

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

APPLICATION NO. 21 OF 2026

BETWEEN

AFRI-TIMBER DEALERS (U) LTD:..... APPLICANT

AND

ITULA SECONDARY SCHOOL:..... RESPONDENT

**APPLICATION FOR REVIEW ARISING FROM THE PROCUREMENT
FOR CONSTRUCTION OF SELECTED FACILITIES AT ITULA
SECONDARY SCHOOL UNDER USEEP IN OBONGI DISTRICT,
PROCUREMENT REFERENCE NO. CPMC-ITULA
SS/USEEP/WRKS/2025-2026/00001**

**CORAM: NELSON NERIMA, GEOFFREY NUWAGIRA KAKIRA, PAUL
KALUMBA, CHARITY KYARISIIMA, AND ENG. CYRUS TITUS AOMU,
MEMBERS**

DECISION OF THE TRIBUNAL

A. BRIEF FACTS

1. Itula Secondary School, the Respondent, under the Uganda Secondary Education Expansion Project (USEEP), initiated an Open Bidding procurement for the Construction of Selected Facilities at Itula Secondary School under USEEP in Obongi District, Procurement Reference No. CPMC-ITULA SS/USEEP/WRKS/2025-2026/00001. The procurement was financed under a Financing Agreement dated February 24, 2022, between the Republic of Uganda (the “Recipient”) and the International Development Association/World Bank under Credit No. 6754-UG/Grant No. D701-UG.
2. Six (6) bidders participated in the procurement, namely; *Ashanty Business Services (U) Ltd*, *Risang Investment Ltd*, *Beem Family Ltd*, *SBM Consults Ltd*, *Afri-Timber Dealers (U) Ltd* (the Applicant), and *Lubra Contractors Ltd*.
3. At the conclusion of the evaluation, the Respondent displayed the Notice of Best Evaluated Bidder on August 3, 2026, naming *Ashanty Business Services (U) Ltd* as the Best Evaluated Bidder at a contract price of UGX 435,377,380. The Notice of Best Evaluated Bidder was to remain on display until August 7, 2026.
4. The Notice of Best Evaluated Bidder also set out the reasons why the other bidders were unsuccessful. *Risang Investment Ltd* and *Beem Family Ltd* were eliminated at the Preliminary Examination stage for failure to attach the activity schedule. *SBM Consults Ltd* was eliminated at the eligibility and Technical Examination stage. The Applicant (*Afri-Timber Dealers Ltd*) and *Lubra Contractors Ltd* were eliminated at the Financial Examination stage because their contract prices were below the minimum acceptable value of the Engineer’s Estimate.

5. Dissatisfied with the outcome of the evaluation process, the Applicant lodged an application for Administrative Review with the Respondent's Accounting Officer/Head Teacher on August 7, 2026.
6. The Applicant disputed its elimination, contending that the Bidding Document did not prescribe the Engineer's Estimate as a minimum acceptable bid price or provide that a bid below the estimate would automatically be rejected. The Applicant also relied on ITB 35.2 [*Abnormally Low Bids*] and maintained that, if its bid was considered potentially abnormally low, the Respondent ought to have sought written clarification, including a detailed price analysis, before rejecting it.
7. The Accounting Officer/Head Teacher issued a response dated August 13, 2026, dismissing the complaint.
8. On August 14, 2026, the Applicant wrote to the Respondent in relation to that response. In its letter, the Applicant referred to the Respondent's letter dated August 13, 2026 and raised concerns about how the Respondent handled the administrative review complaint.
9. The Applicant maintained that the reason initially given for its elimination was that its financial bid was below the minimum acceptable value of the Engineer's Estimate, whereas the Respondent subsequently raised matters relating to equipment, personnel and experience.
10. The parties thereafter continued corresponding on the procurement. By letter dated August 27, 2026, the Respondent requested the Applicant to justify its bid price in relation to the Engineer's Estimate and to explain whether its bid was abnormally low. The Applicant responded by letter dated September 2, 2026, which the Respondent received on September 3, 2026.

11. The Respondent, by letter dated September 9, 2026, maintained that the Applicant had not satisfactorily justified its price under ITB 35.2 [*Abnormally Low Bids*]. It also relied on post-qualification findings relating to the Applicant's equipment, personnel, experience and quantities.
12. The Applicant lodged the present Application before the Tribunal on September 16, 2026, challenging its elimination from the procurement and the Respondent's subsequent handling of its complaint.
13. The Application is premised on six grounds, i.e.
 - 1) Wrongful use of the Engineer's estimate to eliminate the Applicant's bid
 - 2) Failure to seek clarification from the Applicant.
 - 3) Failure to determine the substance of the Administrative Review Complaint.
 - 4) Introduction of new grounds following the Administrative Review.
 - 5) Wrongful re-evaluation of the bid by the accounting officer in the name of post-qualification.
 - 6) Failure to comply with ITB 35.2 [*Abnormally Low Bids*].
14. The Respondent filed a reply to the Application on September 25, 2026. The Respondent avers that:
 - 1) The procurement is governed by the World Bank Procurement Regulations and not the *Public Procurement and Disposal of Public Assets Act*.
 - 2) The financial evaluation followed the bidding document.
 - 3) ITB 35.2 [*Abnormally Low Bids*] was complied with.
 - 4) The Engineer's estimate is a criterion which was approved by the World Bank.
 - 5) The administrative review complaint was answered properly.
 - 6) No new grounds were introduced during the administrative review process.

- 7) Post-qualification was based on the evaluation criteria.

B. ORAL HEARING

1. The Tribunal held an oral hearing via Zoom videoconferencing on October 2, 2026. The appearances were as follows:
For the Applicant- Abdu Rajab Moro, the Managing Director Afri-Timber Dealers (U) Ltd.
For the Respondent- Moro Francis Audu — Headmaster, Itula Secondary School and Accounting Officer, Brenda Kasya Natukunda — Project Manager, USEEP, Wilberforce Turyamubona — Procurement Specialist, USEEP and Eng. Ivan Otyiang — Structural Engineer, USEEP.
2. The Best Evaluated Bidder, *Ashanty Business Services (U) Ltd*, was invited but did not attend the hearing.
3. The parties adopted their pleadings and responded to clarifications sought by the Tribunal.

C. RESOLUTION BY THE TRIBUNAL

1. The Tribunal has considered the pleadings, submissions, bids and the procurement action file.
2. The Applicant raised 6 substantive grounds. However, after considering the pleadings of both parties, the Tribunal has reframed the issues as follows:
 - 1) Whether the Tribunal has jurisdiction to determine the instant Application?
 - 2) Whether the Respondent erred in the evaluation and elimination of the Applicant's bid?

- 3) Whether there are any remedies available to the parties?

Issue no. 1 - Whether the Tribunal has jurisdiction to determine the Application?

3. The Applicant lodged an application for Administrative Review with the Respondent's Accounting Officer/Head Teacher on August 7, 2026. The Accounting Officer/Head Teacher issued a response dated August 13, 2026, dismissing the complaint.
4. The Applicant lodged the present Application before the Tribunal on September 16, 2026, seeking review of the decision of the Respondent's Accounting Officer.
5. The Respondent avers that the procurement is governed by the World Bank Procurement Regulations and not the *Public Procurement and Disposal of Public Assets Act, cap. 205*.
6. The Public Procurement and Disposal of Public Assets Appeals Tribunal is a statutory body established under the *Public Procurement and Disposal of Public Assets Act, cap. 205*. Section 1(1) provides that the Act applies to all public procurement and disposal activities, including procurement financed through development cooperation agreements and co-financing arrangements. Section 2 defines a procuring and disposing entity to include a Ministry of Government and anybody established by an Act of Parliament that receives public funds.

7. *Itula Secondary School (Respondent)*, which initiated the impugned procurement under financing agreements with the International Bank for Reconstruction and Development and the International Development Association, is therefore a procuring and disposing entity within the meaning of sections 1(1)(c) and 2 of the *Public Procurement and Disposal of Public Assets Act* and Guideline on Procurement and Disposal for Schools- Guideline Reference: No.2/2025 of 15 September 2025.
8. Section 3(1) of the *Public Procurement and Disposal of Public Assets Act, Cap. 205* provides that where the Act conflicts with an obligation of the Republic of Uganda arising from an agreement with one or more States or with an international organisation, the provisions of that agreement shall prevail. The critical inquiry is therefore whether the Tribunal's assumption of jurisdiction conflicts with any binding obligation arising under the relevant financing instruments and procurement regulations.
9. Prima facie, the *Public Procurement and Disposal of Public Assets Act* applies unless certain provisions are displaced under section 3(1) of the *Public Procurement and Disposal of Public Assets Act, cap. 205*.
10. Regarding administrative review, ITB 46.1 of the Bidding Document states that a bidder may seek administrative review for any omission or breach by the PDE in accordance with the *Public Procurement and Disposal of Public Assets Act, cap 205*, Regulations and guidelines made thereunder.
11. The Tribunal must decide whether the administrative review scheme in the Act is wholly applicable to this procurement, or was modified under the Financing Agreement.

12. The Tribunal has perused the Financing Agreement for the Secondary Education Expansion Project, between the Republic of Uganda and the International Development Association. Article III provides that the Recipient shall carry out the Project through the Ministry of Education and Sports in accordance with the provisions of Article V of the General Conditions and Schedule 2 to the Financing Agreement. Schedule 2 provides for a Project implementation manual containing detailed arrangements and procedures for implementation of the Project including, *inter alia*, financial, procurement and accounting procedures.
13. Chapter 2 of the *USEEP CDD Implementation Manual* provides that Project procurement will be carried out at three levels. These levels are: (a) National, (b) Local Government; and (c) the Community. The Tribunal noted that this is a Community Procurement at the community/school level. Community Procurement is guided by the 'World Bank Procurement Regulations for IPF Borrowers', dated July 1, 2016, revised November 2020, for Community-Driven Development (CDD) Projects (Section VI, Clause 6.9).
14. The Financing Agreement defines the "Procurement Regulations" as the *World Bank Procurement Regulations for IPF Borrowers*, dated July 2016 and revised in November 2017 and August 2018.
15. The *World Bank Procurement Regulations for Investment Project Financing (IPF) Borrowers, November 2020, and its Annex III on Procurement-related Complaints*, confer on the "Borrower" the responsibility to handle and resolve procurement-related complaints.
16. Chapter Six of the Project Procurement Manual provides for a 3-tier administrative review mechanism as summarized in the paragraphs below.

Administrative Review at Community Level

17. A bidder may seek administrative review before the School Accounting Officer/Head Teacher. Upon receipt of a complaint, the Head Teacher must constitute an Administrative Review Committee to investigate the complaint and make a recommendation. The Head Teacher thereafter communicates the decision to the complainant after submitting a draft response to MoES/USEEP for input.

Administrative Review at Ministry of Education and Sports Level

18. A bidder dissatisfied with the Head Teacher's decision, or where the Head Teacher does not issue a report within fifteen working days of lodging the complaint, may apply for administrative review to the Permanent Secretary, Ministry of Education and Sports (PS/ES). The application must be submitted within five working days after the Head Teacher's decision or the date by which the decision should have been issued. The PS/ES must constitute an administrative review committee and issue a written decision within ten working days after receiving the application.

Administrative Review at the World Bank

19. A bidder may notify the Team Task Leader/USEEP at the World Bank where the PS/ES does not issue a report within fifteen (15) working days of lodging the complaint or the bidder is not satisfied with the decision of the PS/ES on the complaint. The World Bank handles such notifications in accordance with Bank Policies.

Jurisdiction of the Tribunal

20. The Tribunal's jurisdiction stems from section 115 of the *Public Procurement and Disposal of Public Assets Act, Cap. 205*. The Tribunal review a decision made by an Accounting Officer of a procuring and disposing entity under section 106.
21. The PPDA *Guidelines on Procurement and Disposal for Schools, Guideline Reference No.2/2025* govern schools as procuring and disposing entities. Guideline 5.3. (i) mandates the Accounting Officer to investigate complaints by providers. The Guidelines define Accounting Officer /Head Teacher to mean a head teacher of a primary or secondary School, or a principal or director of a post-primary institution.
22. In the Bid Data Sheet for this procurement, the Procuring and Disposing Entity is identified as *Itula S.S in Obongi District*. The Accounting Officer is the Head Teacher of the school, which is the procuring and disposing entity.
23. The Project Procurement Manual provides that if a bidder is dissatisfied with the Head Teacher's decision, or where the Head Teacher does not issue a report within fifteen working days of lodging the complaint, the bidder may submit an application for administrative review to the Permanent Secretary, Ministry of Education and Sports (PS/ES).

24. Therefore, to the extent the school's Accounting Officer's decision is reviewed by the Permanent Secretary, Ministry of Education and Sports (PS/ES), this Tribunal has no power to review the decision of the school's Accounting Officer Head/Teacher under the administrative review scheme of the Project Manual which was made under the Financing Agreement. It is only the PS/ES who can review the impugned decision.
25. The upshot of our finding is that the provisions of the Project Procurement Manual made under the Financing Agreement displace the Tribunal's jurisdiction. Pursuant to section 4(1) of the *Public Procurement and Disposal of Public Assets Act, Cap. 205*, the provisions of the Project Implementation Manual, made under the Financing Agreement, must prevail in the instant case.
26. The Tribunal has noted its previous decisions, where it found that its jurisdiction did not conflict with any obligation of the Republic of Uganda arising out of the Financing Agreements between the Republic of Uganda and the International Development Association. See: *KSE Electricals PVT Ltd v Ministry of Energy and Mineral Development, Application No. 5 of 2026*.
27. In the above case and the cases cited therein, the Financing Agreements and project Implementation Manuals did not provide for recourse to any other authority in Uganda to review the impugned decisions of the respective Accounting Officers. In the instant case, unlike the previous cases, the Tribunal cannot review the decision of the school's Accounting Officer; only the Permanent Secretary, Ministry of Education and Sports, can, as envisaged under the Financing Agreement. No legal provision empowers the Tribunal to review an administrative review of the school's Accounting Officer in the instant case.

28. As a result, the Tribunal has no jurisdiction to review the decision of the Accounting Officer/Head Teacher of *Itula Secondary School*.
29. The application will therefore be struck out. Consequently, there is no need to delve into the merits of the Application.

D. DISPOSITION

1. The Application is struck out.
2. The Tribunal's suspension order dated September 16, 2026 is vacated.
3. Each party shall bear its own costs.

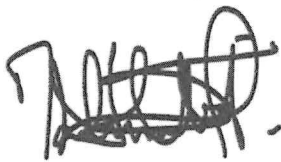
Dated at Kampala, this 6th day of October, 2026.



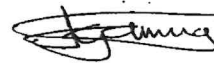
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