

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

REGISTRY APPLICATION NO. 19 OF 2025

BETWEEN

VICTORIA INSGLASS LIMITED =====APPLICANT

AND

KIRA MUNICIPAL COUNCIL =====RESPONDENT

**APPLICATION FOR REVIEW IN RESPECT OF THE PROCUREMENT
FOR THE ENFORCEMENT OF REVENUE COLLECTION FROM
PROPERTY RATES FROM KIREKA WARD, KAMULI A, B, C AND
NAALYA UNDER PROCUREMENT REFERENCE NO.
KIRA712/SRVCS/2025-26/00001**

**BEFORE: FRANCIS GIMARA, S.C, NELSON NERIMA, GEOFFREY
NUWAGIRA KAKIRA, CHARITY KYARISIIMA, KETO KAYEMBA, AND
ENG. CYRUS TITUS AOMU; MEMBERS**

DECISION OF THE TRIBUNAL

A. BRIEF FACTS

1. In May 2025, Kira Municipal Council (the Respondent) invited bids for the management and enforcement of revenue collection from various sources in Kira Municipal Council for the financial year 2025-2026 under procurement reference No. Kira712/Srvcs/2025-26/00001.
2. The Respondent received two (2) bids, from *Continental Looks Limited and Victoria Insglass Limied*, for the enforcement of revenue collection from property rates in Kireka ward: Kamuli A, B, C, and Naalya.
3. Upon the Conclusion of the evaluation process, the Respondent issued a Notice of Best Evaluated Bidder on July 8, 2025, indicating that *Continental Looks Limited* was the best evaluated bidder for this Lot, with a contract price of UGX 1,131,472,000/= for the year 2025-2026 at a commission of 15 % taxes inclusive.
4. The Notice of Best Evaluated Bidder indicated that the Applicant's bid was unsuccessful because "*The User department is dissatisfied with the field operations of the service provider specifically due to misconduct of its staff*".
5. The Applicant was dissatisfied with the outcome of the procurement process and filed an administrative review complaint with the Respondent's Accounting Officer on July 9, 2025.
6. The Applicant's complaint was premised on two grounds: a change of eligibility and evaluation methodology and a lack of transparency and communication regarding the reason for bid rejection, and non-compliance with the tax clearance certificate requirement by the Best Evaluated Bidder.

7. On July 21 2025, the Respondent's Contracts Committee approved a recommendation from the Procurement and Disposal Unit to cancel the procurement, following an investigation of the Applicant's complaint by the Accounting Officer.
8. The Respondent's Accounting Officer responded to the complaint on July 22, 2025, wherein he found merit in the complaint but decided to cancel the procurement.

B. APPLICATION TO THE TRIBUNAL

1. The Applicant, aggrieved with the Respondent's decision, filed the instant Application on July 28, 2025, before the Tribunal, to review the Respondent's decision.
2. The Application is premised on three substantive grounds, i.e.;
- 1) The Respondent cancelled the procurement without considering the fact that the Applicant, having been compliant, should have been awarded the contract, instead of cancellation.
- 2) The evaluation committee contravened the law by amending the evaluation criteria.
- 3) The best evaluated bidder engaged in malpractice by fraudulently presenting a tax clearance certificate after the bids had been closed.
- 4) The Respondent's Accounting Officer decision of July 22, 2025, was made outside the legal requirement of 10 days and is therefore no decision at all.
3. The Applicant also filed written submissions which elaborated on the grounds of the Application.

C. REPLY TO THE APPLICATION

1. The Respondent filed a response to the application on July 30, 2025, and written submissions on August 4, 2025.
2. The Respondent averred as follows:
 - 1) The Accounting Officer received the complaint on July 9, 2025. The applicant then made payment of administrative review fees on July 17, 2025, upon which the Respondent immediately instituted a committee to investigate the complaint and a decision was made and *promptly* communicated on July 22, 2025.
 - 2) The Accounting Officer investigated the complaint, partially found merit in the complaint but owing to irregularities, omissions in the procurement process, and the fact that the circumstances that gave rise to the request for tender had significantly changed for the revenue source, issued a decision on July 22, 2025 which required cancellation of the tender.
 - 3) The cancellation of the procurement was a corrective measure and was ratified by the Contracts Committee.

D. ORAL HEARING

1. The Tribunal held an oral hearing via Zoom videoconferencing on August 12, 2025. The appearances were as follows:

The Applicant

John Kaggwa, Legal Consultant; Andrew Kamya, Director of Business Development; Nabusuulwa Cathy, Manager, Victoria Insglass Limited.

The Respondent

Yiga Benon, Accounting Officer, *Mayga David*, Senior Finance Officer, *Luyima Patrick*, Procurement Officer, *Kagolola Juma*, Contracts Committee member

E. RESOLUTION

1. The Tribunal has considered the oral and written submissions and perused the pleadings, the bids, and the bidding document. The Application raised three issues. However, given the pleadings and submissions of both parties, the Tribunal has reframed the issues as follows:

- 1) *Whether the Tribunal has jurisdiction to entertain this Application?*
- 2) *Whether the Accounting Officer erred in law and fact when he omitted to make a response within the timelines stipulated by law?*
- 3) *Whether the Respondent's cancellation of the procurement was lawful?*
- 4) *Whether the bid of Continental Looks Ltd was responsive to the requirement for a tax clearance certificate?*
- 5) *Whether the reason for the disqualification of the Applicant's bid was valid?*
- 6) *What remedies are available to the parties?*

Issue No. 1:

Whether the Tribunal has jurisdiction to entertain this Application?

2. Under section 115(3) (a) of the *Public Procurement and Disposal of Public Assets Act, Cap 205*, the Tribunal is expressly barred from reviewing a decision of a procuring and disposing entity to cancel a procurement in accordance with section 81 of the *Public Procurement and Disposal of Public Assets Act, Cap 205*.
3. Section 81(1) and (2) of the *Public Procurement and Disposal of Public Assets Act, Cap 205*, allows a procuring and disposing entity, with the approval of its Contracts Committee, to cancel a procurement process before a contract is awarded, under certain prescribed conditions such as funding shortfalls, significant changes in technical requirements, or altered circumstances surrounding the procurement need.
4. In the instant Application, the Respondent argues that the cancellation was a lawful corrective measure taken by the Accounting Officer under section 106(7), with the approval of the Contracts Committee. In contrast, the Applicant contends that the cancellation was procedurally flawed and, therefore, unlawful. This conflict necessitates an inquiry by the Tribunal to determine whether the cancellation adhered to the legal framework set out under section 81.
5. The Tribunal therefore has jurisdiction to inquire into the decision-making process leading to the cancellation, to determine whether there is a valid cancellation within the meaning of section 81 of the *Public Procurement and Disposal of Public Assets Act, Cap 205*. The Tribunal must assess the accuracy of the parties' claims to establish whether the cancellation was carried out lawfully. As part of its review mandate, the Tribunal has the authority to determine whether a valid cancellation decision exists or not.

See: ***Application No. 34 Of 2022, Kingdom Kampala Limited vs Judicial Service Commission, Mulago Hill Diagnostics Ltd vs National Water and Sewerage Corporation, Application No.13 of 2022.***

6. Once the Tribunal establishes that a cancellation was properly carried out in accordance with section 81 of the *Public Procurement and Disposal of Public Assets Act, Cap 205*, it no longer has the jurisdiction to examine the reasons behind that cancellation. However, if the Tribunal finds that no cancellation occurred or that the cancellation did not comply with the requirements of section 81, then its jurisdiction remains intact and is not excluded by section 115(3) of the Act. See ***Preg Tech Communications v Uganda Police, Application No. 32 of 2021; Mugerwa Fred vs Sembabule District Local Government, Application No. 23 of 2022; and Impiger Technologies Private Limited vs Higher Education Students Financing Board, Application No. 25 of 2022.***
7. The Tribunal is therefore duty-bound to inquire into the veracity of the allegations made by the parties insofar as the procedural propriety of the purported cancellation of the procurement is concerned.
8. **Issue no. 1 is resolved in the affirmative.**

Issue No.2:

Whether the Respondent's Accounting Officer erred in law and fact when he omitted to make a response within timelines stipulated by law?

9. The Applicant, being dissatisfied with the procurement process, lodged an administrative review complaint on July 9, 2025, before the Respondent's Accounting Officer.
10. Having received the Applicant's complaint on July 9, 2025, the Accounting Officer was statutorily mandated to make and communicate a decision, in writing, addressed to the bidder who made the complaint within 10 days. The time of reckoning commenced on **July 10, 2025** and elapsed on **July 19, 2025**. See section 106 (7) of the *Public Procurement and Disposal of Public Act, Cap 205*.

11. However, the Respondent's Accounting Officer purportedly made his administrative review decision on July 22, 2025. This decision was made outside the prescribed statutory timelines, was therefore null and void and contrary to the law. Where an applicant for administrative review has not paid the mandatory fees, it is the Accounting Officer's duty to promptly advise on the fees and mode of payment. The statutory timeline for making a decision is not dependent on the date of payment of administrative review fees. Once the 10 days for making a decision have elapsed, the Accounting Officer's decision thereafter is too late to be of any legal effect. Therefore, the purported decision made on July 22, 2025 after the lapse of the statutory timeline is no decision at all and inconsequential. See ***Application No. 14 of 2025-BUU-Lepu Foundation Ltd vs Lira City Council, Application No. 31 of 2024- Jilk Construction Company Limited vs Kira Municipal Council.***

12. **Issue no. 2 is resolved in the affirmative.**

Issue No.3:

Whether the Respondent's cancellation of the procurement was lawful?

13. It has been determined that the Accounting Officer's whole decision dated July 22, 2025, was a nullity and therefore had no legal effect.

14. Section 81(1) of the *Public Procurement and Disposal of Public Assets Act, Cap. 205* provides that a procuring and disposing entity may, on the approval of the Contracts Committee, cancel a procurement or disposal process at any time before a contract is awarded to the Best Evaluated Bidder, as may be prescribed. Therefore, a procurement or disposal process can only be cancelled before contract *award*.

See: ***Application No. 11 of 2023-Global Paper Products Ltd vs Uganda National Examinations Board.***

15. The award of contract is prescribed in regulation 2(1) and (2) of *The Public Procurement and Disposal of Public Assets (Contracts) Regulations, 2023*. After evaluation, a Procurement and Disposal Unit submits a recommendation to award a contract to the Contracts Committee. The Contracts Committee then considers the recommendation to award a contract and makes a decision as may be appropriate.
16. In the Act, the award of a contract is not a contract until an actual contract is *signed* under section 82 of the *Public Procurement and Disposal of Public Assets Act, Cap. 205* and regulation 2 (3) of *The Public Procurement and Disposal of Public Assets (Contracts) Regulations, 2023*.
17. However, under section 81(1) of the *Public Procurement and Disposal of Public Assets Act, Cap. 205*, there can be no cancellation after contract award by the Contracts Committee. It does not matter that a contract has not yet been signed.
18. In the instant case, the Evaluation Committee, in its report dated June 30, 2025, recommended award of a contract to Continental Looks Ltd. The Contracts Committee, in its meeting of July 4, 2025, approved the evaluation report recommendations. A Notice of Best Evaluated Bidder was issued on July 8, 2025.
19. The procurement action file includes minutes of the Contracts Committee meeting held on July 21, 2025, referenced 002/MCC/2025-2026. During this meeting, the Committee considered a submission from the Procuring Officer indicating that the Applicant's complaint had been reviewed by the Accounting Officer. It was established that neither of the two bidders in the contested procurement met the qualification criteria for contract award. Specifically, *Continental Looks Ltd*, the best evaluated bidder, failed to provide a valid Tax Clearance Certificate as required at the bid submission deadline, a deficiency and non-conformity that could not be remedied through a request for clarification.

20. Regarding the Applicant, it was established that their bid was deemed nonresponsive to the technical requirements, particularly the failure to provide evidence of having performed services of a similar nature, value, and magnitude for the financial years 2022/2023 and 2023/2024.
21. Based on the above findings, the Contracts Committee approved the recommendation by the Procurement Officer to cancel the procurement process and authorized a re-tendering of the procurement.
22. The contract award of July 4, 2025, was still in force when the Contracts Committee purported to approve the cancellation on July 21, 2025. The Contracts Committee was *functus officio*, having already made a contract award on July 4, 2025.
23. The situation would have been different if, subsequent to the contract award, the Accounting Officer had set aside the contract award and notice of the best evaluated bidder as a corrective measure.
24. Therefore, the purported cancellation of the procurement during the subsistence of a contract award was contrary to section 81 (1) of the *Public Procurement and Disposal of Public Assets Act, Cap. 205*.
25. Issue no. 3 is resolved in the affirmative.

Issue No. 4:

Whether the bid of Continental Looks Ltd was responsive to the requirement for a tax clearance certificate?

26. In its complaint to the Accounting Officer and application to the Tribunal, the Applicant complains that *Continental Looks Ltd.* was non-compliant with the tax clearance certificate requirement.

27. Part 1 (bidding procedures) of the bidding document required a bidder to submit a valid income tax clearance certificate as one of the documents evidencing eligibility.
28. *Continental Looks Ltd* submitted a copy of an e-acknowledgement receipt of an application for a tax clearance certificate. However, the Evaluation Committee relied on an actual tax clearance certificate issued on June 25, 2025 and evaluated the bidder as compliant with the requirement for a tax clearance certificate.
29. The purported tax clearance certificate dated June 25, 2025, was not part of *Continental Looks Ltd's* bid and was issued after the bid submission deadline of June 19, 2025.
30. The introduction and consideration of purported tax clearance certificate which was not part of the bid and which was issued after the bid submission deadline, was contrary to the bidding document and the statutory requirements of transparency and ethics. The Evaluation Committee illegally considered this document.
31. Issue no. 4 is resolved in the negative.

Issue No. 5:

Whether the reason for the disqualification of the Applicant's bid was valid?

32. The bidding document included a technical requirement that a bidder submit a performance recommendation from the previous employer.
33. The Applicant submitted a recommendation letter from the treasurer of Kira Municipal Council dated June 17, 2025. The letter stated that the Applicant had done a commendable job, recommended that they provide a similar service, and wished them to maintain their vigilance and dedication in revenue enforcement and collection.

34. However, the Evaluation Committee report stated that *The User department is dissatisfied with the field operations of the service provider due to misconduct of its staff*. The service provider did not respond to the warning and invitation to settle the misconduct of its staff.
35. The Contracts Committee, in its meeting of July 4, 2025, approved the evaluation report, but subject to the user department providing a detailed justification of the incumbent's failure, and the particulars of the misconduct to be clearly spelt out in the evaluation report.
36. The Notice of Best Evaluated Bidder dated July 8, 2025, indicated that the Applicant's bid was unsuccessful because *"The User department is dissatisfied with the field operations of the service provider specifically due to misconduct of its staff"*.
37. The alleged dissatisfaction by the user department and misconduct by staff were not evaluation criteria. Section 76 (3) of the *Public Procurement and Disposal of Public Assets Act, Cap. 205* provides that no evaluation criteria other than those stated in the bidding documents shall be taken into account. Regulation 5 of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations 2023* provides that the evaluation of bids shall be conducted in accordance with the evaluation criteria specified in the bidding documents; and an Evaluation Committee is prohibited from making amendment to the evaluation criteria stated in the bidding document, or using any other criteria other than the criteria specified in the bidding document.
38. The Applicant submitted a recommendation letter as required. The Evaluation Committee had a duty to evaluate this letter and determine whether it met the technical requirements of the bidding document. The Evaluation Committee was also free to conduct due diligence to confirm the origin of this letter. However, there was no basis for widening the evaluation criteria to assess satisfaction by the user department and misconduct

of staff. The bidding document provided for a recommendation letter, which should have been evaluated without descending into a subjective inquisition into the performance of the Applicant and the conduct of its staff that had not been stated as evaluation criteria.

39. The evaluation report does not substantiate the finding that the user department is dissatisfied with the Applicant's field operations and that the Applicant did not respond to the warning and invitation to settle its staff's misconduct.

40. A due diligence test should be relevant to the bid. Due diligence should not extend to extraneous or remote matters which have no proximity to the evaluation criteria.

See: ***Application no. 7 of 2021- Elite Chemicals Limited v Uganda Coffee Development Authority.***

41. Therefore, the Evaluation Committee and the Contracts Committee acted illegally when they relied on extraneous criteria relating to alleged dissatisfaction by the user department and misconduct by staff.

42. The upshot of our finding is that the stated reason for disqualifying the Applicant's bid was invalid.

43. **Issue no. 5 is resolved in the negative.**

Issue No. 6:

What Remedies are available to the parties?

44. The Tribunal has determined that the purported administrative review decision of the Respondent's Accounting Officer was no decision at all. The purported cancellation of the procurement was illegal. The Respondent's Evaluation Committee illegally relied on a tax clearance certificate which was smuggled onto the record. The Respondent's Evaluation Committee and Contracts Committee blatantly disregarded the law and bidding document when they applied extraneous evaluation criteria.

The impugned actions of the Respondent's Accounting Officer, Evaluation Committee and Contracts Committee were an unacceptable affront to basic principles of public procurement, including transparency, accountability, fairness, maximisation of competition and promotion of ethics.

45. The Tribunal noted that the Respondent was hell-bent on achieving a pre-determined outcome of this procurement, completely disregarding the law and the bidding document.
46. In the circumstances, the impugned decisions cannot be allowed to stand and will be set aside.

F. DISPOSITION

1. The Application is allowed.
2. The Notice of Best Evaluated Bidder dated July 8, 2025, is set aside.
3. The cancellation of the procurement is set aside.
4. The Respondent is ordered to re-evaluate the bids in a manner not inconsistent with this decision, the bidding document, and the law.
5. The re-evaluation in no. 4 above shall be conducted within 10 working days from the date of this decision.
6. The Respondent shall refund the Applicant's administrative review fees.
7. The Tribunal's Suspension Order dated July 8, 2025, is vacated
8. Each party to bear its own costs.

Dated at Kampala, this 18th day of August, 2025.



FRANCIS GIMARA. S.C
CHAIRPERSON



NELSON NERIMA
MEMBER



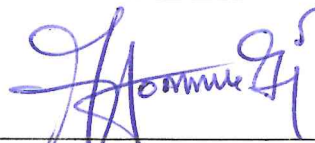
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