

**THE REPUBLIC OF UGANDA
PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS
APPEALS TRIBUNAL
APPLICATION NO. 11 OF 2026**

BETWEEN

SABASTAR GENERAL TRADING CO. LTD ::::::::::::::: APPLICANT

AND

KAMPALA CAPITAL CITY AUTHORITY:::::::::::::::::: RESPONDENT

APPLICATION FOR REVIEW ARISING FROM THE PROCUREMENT FOR THE CONSTRUCTION OF BATCH 1B ROADS IN KAMPALA CAPITAL CITY AUTHORITY UNDER THE GREATER KAMPALA METROPOLITAN AREA URBAN DEVELOPMENT PROGRAM (GKMA-UDP), LOT 1: OLD KIREKA ROAD (6.2KM) + KIREKA LINK (0.4KM) + LANCE ROAD (0.9KM), UNDER PROCUREMENT REFERENCE NO. KCCA-GKMA/WRKS/2025-2026/00008.

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

DECISION OF THE TRIBUNAL

A. BRIEF FACTS

1. On 12 August 2025, Kampala Capital City Authority (the Respondent) initiated a procurement process for the Construction of Batch 1B Roads in Kampala Capital City Authority under the Greater Kampala Metropolitan Area Urban Development Program (GKMA-UDP), Lot 1: Old Kireka Road (6.2Km) + Kireka Link (0.4Km) + Lance Road (0.9Km), using the open domestic bidding procurement method under procurement reference; KCCA-GKMA/WRKS/2025-2026/00008. The bid notice was published on 12 August 2025 in the Daily Monitor newspaper and on 14 August in New Vision Newspaper.
2. On 30 September 2025, the Respondent received bids from thirteen bidders: *China Railway No. 3 Engineering Group Co., Ltd*, *China Civil Engineering Construction Corporation*, *Shandong Luqiao Group Company Ltd*, *China Communications Construction Co. Limited*, *Wady El Nile Contracting and Real-Estate Investments Company*, *China Henan International Cooperation Group Co. Ltd*, *Sabastar General Trading Co. Ltd* (the Applicant), *Pearl Engineering Company Ltd*, *Buildcon Investments Limited*, *Prand Engineering Limited*, *BAP Engineering Co. Limited*, *Parkworth Infrastructure Engineering Company (U) Ltd*, and *Homa Construction P.L.C.*
3. Following the evaluation conducted in accordance with the bidding document, the Respondent issued a Best Evaluated Bidder Notice on 27 February 2026, with a display removal date of 13 March 2026, declaring *Wady El Nile Contracting and Real-Estate Investments Company* as the best evaluated bidder at a contract price of Uganda Shillings 72,850,804,951 (Value Added Tax inclusive).

4. The Notice indicated that the Applicant's bid was unsuccessful at the detailed technical evaluation stage on several grounds, including an insufficient method statement, inadequate personnel qualifications and experience, limited specific project experience, and insufficient experience in managing environmental and social safeguards, all of which were found to be non-compliant with the requirements set out in Section 3 of the Bidding Document (Evaluation Methodology and Criteria).
5. Dissatisfied with the outcome, the Applicant lodged a complaint before the Accounting Officer of the Respondent on 11 March 2026, seeking a review of the evaluation process and asserting that the disqualification grounds were non-material deviations that should have been clarified.
6. In a letter dated 19 March 2026, the Respondent's Accounting Officer communicated the outcome of the administrative review, affirming the findings of the Evaluation Committee. The letter set out the reasons for disqualification, namely: (i) inadequate documentation on Environmental and Social Safeguards, as the Applicant submitted descriptive narratives without accompanying supporting documents such as NEMA certificates, workplace registration certificates, environmental and social audit reports, compliance agreements, and related permits; (ii) the Electrical Engineer's failure to provide a valid practicing certificate; (iii) an insufficient mobilisation schedule that lacked details on equipment shipping timelines, material sourcing, and personnel deployment logistics; and (iv) the failure to demonstrate the capacity to undertake night work. Accordingly, the Accounting Officer dismissed the Applicant's complaint for want of merit.
7. The Applicant subsequently filed Application No. 11 of 2026 before the Tribunal on 26 March 2026, seeking administrative review of the Respondent's decision by the Tribunal.

B. THE APPLICATION

1. The Applicant's case before the Tribunal is fully set out in its application filed on 26 March 2026 and its Rejoinder filed on 2 April 2026
2. The Applicant submitted that the dispute arose from the Respondent's disqualification of its bid for Lot 1 and the subsequent award of the contract to *Wady El Nile Contracting and Real-Estate Investments Company*. It was contended that the approved budget for Lot 1 was approximately UGX 62,000,000,000, against which the Applicant's bid of UGX 50,155,716,854 was significantly lower, thereby representing substantial value for money to the Government of Uganda.
3. The Applicant stated that by a notification dated 1 March 2026, it was informed that its bid had been unsuccessful. It averred that it subsequently lodged a Request for Administrative Review by letter dated 10 March 2026, challenging the disqualification on the basis that the cited deficiencies constituted non-material deviations which ought to have been clarified, corrected, or waived under Regulations 6 and 7 of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023*. By a letter dated 19 March 2026, the Executive Director dismissed the administrative review and upheld the disqualification, following which the Applicant filed the present Application before the Tribunal.
4. The Applicant further contended that it later became aware that the contract had been awarded to *Wady El Nile Contracting and Real-Estate Investments Company*, the tenth lowest bidder out of thirteen, at a price of UGX 72,809,917,951. It submitted that this award exceeded its own bid by approximately UGX 22,654,201,097 and was also above the approved budget, thereby raising concerns as to compliance with the principles of value for money, transparency, and fairness under section 6 of the *Public Procurement and Disposal of Public Assets Act, Cap. 205*.

5. It was the Applicant's case that the Respondent committed procedural irregularities by failing to invoke the clarification mechanism under Regulation 6 of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations* before disqualifying its bid. The Applicant maintained that the issues relied upon—relating to environmental and social safeguards documentation, the practising certificate of the proposed Electrical Engineer, mobilisation schedule detail, and similar matters—were clarifiable and did not justify outright rejection.
6. The Applicant further averred that the alleged deficiencies constituted non-material deviations within the meaning of regulation 7(4) of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations*, as they did not substantially affect the scope, quality, or performance of the works, and that the Respondent improperly elevated curable or minor deficiencies into grounds for disqualification.
7. The Applicant also contended that the award of a contract above the approved budget required strict compliance with statutory approval procedures under the PPDA framework, and invited the Tribunal to require disclosure of the relevant budget approval documentation and all Contracts Committee records demonstrating compliance with the applicable legal requirements. It further maintained that the impugned award resulted in significant financial prejudice to the Government of Uganda, as it involved selecting a substantially higher-priced bid over a lower-priced, allegedly responsive bid, contrary to the principles of efficiency, competition, and value for money.
8. In its Rejoinder to the Respondent's Reply, the Applicant reiterated that the Respondent's reliance on an alleged approved budget of UGX 78,081,907,161 was untenable, as the supporting document, Form 5 (Request for Approval of Procurement), had not been disclosed, and that reliance on a confidential document without disclosure was contrary to fairness and natural justice. It further maintained that, even on the Respondent's asserted budget, its bid represented substantial savings and superior value for money.

9. The Applicant further argued that the Respondent had conflated value for money with mere compliance with the approved budget, and that the award at UGX 72,850,804,951, despite a significantly lower bid, undermined section 43(c) of the PPDA Act, absent a lawful disqualification. It contended that full disclosure of Form 5 and related budgetary approvals was necessary for the proper determination of the issues.
10. The Applicant further averred that the Respondent misapplied Regulation 19(4) of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations 2023* by failing to first invoke Regulation 6 on clarification in respect of alleged deficiencies relating to night works, mobilisation schedules, and ESHS annexures, which were either non-material or capable of clarification. It also contended that the Respondent introduced new and inconsistent grounds in its Reply, particularly concerning ESHS documentation and the qualifications of the proposed Electrical Engineer, which were not part of the original evaluation record or administrative review decision and therefore amounted to impermissible post-hoc justifications.
11. With respect to material deviations, the Applicant maintained that the alleged deficiencies were non-material within the meaning of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations 2023*, and that it had satisfied the requirements on specific experience. It distinguished the decision in *Canaansites Ltd v Uganda National Roads Authority*, Application No. 36 of 2022, submitting that the present deficiencies could have been resolved by clarification without altering the substance of the bid. It further distinguished *China Railway No. 3 Engineering Company Limited v Kampala Capital City Authority*, Application No. 46 of 2025, arguing that it was factually distinguishable.

12. The Applicant further contended that the Respondent failed to demonstrate compliance with mandatory procedural requirements governing the award, including approvals, Contracts Committee records, and regulatory notifications, and sought disclosure of the relevant procurement documentation.
13. Accordingly, the Applicant prayed for declarations that its disqualification was unlawful and procedurally irregular, that the procurement process was inconsistent with the PPDA Act and Regulations, and for an order restraining implementation of the contract awarded to *Wady El Nile Contracting and Real-Estate Investments Company* pending determination of the Application.

C. RESPONDENT'S REPLY TO THE APPLICATION

1. The Respondent, Kampala Capital City Authority (KCCA), in its Response to the Application dated 31 March 2026 and its Reply to the Applicant's Rejoinder dated 8 April 2026, stated that the procurement for the Construction of Batch 1B Roads under the GKMA-UDP, Lot 1, was conducted lawfully, fairly, and in compliance with the Public Procurement and Disposal of Public Assets Act and its Regulations.
2. The Respondent stated that it relied on its earlier Response in full, and that all factual findings, legal submissions, and evaluation conclusions previously set out remained applicable and continued to form part of its case before the Tribunal.
3. On Ground 1, the Respondent stated that the Applicant's allegation of budgetary excess was factually incorrect and legally unsustainable. It submitted that the approved budget for the procurement was UGX 78,081,907,161 as reflected in Form 5, and that the awarded contract price of UGX 72,850,804,951 fell within that approved limit. It therefore maintained that no live issue of value for money arose for determination. It further relied on *Uganda Women's Network & Uganda National NGO Forum v Financial Intelligence Authority & Attorney General (Miscellaneous Cause No. 23 of 2021)*, where the High Court stated that courts do not determine hypothetical or academic disputes where no live controversy exists.

4. On Ground 2, the Respondent stated that the Evaluation Committee was not under a mandatory obligation to seek clarification from the Applicant. It submitted that Regulation 6(1) of the Public Procurement and Disposal of Public Assets (Evaluation) Regulations 2023 confers a discretionary power to request clarification, and that such discretion cannot be used to cure material deviations or alter the substance of a bid after submission.
5. The Respondent further stated that clarification is restricted under Regulation 6(3) and (4) of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations 2023*, which prohibit any clarification that changes the substance of a bid or affects crucial evaluation factors. It maintained that the Applicant's deficiencies were substantive and could not lawfully be corrected through clarification.
6. The Respondent also stated that the Applicant's bid contained material deviations, including failure to demonstrate night-work methodology and inadequate mobilisation planning, which went to the core of technical responsiveness. It stated that allowing clarification on these issues would undermine equal treatment of bidders, as reflected in *Maleka Engineering and Construction Company Limited and Another v Kira Municipal Council, Application No. 30 of 2024*.
7. On experience requirements, the Respondent stated that the Applicant failed to meet the mandatory requirement of two comparable contracts, having submitted only one qualifying project. It stated that this constituted a material non-compliance which could not be cured after submission, consistent with the holding in *Canaansites Ltd v Uganda National Roads Authority, Application No. 36 of 2022*, where the Tribunal stated that clarification cannot be used to introduce new information to cure material deviations.

8. On personnel qualifications, the Respondent stated that all key personnel proposed by the Applicant failed to meet mandatory thresholds for experience and competence. It referred to significant shortfalls in years of relevant and similar-position experience across the Project Manager, engineers, and environmental specialist, and stated that such deficiencies could not be remedied through clarification as they related to substantive qualification requirements.
9. On Environmental, Social, Health and Safety (ESHS) compliance, the Respondent stated that the Applicant's submission was generic and unsupported by project-specific documentary evidence. It relied on *China Railway No.3 Engineering Company Limited v Kampala Capital City Authority Application No. 46 of 2025*, in which the Tribunal upheld disqualification on similar grounds, involving generic ESHS documentation and failure to demonstrate compliance with environmental and social safeguard requirements.
10. On Ground 3, the Respondent stated that bid evaluation was governed by strict compliance with the Instructions to Bidders, particularly clauses 31.1 to 31.3, which required full responsiveness to all material terms and required rejection of bids containing material deviations. It stated that the Evaluation Committee was bound by those clauses and had no discretion to waive mandatory requirements.
11. On Ground 4, the Respondent stated that the Tribunal exercised a supervisory jurisdiction rather than a substitutive one. It relied on *Xinjiang Power Transmission and Transformation Limited Company and Beijing Shine Technology Company Limited Consortium v Uganda Electricity Transmission Company Limited Application No. 37 of 2025*, in which it was stated that intervention is not warranted where the evaluation process complies with the law and the bidding document, and no clear error is shown.

12. The Respondent further stated that the Applicant's attempt to distinguish between the Notice of Best Evaluated Bidder and the Evaluation Report was misplaced. It referred to *China Railway No.3 Engineering Company Limited v Kampala Capital City Authority Application No. 46 of 2025*, where it was held that evaluation findings remain valid even where the notice contains summaries or omissions, provided the evaluation record supports the decision.

13. The Respondent concluded that the Applicant had not demonstrated any procedural irregularity, misapplication of the law, or factual error in the evaluation process. It stated that the Application lacked merit and prayed that the Tribunal dismiss it, uphold the award to the Best Evaluated Bidder, and allow the procurement to proceed without delay, with costs awarded to the Respondent.

D. ORAL HEARING

1. The Tribunal conducted an oral hearing via Zoom videoconferencing on 14 April 2026. The appearances were as follows:

The Applicant

Robel Tekie Tasfagaber, the Managing Director, appeared on behalf of the Applicant. He was accompanied by *Engineer Daniel Omondi*, the Applicant's in-house engineer.

The Respondent

Collins Nizeye, Legal Officer, appeared as counsel for the Respondent. In attendance were *Dr. Bruce Rukundo* (Environmental Specialist), *Esereda Bakisula* (Procurement Specialist), *Edgar Bwambale* (Procurement Supervisor), *Ronald Emeru* (Procurement Officer), *Henry Lutaaya* (Environment Officer), *Eng. Nnasuuna Mirembe* (Supervisor Rada Development), *Charles Mpagi* (Procurement Officer), *Caleb Taremwa* (Procurement Officer), *Emmanuel Gabula* (Project Coordinator, GKMA-KCCA).

The Best Evaluated Bidder – Wady El Nile Contracting and Real-Estate Investments Company

The Best Evaluated Bidder was represented by *Abdelmoneim Fahmy Kamel Neamatalla*, the General Manager. Also in attendance were *Nandutu Vivian* (Administrator) and *Khalid Mady* (Chief Executive Officer) of Wady El Nile Contracting and Real-Estate Investments Company.

2. The parties made oral submissions highlighting their respective cases and provided clarifications to the Tribunal. The Best Evaluated Bidder, Wady El Nile Contracting and Real-Estate Investments Company, although in attendance at the hearing, did not file any written pleadings or formal representations before the Tribunal.

E. RESOLUTION BY THE TRIBUNAL

Issues

The Application and the Respondent's Reply raised issues for determination. The Tribunal, having considered the pleadings and submissions of the parties, framed the issues for determination as follows:

- i) *Whether the Applicant had the requisite locus standi before the Tribunal ?*
- ii) *Whether the Respondent erred in law and fact in disqualifying the Applicant's bid without first seeking clarification?*
- iii) *Whether the grounds relied upon for disqualification constituted material deviations within the meaning of the applicable procurement regulations?*
- iv) *Whether the award of the contract to the best evaluated bidder contravened the principle of value for money under the PPDA Act?; and*
- v) *Whether any remedies were available to the parties?*

Issue No. 1:

Whether the Applicant has the requisite locus standi before the Tribunal?

1. Section 115(1)(a) of the *Public Procurement and Disposal of Public Assets Act, Cap 205*, under which this Application is brought, provides that an aggrieved bidder, as defined under Section 106(7) or (8), may apply to the Tribunal for a review of a decision made by a procuring and disposing entity.
2. A “bidder” is defined under Section 2 of the *Public Procurement and Disposal of Public Assets Act, Cap 205*, as a natural or artificial person who intends to participate or is participating in public procurement or disposal proceedings.
3. Regulation 62(1), (2), and (5) of the *Public Procurement and Disposal of Public Assets (Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services) Regulations, 2023* provides that bidding documents must specify the period during which bids remain valid, and that a bid shall remain valid up to the close of business on the final day of the stipulated validity period. Where an extension is required, a bidder shall be requested in writing to extend the validity period for a specified duration before its expiry.
4. Under regulation 62(6) of the *Public Procurement and Disposal of Public Assets (Rules and Methods for Procurement of Supplies, Works and Non-Consultancy Services) Regulations, 2023*, a bidder may, at its discretion, extend the validity period of its bid where the procuring and disposing entity fails to request such extension in time and the bid is likely to expire before completion of the procurement process.
5. The Tribunal has consistently held that the expiry of bid validity is a matter of law and that, upon such expiry, the procurement process terminates in respect of the affected bidder. It has further held that any application founded on an expired bid is incompetent.

See: Application No. 10 of 2026-*Uzuzi Meter Technologies Limited v Uganda Electricity Distribution Company*; Application No. 23 of 2025-*Meals on Wheels Ltd in Joint Venture with Maze Establishments Ltd v Uganda Civil Aviation Authority*; and Application No. 44 of 2024-*Meera Investment Limited v National Lotteries and Gaming Regulatory Board & Riverstone Africa Ltd/Grand Capital Reality*.

6. Addendum No. 1 to the Bidding Document, published in the *Daily Monitor* Newspaper on Tuesday, 20 September 2025, at page 20, stipulated under ITB 19.1 of Part 1, Section 2 (Bid Data Sheet) that bids were required to remain valid until 25 March 2026.
7. In its Bid Submission Sheet dated 30 September 2025, the Applicant declared that its bid would remain valid until the date specified in ITB Sub-Clause 19.1, and that it would be binding upon the Applicant and subject to acceptance at any time prior to that date.
8. At the hearing, when the Tribunal inquired into the validity of the Applicant's bid, the Applicant conceded that its bid validity expired on 25 March 2026 without any extension being granted. The Applicant nevertheless requested that the Respondent extend the bid validity for purposes of hearing the merits of its application. The Respondent confirmed that no further extension was sought or granted after the bid expired on 25 March 2026.
9. The Applicant's bid lapsed on 25 March 2026 without any further extension, and there is no evidence on the procurement action file indicating that the Applicant exercised the option to voluntarily extend its bid validity before or on that date. Consequently, the Applicant's participation in the impugned procurement ended on 25 March 2026.
10. The Tribunal finds that a bid whose validity has expired cannot be retrospectively extended to revive its validity, whether by the affected bidder or the concerned procuring and disposing entity.
11. At the time the Applicant filed the present application before the Tribunal on 26 March 2026, it had ceased to qualify as a bidder.

Accordingly, the Applicant lacked the requisite locus standi to institute these proceedings before the Tribunal under section 115(1)(a) of the *Public Procurement and Disposal of Public Assets Act, Cap 205*.

12. Consequently, the Applicant lacks locus standi before the Tribunal, and in the circumstances, we shall refrain from considering the merits of the Application.

13. Issue no. 1 is resolved in the negative.

F. DISPOSITION

1. The Application is struck out.
2. The suspension order dated March 27, 2026, is hereby vacated.
3. Each party shall bear its own costs.

Dated at Kampala, this 17th day of April 2026.



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



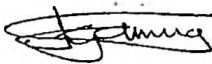
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