bidder should have a minimum turnover of at least UGX 1,000,000,000 and clause 8.1 on determination of the best evaluated bidder provided that the bid with the highest average turnover from among those which are eligible, compliant and substantially responsive shall be the best evaluated bidder.
3. Whereas the Applicant's bid was found to be eligible, compliant, and substantially responsive, it did not record the highest average annual turnover.

***Issue 2: Whether using Average Annual Turnover is unfair, discriminatory and non-competitive ?***

4. The Respondent disputes the Applicant's averment that using the Average Annual Turnover to determine the BEB is unfair, discriminatory, and non-competitive. The Respondent avers that it has the discretion of determining how to achieve the objectives of a given procurement unless there is an illegality or a fundamental irregularity which vitiates the evaluation.
5. Using the average annual turnover was fair as it was expressly stated in the bidding documents and it was known to all bidders at the time of bidding; and it was applied uniformly to all eligible and responsive bidders. The Applicant's failure to rank highest on a disclosed criterion does not constitute discrimination.
6. The technical evaluation was conducted and the Applicant met all the requirements, however the Applicant had to meet the required standard in the financial comparison criteria.

***Issue 3: Whether Insurance Brokerage Services as Non-Consultancy can be classified as non-consulting services ?***

7. The claim that the Insurance Brokerage services should be classified as a procurement for consultancy services and not procurement for non-consultancy services is disputed. The Respondent stated the requirements that the bidders had to meet and the Applicant itself participated in the procurement process without any query about the classification of the method during the entire procurement process.
8. The Applicant, by signing the bid submission sheet was bound by the procurement process. The Applicant is therefore estopped from contending that the process is flawed because of an alleged wrong misclassification of the procurement as a non-consultancy.

#### ***Issue 4: Remedies***

9. The Respondent prayed that the Application be dismissed with costs to the Respondent.

#### **D. RESPONSE BY BEST EVALUATED BIDDER**

1. The Best Evaluated Bidder as an interested party was invited to respond to the Application. The Best Evaluated Bidder filed a brief response on 4 February 2026, stating that the Respondent complied with the evaluation criteria and the *Public Procurement and Disposal of Public Assets Act* and the regulations thereunder.

#### **E. ORAL HEARING**

1. The Tribunal held an oral hearing via Zoom videoconferencing on 17 February 2026. The appearances were as follows:

##### ***The Applicant***

*Edgar Agaba* as Counsel for the Applicant, *Edward Nabafu*, the Chief Executive Officer, *Benjamin Mukasa*, the Chief Commercial Officer, *James Dungu* and *Edgar Osiapil*, Business Development Executives and *Philip Ayesiga*, a Legal Officer with *Agaba Muhairwe and Co Advocates*

##### ***The Respondent***

*Patience Nuwagaba*, Legal Officer. *Vincent Okurut*, the Head of the Procurement and Disposal Unit and *Mr Edward Rwabushenyi*, Manager Litigation

##### ***The Best Evaluated Bidder***

*John Kallemera* as Counsel for Clarkson Insurance Brokers Ltd, *Alex Makata*, Chief Executive Officer, *Charles Muhoozi*, the Executive Director, *Joan Kitawona*, the Head of Business Development, *Angela*

*Babirye, General Manager, Joel Kimera, Chief Internal Auditor and Alex Asiet, Chief Finance Officer.*

2. The parties made oral highlights of their respective cases and provided clarifications to the Tribunal.

#### **F. RESOLUTION**

1. The Tribunal has perused the pleadings, the procurement action file, and considered the oral and written submissions. The Application raised six issues for determination. However, given the pleadings and submissions, the Tribunal has reframed the issues as follows;
  - 1) *Whether the application before the Tribunal is competent?*
  - 2) *Whether the determination of the Best Evaluated Bidder based on the highest average annual turnover was consistent with the approved evaluation methodology and the PPDA legal framework?*
  - 3) *Whether the use of average annual turnover as a decisive ranking factor was lawful, proportionate, and consistent with procurement principles?*
  - 4) *Whether the classification of insurance brokerage services as non-consultancy services and the application of the Technical Compliance Selection (TCS) method were legally proper?*
  - 5) *Whether there are available remedies to the Parties?*

#### **Issue No. 1 - Whether the Application before the Tribunal is competent?**

2. Any application for review of a decision of a procuring and disposing entity must be lodged with the Tribunal within the strict timelines

prescribed under section 115(2) of the *Public Procurement and Disposal of Public Assets Act*, namely:

- a) in respect of a grievance under section 106(7), within ten working days from the date of receipt of the Accounting Officer's decision;
  - b) under section 106(8), within ten days from the date the relevant statutory period expires; and
  - c) where a conflict of interest is alleged under section 106(9), within ten days from the date the act or omission giving rise to the conflict occurred.
3. In the present application, the Applicant challenged the evaluation process by lodging a complaint with the Respondent's Accounting Officer on 7 January 2026. The Complaint bears a stamp from the Respondent's e-Registry Office, indicating the date of receipt as 7 January 2026 at 4:01 p.m.
4. Upon receipt of the Administrative Review Complaint, the Respondent's Accounting Officer was obliged under section 106(7) of the *Public Procurement and Disposal of Public Assets Act* to render a decision within ten (10) days, running from Thursday 8 January 2026 to Saturday 17 January 2026. The ten days prescribed in section 106(7) of the *Public Procurement and Disposal of Public Assets Act* are calendar days and not working days. Therefore, public holidays and weekends are also counted.
5. The Respondent made and communicated its decision on the Applicant's complaint on Monday, 19 January 2026, which was outside the statutory period of ten (10) days, rendering the decision null and void. This position was affirmed by the Tribunal in Application No. 37 of 2025, *Xinjiang and Beijing Shine Technology Consortium v Uganda Electricity Transmission Company Limited*, page 5, paragraph 4.

6. The Tribunal noted that the tenth day for making and communicating a decision on the Applicant's complaint by the Accounting Officer was 17 January 2026, a Saturday. However, the fact that the last day fell on a Saturday does not dispense with the statutory requirement to render a decision within the prescribed timeframe. Saturday is not an excluded day unless it falls on a public holiday.
7. The situation would have been different if the last day had fallen on a Sunday or a public holiday. In that case, section 34(1)(b) of the Interpretation Act would have come into play. Section 34(1)(b) of the *Interpretation Act* provides that in computing time for the purpose of any Act, if the last day of the period is a Sunday or a public holiday, which days are referred to as "excluded days", the period shall include the next following day, not being an excluded day.
8. In *Application No. 33 of 2021, Super Taste Limited v Bank of Uganda*, page 10 para 14, the Tribunal held that section 34(1)(b) of the *Interpretation Act* only excludes Sundays or public holidays from the computation of time where such a day falls on the last day prescribed for performing an act or taking a proceeding. In such circumstances, the period is extended to the next following day that is not an excluded day. In the instant case as stated above the decision on the Applicant's complaint by the Accounting Officer was 17 January 2026, a Saturday, i.e. neither a Sunday nor a public holiday.
9. Consequently, Saturdays, Sundays, and public holidays are not excluded days unless they fall within the narrow scope of section 34(1)(b) of the *Interpretation Act*.
10. The Tribunal has emphasized that statutory time limits are matters of substantive law, not mere procedural technicalities, and must be strictly complied with, as held in *Uganda Revenue Authority v*

**G. DISPOSITION**

1. The Application is struck out.
  2. The Tribunal's suspension order dated February 2, 2026 is vacated.
  3. Each Party to bear its own costs.
- Dated at Kampala, this 20<sup>th</sup> day of February, 2026.



---

**FRANCIS GIMARA SC.  
MEMBER**



---

**NELSON NERIMA  
MEMBER**



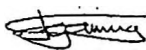
---

**GEOFFREY NUWAGIRA KAKIRA  
MEMBER**



---

**PAUL KALUMBA  
MEMBER**



---

**CHARITY KYARISIIMA  
MEMBER**



---

**KETO KAYEMBA  
MEMBER**



---

**ENG. CYRUS TITUS AOMU  
MEMBER**