

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

**REGISTRY APPLICATION NO. 11 OF 2025**

**BETWEEN**

**CSM TECHNOLOGIES PRIVATE LTD  
AND SYBL LTD JV =====APPLICANT**

**AND**  
**NATIONAL INFORMATION TECHNOLOGY  
AUTHORITY-UGANDA=====RESPONDENT**

**APPLICATION FOR REVIEW IN RESPECT OF THE PROCUREMENT  
FOR THE UPGRADE OF DATA EXCHANGE AND INTEGRATION  
PLATFORM TO ON-BOARD MORE AGENCIES UNDER THE UGANDA  
DIGITAL ACCELERATION PROJECT - GOVERNMENT NETWORK  
(UDAP-GOVNET) UNDER PROCUREMENT REFERENCE NUMBER  
NITA-U/UDAP/SUPLS/2023-2024/00036**

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

## **DECISION OF THE TRIBUNAL**

### **A. BRIEF FACTS**

1. The Government of Uganda, represented by the Respondent, National Information Technology Authority Uganda (NITA-U), has received financing from the World Bank to cover part of the costs of the *Uganda Digital Acceleration Project-Government Network (UDAP-GOVNET)* and intends to apply some of the proceeds toward payments under the contract for the Upgrade of Data Exchange and Integration Platform to On-Board More Agencies.
2. On July 8, 2024, the Respondent issued a Request for Proposals for the *Upgrade of Data Exchange and Integration Platform to On-Board More Agencies*. The Request for Proposals indicated that the procurement process would be conducted through international competitive procurement using Request for Proposals (RFP) as specified in the World Bank's "*Procurement Regulations for IPF Borrowers - Procurement in Investment Projects Financing*" (July 2016, revised September 2023) and was open to all eligible bidders as defined in the Procurement Regulations. The Request for Proposals also stated that the procurement would be a Single Stage-Two Envelope Process.
3. The Respondent received bids from five (5) Bidders, namely *Impiger Technologies PVT Limited, CSM Technologies Private Ltd and Sybl Ltd JV, Jeganee Technologies PVT Ltd, Infocomm IT PVT Ltd, and Wipro Technologies INC.*
4. Upon conclusion of the technical evaluation of the bids, the Respondent notified *Impiger Technologies PVT Limited* and *CSM Technologies Private LTD & Sybl Ltd JV* on December 16, 2024, that their proposals were found to be substantially responsive to the Request for Proposals, met all the qualification criteria, and

scored 74.75% and 61.75% respectively. NITA-U informed *Impiger Technologies PVT Limited* and *CSM Technologies Private Ltd & Sybl Ltd JV* that their respective second envelopes for the financial part of the proposals would be opened at a public opening scheduled for Tuesday, December 31, 2024.

5. On February 24, 2025, the Respondent issued a notification of intention to award the contract, indicating that *Impiger Technologies PVT Limited* was the successful bidder with a combined technical and financial score of 94.42% at a contract price of **USD 8,362,068.52**, VAT exclusive.
6. The notification indicated that the applicant, *CSM Technologies Private Ltd and Sybl Ltd JV*, was ranked second with a combined technical and financial score of 87.83% at a contract price of **USD 6,806,977.58**, exclusive of VAT.
7. On March 6, 2025, the Applicant, *CSM Technologies Private Ltd and Sybl Ltd JV*, requested a debrief from the Respondent, specifically a detailed breakdown of its technical scores in the evaluation of their technical proposal.
8. On March 10, 2025, the Applicant *CSM Technologies Private Ltd and Sybl Ltd JV*, through its lawyers *Shonubi Musoke & Co. Advocates*, filed a procurement-related complaint with the Respondent's Executive Director, challenging the notification of intention to award the contract. The grounds of the complaint were subjective technical evaluation of the applicant's proposal; non-consideration of value for money; and lack of transparency, accountability and fairness.
9. The Respondent acknowledged receipt of the complaint on March 11, 2024. By another letter dated March 31, 2025, the Respondent informed the Applicant that the impugned procurement was

subject to prior review by the World Bank and that a response to the complaint would be provided by April 5, 2025.

10. On April 4, 2025, the Respondent informed the Applicant in writing that the impugned procurement was subject to prior review by the World Bank and that a response to the complaint would be provided by April 10, 2025.
11. On April 10, 2025, the Respondent formally conveyed to the Applicant in writing that it was unable to respond to the complaint, as the contested procurement was undergoing a prior review by the World Bank. The Respondent indicated that a response to the complaint would be provided by April 18, 2025.
12. On April 10, 2025, the Applicant, aggrieved by the Respondent's actions, filed the instant application before the Tribunal to review the Respondent's decision.
13. The Application raised five substantive grounds:
  - 1) Failure by the Respondent to provide a debrief to the Applicant.
  - 2) Failure by the Respondent to make and communicate a decision on the Applicant's complaint within the time prescribed under the World Bank Procurement Regulations.
  - 3) Subjective technical evaluation of the Applicant's technical proposal with respect to compliance with technical requirements; project management and work plan; documentary and service requirements; non-functional requirements; key project implementation team, and general experience. The Applicant contends that an objective evaluation of its technical proposal would have led to a minimum technical score of 89.7 %.



- 4) Non-consideration of value for money since the Applicant had the lowest price.
- 5) Lack of transparency, accountability, and fairness since the evaluation was based on a CMMi certification criterion that was restrictive, unnecessary, and inappropriate.
- 6) The Successful Bidder is non-responsive to the evaluation criteria.
14. The Respondent filed a response on April 15, 2025 and averred as follows:
  - 1) The complaint about the technical evaluation's outcome was filed beyond the 10 business days allowed under paragraph 3.1(b) of Annex III (Procurement-related Complaints) in the World Bank Procurement Regulations for IPF Borrowers.
  - 2) The complaint about the requirements in the Request for Proposals was filed beyond the 10 business days allowed under paragraph 3.1(a) of *Annex III* of the **World Bank Procurement Regulations for IPF Borrowers**.
  - 3) The Applicant accepted all the requirements in the Request for Proposals.
  - 4) The Applicant's proposal was evaluated in accordance with the evaluation criteria. As held in ***Doshnut Uganda Limited v Ministry of Water and Environment, Application 47 of 2024***, the Tribunal cannot and should not take over the role of the Evaluation Committee.
  - 5) Price alone is not the determining factor in the award of a contract.

15. The Successful Bidder filed a response on April 16, 2025 and substantially agreed with the Respondent's decision.

**B. SUBMISSIONS BY THE APPLICANT**

1. The Applicant filed written submissions on April 24, 2025, through *Shonubi Musoke & Co Advocates*.

Preliminary objection – filing out of time

2. The time limit of 10 business days applies to a complaint under paragraph 3.1(b) of *Annex III* of the **World Bank Procurement Regulations for IPF Borrowers**, where a proposer has been excluded from the procurement process. The Applicant was never excluded from the procurement process following the technical evaluation, and the ten-business-day time limit is inapplicable.
3. The Applicant herein made its complaint under paragraph 3.1(c), which provides for complaints to be made following the transmission of the Notice of Intention to award.
4. When the Respondent issued the letter on December 16, 2024, notifying the bidders of the technical scores, no mention was made of the complaint process. On the other hand, when the Respondent issued the Notification of Intention to Award, it fully outlined the procedure and timelines necessary to raise complaints.

Lack of transparency, accountability and fairness regarding the requirement in the bidding document for bidders to demonstrate capability with CMMi Level 1 – 3 certification

5. The Applicant is not challenging the bidding document, as alleged by the Respondent, but rather the procurement process, including

the evaluation process. The complaint was properly brought within the 15-business-day timeline prescribed under paragraph 3.1(c) of Annex III of the **World Bank Procurement Regulations for IPF Borrowers**.

6. At the bid clarification stage, the Applicant brought its challenge regarding the CMMi Level 1 – 3 certification to the Respondent's attention, but the Respondent glossed over it.
7. Counsel cited **Technology Associates Limited in Consortium with Comviva Technologies Limited v Post Bank Uganda Limited; Application No. 6 of 2022**, to support his submission that an Applicant is within its rights to challenge the Respondent's decision with respect to the procurement upon the publication of the Best Evaluated Bidder notice.

*Whether the Respondent erred in not providing a debrief to the Applicant*

8. Counsel submitted that the Respondent's failure to provide a debrief of the results of the procurement to the Applicant is contrary to regulation 5.84 of the World Bank Procurement Regulations which states that where a request for a debrief is made, it should be provided as soon as practicable and normally no later than fifteen (15) Business Days from the date of publication of Contract Award Notice.
9. Counsel further submitted that the obligation to provide a debrief is further espoused under section 106(4) of the **Public Procurement and Disposal of Public Assets Act, Cap. 205**. He relied on the Tribunal's decision in **GAT Consults Limited and Lee Construction Limited (JV) v Public Procurement and Disposal of Public Assets Authority and Ministry of Water and Environment (Application 6 of 2021)**.

10. In addition to failing to provide a debrief, the Respondent also refused to and or failed to provide the Applicant with a response to its complaint of 10 March 2025. Counsel submitted that the Respondent was required to resolve the complaint and thereafter, seek the World Bank's confirmation of satisfactory resolution. He relied on ***Doshnut Uganda Limited v Ministry of Water and Environment, Application 47 of 2024***.

Whether the Respondent's evaluation was subjective, restrictive, unfair and non-transparent and whether the Respondent erred in the evaluation of the Applicant's bid?

11. Counsel submitted that the Respondent's evaluation of its bid was subjective, restrictive, unfair and non-transparent.
12. The Applicant's technical proposal strictly followed and exceeded the criteria, making its combined proposal the most advantageous.
13. The Applicant's technical proposal also met both the mandatory and desirable requirements as provided for in the Request for Proposals. An objective evaluation of the Applicant's proposal would have led to a minimum score of 89.7% points.
14. The Respondent did not apply the evaluation criteria correctly and objectively as required.
15. The technical scores were not supported with reasons. Further, the Respondent did not provide a debrief when the Applicant requested one.
16. The case of ***Doshnut Uganda Limited (supra)*** is not to be used as a shield by the Respondent to say that it was given permission or latitude to be capricious, to ignore set rules and simply assign scores without basis.

17. Inherent in the requirement for the contracting authority to give reasons for what, in the end, were its scores, is the undertaking of a process that can yield such reasons and this duty may not require the contracting authority to delve into every granular detail of the discussion, but it must at least be in a position to say why a tenderer has scored, for example 3, not 4 (going beyond what the definition of each score is and not merely that it has so scored). Counsel cited ***Bromcom Computers Plc v United Learning Trust and another*** [2022] EWHC 3262 (TCC).

*Non-transparent, restrictive, unfair evaluation and lack of accountability*

18. Counsel submitted that the evaluation was based on a criterion that was not only inappropriate to the nature and complexity of the project but was also undefined.
19. The Respondent required bidders to demonstrate capability with CMMi Level 1 – 3 certification without specifying which component of CMMi was relevant, not only for the project but also during the bid evaluation.
20. On July 18, 2024, the Applicant sought clarification on which component was applicable for the procurement process, but the Respondent glossed over this.
21. By enforcing the requirement, the Request for Proposals effectively excluded the most capable and experienced WSO2 and related technology partners from participating.
22. By signing the said Letter of Proposal, the Applicant did not waive its rights to challenge the procurement process, nor did it agree to be bound by any resultant pronouncements arising from the

procurement process. Counsel cited ***M and B Engineers Limited v Uganda National Roads Authority and Another (Civil Appeal No. 0316 of 2021)*** for the proposition that to waive a right of action or interest in property, legal or equitable, requires an express or implied agreement of the person entitled to that right.

23. Counsel also relied on the case of ***Technology Associates Limited in Consortium with Comviva Technologies Limited v. Post Bank Uganda Limited*** for the proposition that a bidder is well within its rights to challenge the Respondent's decision regarding the procurement upon the issue of the notification of intention to award.

*Failure to consider value for money in the procurement*

24. The Applicant's bid was technically responsive to the Request for Proposals and had the lowest price of **USD 6,806,977.58** as opposed to the successful evaluated bidder's price of **USD 8,362,068.56**.
25. The Applicant's technical proposal was deliberately underscored, thus creating an unfair advantage for the Successful Bidder's proposal. The Respondent, being aware that nothing could be done about the Applicant's scores for the financial proposal, wrongfully applied its discretion in evaluating the technical proposal. The Respondent deliberately awarded the Applicant a lesser score for their technical proposal to fail it purposefully.
26. To achieve value for money, in light of significant price differences between the Successful Bidder and the lower bidder, the Respondent should have sought clarification from all bidders on their bids and waived the requirements (if any) deemed to be non-material with a view of ensuring that the Respondent obtains value for money in the procurement process.

Whether the best-evaluated bid was responsive to the evaluation criteria

27. Based on the Applicant's knowledge and expertise, there is no market evidence that the Successful Bidder has successfully undertaken or completed projects of similar scope, complexity, and value as required by the Request for proposals.

Remedies

28. Counsel prayed for revocation of the notification of intention to award the contract; re-evaluation of bids by an independent evaluation committee; and award of damages and costs to the Applicant.

**C. SUBMISSIONS BY THE RESPONDENT**

1. The Applicant filed written submissions on April 28, 2025, through *Muhumuza, Kateeba & Co. Advocates*.

Preliminary Objection

2. The ground on the subjective evaluation of the Applicant's technical proposal is out of time.
3. Clause 33.6 of the bidding document, Paragraph 5.40 of Section V of the **World Bank Procurement Regulations for IPF Borrowers**, and section 106 (3) (b) of the **Public Procurement and Disposal of Public Assets Act Cap. 205** require a bidder to make its complaint regarding the technical evaluation within 10 working days after receiving the technical evaluation results.

4. The 10 working days the Applicant was permitted to lodge a complaint regarding the technical evaluation expired on December 30, 2024. The Applicant made its complaint to the Respondent's Accounting Officer regarding the outcome of the technical evaluation on March 10, 2025.
5. Counsel cited ***Technology Associates Limited in Consortium with Comviva Technologies Limited, Application No. 6 of 2022***, where it was held that a bidder must make a complaint within 10 working days of becoming aware of the technical evaluation results.
6. Counsel prayed that the Tribunal strike out the ground of subjective evaluation of the technical proposal because it was made outside the prescribed statutory period.

*Lack of transparency, accountability and fairness regarding the requirement in the bidding document for bidders to demonstrate capability with CMMI Level 1 – 3 certification*

7. Paragraph 3.1 (a) of ***Annex III of the World Bank Procurement Regulations for IPF Borrowers, September 2023*** states that a complaint challenging the terms of a request for proposal document and any other Borrower document requesting bids or proposals, should be submitted to the Borrower at least 10 business days prior to the deadline for submission of the bids or proposals.
8. The 10 business days prior to the bid submission deadline lapsed on August 8, 2024.
9. The Applicant did not make a procurement-related complaint regarding the contents of this ground within the period prescribed in the Regulations.



10. Counsel relied on ***Technology Associates Limited in Consortium with Comviva Technologies Limited, Application No. 6 of 2022***, where it was held that the Applicant, having submitted a bid using the impugned bidding document, could not challenge the criteria in the bidding document after bid submission.
11. Counsel prayed that the Tribunal strikes out the ground relating to the impugned criterion because it was made after the deadline of August 8, 2024 and after the Applicant had submitted its bid.

*Whether the Respondent erred in not providing a debrief to the Applicant*

12. The Applicant did not request for a debriefing within the prescribed 3 business days after receiving the notification of intention to award the contract, as required under Paragraph 5.81 of the ***World Bank Procurement Regulations for IPF Borrowers***.
13. The Applicant requested a debriefing on March 6, 2025, 8 business days after the Respondent's notification of intention to award a contract dated February 24, 2025.
14. However, on March 10, 2025, the Respondent received a procurement complaint from the Applicant regarding the notification of intention to award the contract. The Applicant's procurement complaint was made before the lapse of the period within which the Respondent was supposed to provide a debrief.
15. Therefore, the Applicant decided, on its own volition, to abandon the debrief process and instead pursue the procurement complaint process.

16. The purpose of a debrief is to enable a bidder to decide whether to make a complaint challenging a decision. In the circumstances, because the Applicant lodged a complaint prior to the lapse of the period within which the Respondent was supposed to provide the debrief, the debrief process was rendered nugatory/irrelevant.

Whether the Respondent's evaluation was subjective, restrictive, unfair and non-transparent and whether the Respondent erred in the evaluation of the Applicant's bid

17. Counsel submitted that the Applicant's bid was evaluated in accordance with the evaluation criteria stated in the bidding document.
18. It is erroneous for the Applicant to require the Tribunal to examine the process of awarding scores for each impugned criterion.
19. That it was held by the Tribunal in ***Doshnut Uganda Limited v. Ministry of Water and Environment, Application No. 47 of 2024*** that the Tribunal recognizes that the Evaluation Committee is given statutory discretion to decide certain matters in the procurement cycle and to determine how best to achieve the basic principles of public procurement and the specific mandate of the Entity concerned; the Tribunal cannot and should not take over the role of the Evaluation Committee; as long as the Evaluation Committee applies the relevant evaluation criteria stated in the Request for Proposals correctly, it is not the Tribunal's role to assess the marks awarded; and that the award of marks is discretionary and there is no room for the Tribunal to substitute its opinion for the Evaluation Committee.

20. Under ITP 33.2, 33.3, and 33.4, the Respondent is only required to communicate the responsive and non-responsive proposals and the technical scores.
21. All the requirements in the bidding document are necessary to achieve the procurement objectives.
22. The Applicant signed the Letter of Proposal wherein it stated that it had examined and had no reservations to the request for proposals document.
23. The Respondent submits that the Applicant is precluded from challenging the contents of the bidding document since it acknowledged that it has no reservations to the contents of the Request for Proposals.
24. The Applicant signed the Letter of Proposal, wherein it stated that it understood that the Respondent was not bound to accept the lowest evaluated cost proposal. The fact that the Applicant's proposal had a lower proposal price than the Successful Bidder is not a determining factor in the award of a contract.
25. The Successful Bidder had the successful proposal score as stated in the notification of intention to award the contract.

Whether the successful bid was responsive to the evaluation criteria

26. Counsel submitted that this issue was not a ground in the application, and that it is an afterthought, and is speculative. It relates to the technical evaluation of the bids and has been made out of time. Counsel prayed that this issue be struck out for being made outside the prescribed statutory time frame.

### Remedies

27. Counsel prayed that the application be dismissed with costs.

### **D. SUBMISSIONS BY THE SUCCESSFUL BIDDER**

1. The Successful Bidder, *Impiger Technologies PVT Limited*, filed written submissions through *Maven Advocates* on April 28, 2025.
2. Counsel for the Successful Bidder generally raised the same objections and defences as counsel for the Respondent.
3. Counsel submitted at length how in his view the Successful Bidder's proposal met and exceeded the stated requirements.
4. Counsel prayed that the application be dismissed with costs.

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

1. The Tribunal held an oral hearing on April 30, 2025 via zoom videoconferencing. The appearances were as follows:
  - 1) *Andrew Kibaya, Reagan Ahumuza & Rolant Kule of Shonubi, Musoke & Co. Advocates*, counsel for the Applicant.
  - 2) *Gigi Abraham*, the Applicant's Representative, was in attendance.
  - 3) *John Kallemera of Muhumuza, Kateeba & Co. Advocates*, counsel for the Respondent.
  - 4) In attendance were *Dr. Hatwib Mugasa* - Executive Director; *Caroline A. Mugisha* - Director, Regulation and Legal Services; *Rhoda Kimera* - Director, Finance and Administration; *Patricia Anabo* - Legal Expert; *Jacqueline Musimenta* - Procurement Specialist; *Tonny Bbosa* - Senior Systems Analyst; and *Nowen Twesige* - Systems Integration Specialist

- 5) *David Ojiambo and Osmond Atwine, of Maven Advocates, Counsel for the Successful Bidder.*
- 6) *In attendance were Sathya Prabhu, CEO and Kiran Ravi, COO of the Successful Bidder.*
2. At the oral hearing, counsel highlighted the written submissions. Counsel and the parties also provided clarifications to the Tribunal.

**F. RESOLUTION**

1. The Tribunal has considered the oral and written submissions and perused the pleadings, the bids, and the Request for Proposals document.
2. The Tribunal noted that the procurement was governed by the ***World Bank Procurement Regulations for IPF Borrowers, 2023***, until March 1, 2025, when the ***World Bank Procurement Regulations for IPF Borrowers, 2025*** came into force.
3. The Application raised five issues. However, in view of the pleadings and submissions of the parties, the Tribunal has framed the issues as follows:
  - 1) Whether the Respondent erred when it did not provide the Applicant with a debrief?
  - 2) Whether the Respondent erred when it did not make and communicate a decision on the Applicant's complaint?
  - 3) Whether the grounds relating to the technical evaluation of the bids are time-barred?

- 4) Whether the evaluation of the Applicant's technical proposal was subjective, restrictive, unfair and non-transparent?
- 5) Whether the proposal of the Successful Bidder was responsive to the evaluation criteria?
- 6) Whether there was non-consideration of value for money in the impugned procurement?
- 7) What remedies are available remedies to the parties?

**Issue No. 1:**

**Whether the Respondent erred in omitting to provide the Applicant with a debrief?**

1. On February 24, 2025, the Respondent issued a notification of intention to award the contract, indicating that *Impiger Technologies PVT Limited* was the Successful Bidder with a combined technical and financial score of 94.42% at a Contract Price of USD 8,362,068.52, VAT exclusive.
2. Paragraph 3.7 (a) of *Annex III* of the ***World Bank Procurement Regulations for IPF Borrowers, 2025*** provides that one of The Borrower's roles and responsibilities with respect to Complaints covered by the Annex include providing timely and sufficient information to Bidders/Proposers/Consultants, including through debriefing, so that Bidders/Proposers/Consultants can both understand the basis for the Borrower's decision and make an informed decision on whether to lodge a Complaint challenging that decision.
3. Paragraph 5.81 of *Part V* of the ***World Bank Procurement Regulations for IPF Borrowers, September 2023***, states that

upon receiving the Borrower's Notification of Intention to Award, an unsuccessful Bidder/Proposer/Consultant has three (3) Business Days to submit a written request to the Borrower for a debriefing.

4. Paragraph 5.82 of Part V of the ***World Bank Procurement Regulations for IPF Borrowers, September 2023***, required the Borrower to provide a debriefing within five (5) Business Days, unless the Borrower decides, for justifiable reasons, to give the debriefing outside this timeframe.
5. Paragraph 5.82 of Part V of the ***World Bank Procurement Regulations for IPF Borrowers, September 2023***, provides that if a request for debriefing is received by the Borrower later than the three (3) Business Day deadline specified in Paragraph 5.81, the Borrower should provide the debriefing as soon as practicable, and normally no later than fifteen (15) Business Days from the date of publication of the Contract Award Notice.
6. The three (3) Business Days within which the Applicant could request a debrief began on February 25, 2025, and expired on February 27, 2025. On March 6, 2025, the Applicant requested a debrief from the Respondent, specifically a detailed breakdown of its technical scores in the evaluation of its technical proposal. The Applicant's request was beyond the three (3) Business Days allowed under the ***World Bank Procurement Regulations for IPF Borrowers, September 2023***.
7. However, even when the request for a debrief was late, according to Paragraph 5.82 of Part V of the ***World Bank Procurement Regulations for IPF Borrowers, 2025***, the Borrower still had an obligation to provide the debriefing as soon as practicable, no later than fifteen (15) Business Days from the date of publication of the

Contract Award Notice. The fifteen (15) Business Days began on February 25, 2025, and would have expired on March 17, 2025.

8. Before the deadline for providing the debrief, the Applicant filed a procurement-related complaint with the Respondent's Executive Director on March 10, 2025.
9. As stated in paragraph 3.7 (a) of *Annex III* of the **World Bank Procurement Regulations for IPF Borrowers, September 2025**, the purpose of a debriefing is to enable Bidders/Proposers/Consultants to both understand the basis for the Borrower's decision and make an informed decision on whether to lodge a Complaint challenging that decision.
10. A debrief, therefore, serves two purposes. The Applicant decided to file a complaint before receiving a debrief. This implies that the Applicant was able to prepare a complaint without the benefit of a debrief. However, the debrief also enables a bidder to understand the basis for the Borrower's decision. This right, rooted in the principle of transparency, exists irrespective of whether the bidder makes a complaint or not. Therefore, the filing of a complaint before receiving a debrief was not a waiver of the Applicant's right to be provided with the debrief.
11. By the time the instant application was filed in the Tribunal on April 10, 2025, the respondent had not provided the applicant with a debrief.
12. The Respondent, therefore, erred in omitting to provide the Applicant with a debrief.
13. **Issue no. 1 is resolved in the Affirmative**



**Issue No. 2:**

***Whether the Respondent erred when it did not make and communicate a decision on the Applicant's complaint?***

14. On February 24, 2025, the Respondent issued a notification of intention to award the contract, indicating that *Impiger Technologies PVT Limited* was the Successful Bidder with a combined technical and financial score of 94.42% at a Contract Price of USD 8,362,068.52, VAT exclusive.
15. The notification indicated that the Applicant *CSM Technologies Private Ltd and Sybl Ltd JV* was ranked second with a combined total score of 87.83% at a Contract Price of USD 6,806,977.58, VAT exclusive.
16. On March 10, 2025, the Applicant *CSM Technologies Private Ltd and Sybl Ltd JV*, through its lawyers *Shonubi, Musoke & Co. Advocates*, filed a procurement-related complaint with the Respondent's Executive Director, challenging the notification of intention to award the contract. The grounds of the complaint were subjective technical evaluation of the applicant's proposal; non-consideration of value for money; and lack of transparency, accountability and fairness.
17. Paragraph 3.27 of *Part V* of the ***World Bank Procurement Regulations for IPF Borrowers, 2023*** provided that: "*Procurement-related complaints (Complaints) should be submitted to the Borrower in a timely manner, at the appropriate stage of the procurement process, and when so submitted, the Borrower shall address them promptly and fairly. Timeliness, in both the submission of Complaints and their resolution, is of critical importance in order to avoid undue delay and disruption in the project of which the procurement is a part*".

18. Paragraph 2.1 (c) of *Annex III* of the **World Bank Procurement Regulations for IPF Borrowers, 2023** provided that a Complaint may challenge the Borrower's decision to award the contract following transmission of the unsuccessful Bidder/Proposer/Consultant in the Notification of Intention to Award.
19. Paragraph 3.1 (c) of *Annex III* of the **World Bank Procurement Regulations for IPF Borrowers 2023** provided that Complaints following transmission of the Notification of Intention to Award had to be submitted to the Borrower within the Standstill Period. Paragraph 5.79 of *Part V* of the **World Bank Procurement Regulations for IPF Borrowers, 2023** defined the Standstill Period to be 10 Business Days after the transmission of the Notification of Intention to Award.
20. The transmission of the Notification of Intention to Award was effected on February 24, 2025. The Standstill Period (10 Business Days) within which to lodge a Complaint started to run on February 25, 2025, and would have lapsed on March 10, 2025. The Applicant lodged a Complaint with the Respondent's Accounting Officer on March 10, 2025, within the Standstill Period.
21. Paragraph 3.1 (c) of *Annex III* of the **World Bank Procurement Regulations for IPF Borrowers, 2025** requires the Borrower to acknowledge in writing the receipt of the Complaint within three (3) Business Days, review the Complaint and respond to the complainant, not later than fifteen (15) Business Days from the date of receipt of Complaint.
22. Section 106(7) of the **Public Procurement and Disposal of Public Assets Act cap. 205** requires the Accounting Officer to make and communicate a decision within ten days of receiving the

complaint. The prescribed timeline for review and resolution of Complaints challenging the exclusion from a procurement process prior to contract award in World Bank-funded projects is not later than fifteen (15) Business Days from the date of receiving the Complaint. See para 3.1(b) of *Annex III* of the **World Bank Procurement Regulations for Investment Project Financing (IPF) Borrowers, 2025**.

23. Section 4 (2) of the **Public Procurement and Disposal of Public Assets Act cap. 205** provides that where there is a conflict between the Act and a condition imposed by a donor of funds, the donor's condition shall prevail. Therefore, the period of 15 Business Days prescribed in the **World Bank Procurement Regulations** must prevail over the ten days prescribed in section 106(7) of the **Public Procurement and Disposal of Public Assets Act cap. 205**.
24. The 3 Business days within which the Respondent was required to acknowledge receipt of the Applicant's Complaint started to run on March 11, 2025 and would have expired on March 13, 2025. The Respondent duly acknowledged receipt of the Complaint on March 11, 2024, within the prescribed time.
25. The 15 Business days within which the Respondent was required to review and respond to the Complaint started to run on March 11, 2025 and would have expired on April 1, 2025. The Respondent's Accounting Officer did not make and communicate a decision within the prescribed time.
26. In another letter dated March 31, 2025, the Respondent's Accounting Officer communicated to the Applicant that the impugned procurement was subject to a prior review by the World Bank and that a response to the complaint would be made by

April 5, 2025. However, the date of April 5, 2025, would have been outside the prescribed period.

27. On April 4, 2025, the Respondent's Accounting Officer communicated to the Applicant in writing that the impugned procurement was subject to a prior review by the World Bank and that a response to the complaint would be made by April 10, 2025. However, the April 10, 2025 date would also have been outside the prescribed period.
28. On April 10, 2025, the Respondent communicated to the Applicant in writing that it could not respond to the complaint since the impugned procurement was subject to a prior review by the World Bank and that a response to the complaint would be made by April 18, 2025. Still, the April 18, 2025, date would also have been way outside the prescribed period.
29. Where an Accounting Officer does not make a decision or communicate a decision within the prescribed period, the bidder is at liberty to make an application to the Tribunal within ten days from the expiry of the period given to the Accounting Officer. See section 115(1)(a) of the **Public Procurement and Disposal of Public Assets Act Cap 205** and regulation 9(1)(a) of the **Public Procurement and Disposal of Public Assets (Administrative Review) Regulations, 2023**. The ten days within which to lodge an application with the Tribunal started to run on April 2, 2025 and would have expired on April 11, 2025. The Applicant was therefore within its rights to proceed to the Tribunal on April 10, 2025.
30. In resolving a Complaint, the Respondent must ensure a timely and meaningful review of the Complaint, including all relevant documentation, facts and circumstances. See paragraph 3.6 of

*Annex III of the **World Bank Procurement Regulations for Investment Project Financing (IPF) Borrowers, 2025.***

31. We disagree with the Respondent that paragraph 5.92 of Part V of the **World Bank Procurement Regulations for Investment Project Financing (IPF), Borrowers, 2025** requires the World Bank to first approve the draft response to the Complaint. Paragraph 5.92 provides as follows: *For contracts subject to prior review by the Bank, the Borrower shall not proceed with contract award without receiving the Bank's confirmation of satisfactory resolution of complaint.*

32. Paragraph 3.4 of **Annex III** to the **World Bank Procurement Regulations for Investment Project Financing (IPF) Borrowers, 2025**, prohibits the Borrower from proceeding to the next stages of the procurement process without receiving a satisfactory resolution of the complaint from the World Bank. The said paragraph 3.4 states as follows:

*The Borrower shall not proceed with the next stage/phase of the procurement process, including with awarding a contract without receiving from the Bank confirmation of satisfactory resolution of Complaint(s).*

33. The cited provisions require the Borrower to handle and resolve procurement-related complaints. We understand that the requirement under the cited paragraphs 5.92 and 3.4 is for the Bank to confirm that the Borrower has satisfactorily resolved the complaint. The Accounting Officer, therefore, has to resolve the complaint by communicating a decision within the prescribed time. He could not proceed to the next stage of the procurement process without receiving confirmation from the Bank that his resolution was satisfactory. The confirmation by the Bank is after

the resolution, not before the resolution of the complaint. The Bank does not resolve the complaint.

See: ***Doshnut Uganda Limited v. Ministry of Water and Environment, Application No. 47 of 2024.***

34. Therefore, the Respondent's Accounting officer erred when he failed to make and communicate a decision on the Applicant's Complaint within the prescribed time.
35. **Issue No. 2 is resolved in the affirmative.**

**Issue No.3:**

**Whether the grounds relating to the technical evaluation of the bids are time barred?**

36. The Request for Proposals stated that the procurement would be a Single Stage-Two Envelope Process.
37. The detailed procedure is detailed in ITP 22.1 as follows:
  - a. *The Proposer shall deliver the Proposal in two separate, sealed envelopes (the Technical Part and the Financial Part). These two envelopes shall be enclosed in a separate sealed outer envelope marked "Original PROPOSAL". In addition, the Proposer shall submit copies of the Proposal in the number specified in the PDS. Copies of the Technical Part shall be placed in a separate sealed envelope marked "COPIES: TECHNICAL PART". Copies of the Financial Part shall be placed in a separate sealed envelope marked "COPIES: FINANCIAL PART". The Proposer shall place both of these envelopes in a separate, sealed outer envelope marked "PROPOSAL COPIES".*
38. ITP 26 up to ITP 33 provide for public opening and evaluation of the technical parts of the proposal. The proposers of the

responsive technical proposals are duly notified and informed of the date, time and location of the financial proposal opening. The financial proposals of the proposers whose technical proposals are non-responsive are returned to them unopened.

39. ITP 34-ITP 38 provide for the opening and evaluation of the financial part of the responsive technical proposals.
40. ITP 39-ITP 42 provide for evaluation of the combined financial and technical proposals, and notification of intention to award.
41. Upon the conclusion of the technical evaluation of the bids, the Respondent notified *Impiger Technologies PVT Limited* and *CSM Technologies Private Ltd and Sybl Ltd JV* on December 16, 2024, that their proposals were found to be substantially responsive to the Request for Proposals, and met all the qualification criteria. The notification indicated that the Applicant scored 61.75 % while *Impiger Technologies PVT Limited* scored 74.75% in the technical evaluation.
42. The two proposers were informed that their respective second envelopes for the financial part of the proposals would be opened at a public opening scheduled for Tuesday, December 31, 2024.
43. On February 24, 2025, the Respondent issued a notification of intention to award the contract, indicating that *Impiger Technologies PVT Limited* was the Successful Bidder with a combined technical and financial score of 94.42% at a Contract Price of USD 8,362,068.52 VAT exclusive.
44. The notification indicated that the Applicant *CSM Technologies Private Ltd and Sybl Ltd JV* was ranked second with a combined technical and financial score of 87.83% at a Contract Price of USD 6,806,977.58 VAT exclusive.



45. On March 10, 2025, the Applicant *CSM Technologies Private Ltd and Sybl Ltd JV*, through its lawyers *Shonubi, Musoke & Co. Advocates*, filed a procurement-related complaint with the Respondent's Executive Director, challenging the notification of intention to award the contract. The grounds of the complaint were alleged subjective technical evaluation of the Applicant's proposal; non-consideration of value for money since the Applicant's bid was exceedingly technically responsive; and lack of transparency, accountability and fairness due to the CMMi Level 1-3 certification criterion, which was unclear, irrelevant and unnecessary.
46. The same complaints are repeated in the Application to the Tribunal.
47. The procedures for administration and handling of procurement-related complaints are detailed in *Annex III* of the **World Bank Procurement Regulations for IPF Borrowers, 2025**. These regulations are in *pari materia* with **World Bank Procurement Regulations for IPF Borrowers, 2023**.
48. Paragraph 3.1 (a) of *Annex III* provides for Complaints challenging the terms of Prequalification/Initial Selection documents, within (10) Business Days prior to the deadline for submission of Applications/ Bids/Proposals.
49. Paragraph 3.1 (b) of *Annex III* provides for Complaints challenging the exclusion from a procurement process prior to contract award, within ten (10) Business Days following the Borrower's transmission to the interested party of notice of such exclusion.



50. Paragraph 3.1 (c) of *Annex III* provides for Complaints following transmission of the Notification of Intention to Award, to be submitted within the Standstill Period (ten Business Days).
51. The Tribunal has carefully studied paragraphs 10, 11 and 12 of the Applicant's complaint to the Accounting Officer, which are similar to Grounds no. 3.4.1, 3.4.2 and 3.4.3 of the Application to the Tribunal.
52. The Tribunal will now proceed to determine whether these complaints are time-barred.

CMMi certification criterion

53. Paragraph 12 of the Complaint to the Respondent's Accounting Officer and paragraph 3.4.3 of the Application to the Tribunal complain about lack of transparency, accountability and fairness since the evaluation was based on a CMMi certification criterion that was restrictive, unnecessary and not appropriate.
54. Paragraphs 1-4 of the Complaint to the Respondent's Accounting Officer dated March 10, 2025, state as follows:
  1. *On 18<sup>th</sup> July, 2024, upon receipt of the bidding document and reviewing the same, our Client requested for clarifications. with respect to specific technical requirements in the bid which, in our Client's opinion, were restrictive and unfair hence making the procurement process uncompetitive. A copy of the request dated 18th July 2024 is attached and marked "A".*
  2. *On 5<sup>th</sup> August 2024, having received no response from NITA-U regarding the request for clarification of 18<sup>th</sup> July 2024, our Client requested an extension in the time for submitting the bid. A copy of the letter requesting an extension is attached and marked "B."*

3. *On the 5<sup>th</sup> of August 2024, at around 19:26, our Client received responses from NITA-U regarding the 18<sup>th</sup> July 2024 request for clarification. On the 8<sup>th</sup> of August 2024, NITA-U also communicated its rejection of the request for extension. Attached are the email correspondence and the response from NITA-U marked "C."*
4. *On 13<sup>th</sup> August 2024, our Client requested further clarification due to the unsatisfactory guidance provided by NITA-U on 05<sup>th</sup> August 2024. On 19<sup>th</sup> August 2024, NITA-U responded with substantially similar answers. Copies of the additional request for clarification and NITA-U's response are hereto attached and marked "D1" and "D2" respectively.*
55. The Applicant's counsel repeats in his written submissions that the Applicant sought clarification on which component was applicable for the procurement process, but the Respondent glossed over this. The requirement for CMMi Level 3 was uncertain. By enforcing the requirement, the Request for Proposals effectively excluded the most capable and experienced WSO2 and related technology partners from participating.
56. The Tribunal finds that the complaint regarding the CMMi certification challenges the terms of the Prequalification/Initial Selection documents. The Applicant was aggrieved by the criterion when reviewing the Request for Proposals document. The Applicant was not satisfied with the response to its request for clarification. Therefore, under Paragraph 3.1 (a) of *Annex III*, the Applicant should have lodged a procurement-related complaint with the Respondent's Accounting Officer within 10 Business Days prior to the deadline for the submission of Applications/Bids/Proposals. On the contrary, the Applicant did not submit a complaint. Instead, the Applicant submitted a proposal that included a signed Letter of Proposal – Technical

Part. Clause (a) thereof states that “We have examined and have no reservations to the request for proposals document, including Addenda issued in accordance with Instructions to Proposers (ITP 8).”

57. The Tribunal agrees with the Respondent and the Successful Bidder that the complaint regarding the inclusion of the impugned CMMi certification criterion is time-barred under paragraph 3.1 (a) of **Annex III** of the **World Bank Procurement Regulations for IPF Borrowers, 2025**.
58. The Tribunal reiterates its holding in **Technology Associates Limited in Consortium with Comviva Technologies Limited v Post Bank Uganda Limited, Application No. 6 of 2022**, that an Applicant who submitted a bid using the impugned bidding document could not challenge the criteria in the bidding document after bid submission.
59. There has been one case in which the Tribunal allowed a challenge to a bidding document after the submission of bids. In **CFAO Motors Uganda Limited v National Forestry Authority, Application No.16 of 2022**, the Respondent made illegal amendments to the standard bidding documents issued by the Public Procurement and Disposal of Public Assets Authority. The Tribunal held that the entire bidding process was void *ab initio* and a nullity due to the unauthorized deviation.
60. Subject to the above exception, a bidder who has submitted a bid cannot subsequently challenge the criteria in the bidding document after bid submission; however, they can challenge the outcome of the process if the disputed evaluation criterion is applied in an unlawful manner, such as a restrictive application.

61. In the instant case, the impugned criterion is provided for as Technical Sub-Factor No. 1 in the Evaluation and Qualification criteria. It states as follows:

*Bidder must be at least a silver partner of the WSO2 at a minimum level to demonstrate their expertise on WSO2 platform. Additionally, the bidder must have comprehensive organizational delivery capability with CMMi Level-1-3 Certification including but not limited to management structures, project delivery, people, competencies, tools, quality assurance and support services to guarantee desired work quality on a timely basis and within budget.*

62. From the clarifications provided by the Respondent at the hearing, the Capability Maturity Model Integration (CMMI) is a certification program administered by the CMMI Institute.

63. Specifications should be based on relevant technical characteristics and/or performance requirements. References to brand names, catalogue numbers, or similar classifications should be avoided. If it is justified to specify a brand name or catalogue number of a particular manufacturer to clarify an otherwise incomplete specification, the words 'or equivalent' must be added after such a reference to allow the acceptance of offers for Goods that have characteristics and performance at least substantially equivalent to those specified. See paragraph 5.27 of **Part V** of the **World Bank Procurement Regulations for IPF Borrowers, 2023**.

Also see **Application 30 of 2023 - K-Solutions Limited v Ministry of Water and Environment**.

64. This Tribunal has held that it is erroneous for the evaluation committee to apply restrictive evaluation criteria mechanically and restrictively, without considering similar alternatives.

See: ***Application 30 of 2023 - K-Solutions Limited v Ministry of Water and Environment and Application No. 6 of 2021-Gat Consults Limited and Lee Construction Limited v Public Procurement and Disposal of Public Assets Authority and Another.***

65. Therefore, if the instant Application was competent, the Tribunal would have had jurisdiction to inquire into whether the impugned criterion was applied restrictively without considering alternatives.
66. The Tribunal can also inquire into whether the restrictive application of an impugned criterion unfairly disqualified a bidder.
67. However, such jurisdiction cannot extend to nullifying the impugned criterion in the bidding document. An impugned criterion can only be annulled if a complaint is lodged before bid submission.

Subjective technical evaluation

68. Paragraph 10 of the Applicant's Complaint to the Respondent's Accounting Officer, along with grounds 3.4.1 and 3.4.2 of the Application to the Tribunal, addresses the alleged subjective technical evaluation of the Applicant's proposal and the non-consideration of value for money, given that the Applicant's bid was exceedingly technically responsive.
69. The alleged subjective evaluation pertained to compliance with technical requirements, project management and work plan, documentary and service requirements, non-functional

requirements, key project implementation team, and general experience. No reasons were provided for the technical scores. Furthermore, when a debrief was requested, none was given. The Applicant contends that an objective evaluation of its technical proposal would have resulted in a minimum score of 89.7%.

70. In the instant case, the Applicant was never excluded from the procurement process following the technical evaluation. Therefore, there is no basis to apply Paragraph 3.1 (b) of *Annex III* to the **World Bank Procurement Regulations for IPF Borrowers, 2025**.
71. The Applicant's counsel submits that the Applicant could only lodge a complaint under paragraph 3.1(c) of *Annex III* after the Notice of Intention to Award the Contract.
72. The Respondent and Successful Bidder, however, contend that the Applicant should have made a complaint under Clause 33.6 of the bidding document, paragraph 5.40 of Section V of the **World Bank Procurement Regulations for IPF Borrowers**, and section 106 (3) (b) of the **Public Procurement and Disposal of Public Assets Act Cap. 205**.
73. The Tribunal noted that the procedures for administering and handling procurement-related complaints are detailed in *Annex III* to the **World Bank Procurement Regulations for IPF Borrowers, 2025**. *Annex III* is, therefore, mainly procedural.
74. The substantive right to make a procurement-related Complaint is found in paragraphs 3.26-3.31 of *Part V* of the **World Bank Procurement Regulations for IPF Borrowers, 2025**, which is reproduced below:

*Procurement-related Complaints*

3.26 Procurement-related complaints (Complaints) should be submitted to the Borrower in a timely manner, at the appropriate stage of the procurement process, and when so submitted, the Borrower shall address them promptly and fairly. Timeliness, in both the submission of Complaints and their resolution, is of critical importance in order to avoid undue delay and disruption in the project of which the procurement is a part.

3.27 All Complaints shall be recorded by the Borrower in the appropriate tracking and monitoring system, as agreed between the Bank and the Borrower.

3.28 Those Complaints arising in connection with contracts for which the SPDs are required to be used, shall be administered and handled in accordance with Annex III, Procurement-related Complaints. The contracts where the Borrower shall use the SPDs shall be specified in the Procurement Plan for the project.

3.29 Whenever the SPDs are required to be used, a Standstill Period shall apply, unless otherwise provided under Paragraph 5.80.

3.30 Complaints, other than those covered under Annex III, Procurement-Related Complaints, are to be handled by the Borrower in accordance with the applicable complaint review rules and procedures as agreed by the Bank.

3.31 A Complaint that includes allegations of Fraud or Corruption may require special treatment. The Borrower and the Bank shall consult to determine any additional actions that may be necessary.

75. It is clear from paragraph 3.30 of **Part V** of the **World Bank Procurement Regulations for IPF Borrowers, 2025**, that a procurement-related complaint can be made outside the confines



of *Annex III*. Paragraph 3.30 of *Part V* of the **World Bank Procurement Regulations for IPF Borrowers, 2025** is in *pari materia* with paragraph 3.30 of *Part V* of the **World Bank Procurement Regulations for IPF Borrowers, 2023**.

76. ITP 33.6 of the *Request for Proposals* also provides that the opening date of the financial proposals shall be not less than ten (10) Business Days from the date of notification of the results of the technical evaluation. However, if the Purchaser receives a complaint on the technical evaluation results within the ten (10) Business Days, the opening date shall be subject to ITP 50.1. ITP 50.1 concerns the procedures for making a Procurement-related Complaint. In this context, if a complaint is received, the Borrower shall not proceed with the next stage/phase of the procurement process without receiving from the Bank confirmation of satisfactory resolution of the Complaint.
77. Paragraph 5.41 of **Part V** of the **World Bank Procurement Regulations for IPF Borrowers, 2025** provides as follows:  
*5.41 In a two-envelope process (with no BAFO or Negotiations, or a process that is not a Competitive Dialogue), the second envelope shall not be opened earlier than ten (10) Business Days from the communication, to the Bidders/ Proposers/ Consultants, of the results of the evaluation of the first envelope. However, if the Borrower receives a procurement-related complaint in relation to the results of the evaluation of the first envelope within the ten (10) Business Days, the opening date shall be subject to Paragraph 3.1 (b) of Annex III, Procurement- Related Complaints.*
78. Paragraph 5.41 of *Part V* of the **World Bank Procurement Regulations for IPF Borrowers, 2025** is in *pari materia* with Paragraph 5.41 of *Part V* of the **World Bank Procurement Regulations for IPF Borrowers, 2023**.



79. The above provision also envisages a procurement-related complaint in relation to the results of the technical evaluation of the first envelope within ten (10) Business Days.
80. The reference to Paragraph 3.1 (b) of *Annex III* is in reference to the requirement that if as a result of the Borrower's review of a Complaint, the Borrower changes the results of the earlier stage/phase of the procurement process, the Borrower shall promptly transmit a revised notification of evaluation results to all relevant parties advising on the next steps.
81. Finally, section 106(1) (2) and (3) of the **Public Procurement and Disposal of Public Assets Act Cap. 205**, provides as follows:

***106 Administrative review by Accounting Officer.***

- (1) A bidder who is aggrieved by a decision of a procuring and disposing entity may make a complaint to the Accounting Officer of the procuring and disposing entity.*
- (2) A bidder may also seek administrative review for any omission or breach by a procuring and disposing entity, of this Act, regulations or guidelines made under this Act or any provision of the bidding documents.*
- (3) A complaint against a procuring and disposing entity shall—*
- (a) be in writing and shall be submitted to the Accounting Officer, of the procuring and disposing entity on payment of the fees prescribed;*
- (b) be made within ten working days after the date the bidder first becomes aware or ought to have become aware of the circumstances that give rise to the complaint.*

82. In view of the clear provisions of ITP 33.6 of the Request for Proposals, paragraphs 3.30 and 5.41 of **Part V** of the **World Bank Procurement Regulations for IPF Borrowers, 2025**; and section

106 (3) (b) of the **Public Procurement and Disposal of Public Assets Act Cap. 205**, the Tribunal does not agree with the submission of the Applicant's counsel that the substantive right to lodge a complaint could not arise outside *Annex III*.

83. As already noted, the Applicant learnt about the outcome of the technical evaluation on December 16, 2024, when it was informed that its technical proposal had scored 61.75 %. Pursuant to Paragraph 5.41 of *Part V* of the then **World Bank Procurement Regulations for IPF Borrowers, 2023**, the Applicant should have made a procurement-related complaint regarding the results of the evaluation of the first envelope within ten (10) Business Days from December 16, 2024.
84. The ten (10) Business Days started on December 16, 2024, and lapsed on January 2, 2025.
85. Counsel for the Applicant cited **Technology Associates Limited in Consortium with Comviva Technologies Limited v Post Bank Uganda Limited; Application No. 6 of 2022**, to support his submission that an Applicant is within its rights to challenge the Respondent's decision with respect to the procurement upon the publication of the Best Evaluated Bidder notice.
86. With due respect, the facts and circumstances of **Technology Associates Limited in Consortium with Comviva Technologies Limited v Post Bank Uganda Limited** are different.
87. In **Technology Associates Limited in Consortium with Comviva Technologies Limited v Post Bank Uganda Limited**, the Applicant averred that the Entity erred in law when it did not disqualify the Successful Bidder's bid at the post-qualification stage of evaluation on account of the Successful Bidder's lack of experience in the supply, installation, and commissioning of an e-wallet solution. The

Applicant contended that its grievance stemmed from the publication of the Best Evaluated Bidder Notice.

88. The Tribunal held that the Applicant remained a bidder and had the right to lodge a complaint if it was aggrieved by the Respondent's decision following the display of the Best Evaluated Bidder notice.
89. The Applicant in that case was not complaining about the result of the **technical evaluation**, which had resulted in its elimination. The grievance of the Applicant arose from the **post-qualification** evaluation of the best evaluated bidder.
90. In the instant case, the Applicant is complaining about the long-passed technical evaluation result.
91. The upshot of our findings is that the Applicant's complaints about the CMMi certification criteria and the alleged subjective technical evaluation of the Applicant's proposal are time-barred.
92. Grounds 3.4.1; 3.4.2 (a), (b), (c), (d), and (e); and 3.4.3 of the Application to the Tribunal are hereby struck out.

**Issue No. 4:**

**Whether the evaluation of the Applicant's technical proposal was subjective, restrictive, unfair and non-transparent?**

93. In view of our finding under issue no. 3, issue no. 4 is struck out for being time-barred.

**Issue No. 5:**

**Whether the proposal of the Successful Bidder was responsive to the evaluation criteria?**

94. The Application raised this issue, but it was not substantiated.

95. However, the Applicant's counsel submitted that based on the Applicant's knowledge and expertise, there is no market evidence that the successful evaluated bidder has successfully undertaken or completed projects of similar scope, complexity, and value as required by the Request for Proposals.
96. This complaint has no factual basis.
97. In addition, the complaint pertains to technical evaluation and is time-barred as resolved under issue no. 3.
98. **Issue no. 5 is hereby struck out.**

**Issue No. 6:**

**Whether there was non-consideration of value for money in the impugned procurement?**

99. The Applicant avers that it had the lowest price of **USD 6,806,977.58** (approximately UGX 25,006,160,486) as opposed to the Successful Bidder's price of **USD 8,362,068.56** (approximately UGX 30,718,953,596.50). That the difference between the two bids is **USD 1,555,090.98** (approximately UGX 5,712,793,109).
100. The Applicant also made reference to the technical evaluation, but the tribunal will restrict itself to the bid prices since the complaints about the technical evaluation are time-barred.
101. Paragraph 2.2 of *Annex I* to the **World Bank Procurement Regulations for IPF Borrowers, 2025** defines value for money (VfM) to mean *the effective, efficient, and economic use of resources, which requires the evaluation of relevant costs and benefits, along with an assessment of risks and of non-price*

*attributes and/or life-cycle costs, as appropriate. Price alone may not necessarily represent VfM.*

102. The Applicant signed the Letter of Proposal wherein it stated that it understood that the Respondent was not bound to accept the lowest evaluated cost proposal.
103. ITP 43.1 of the Request for Proposals document provides that the contract would be awarded to the Most Advantageous Proposal. ITP 39 states that the Most Advantageous Proposal is arrived at after a combined evaluation of the Technical and Financial Parts of the proposals. Therefore, price alone is not the determining factor in arriving at a Successful Bidder.
104. The Tribunal has reviewed the evaluation reports and is satisfied that the requisite procedures and calculations under the financial evaluation were followed to arrive at the Successful Bidder.
105. The Applicant has failed to demonstrate that there was non-consideration of value for money in the impugned procurement.
106. **Issue no. 6 is resolved in the negative.**

**Issue No. 7:**

**What remedies are available to the parties?**

107. The Application has failed on all the substantive issues, and the Applicant is not entitled to any remedy.

**G. DISPOSITION**

1. The Application is dismissed.
2. The Tribunal's suspension order dated April 11, 2025, is vacated.
3. Each party to bear its own costs.

Dated at Kampala this 6<sup>th</sup> day of May, 2025.



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




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**NELSON NERIMA**  
**MEMBER**



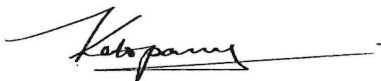
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**GEOFFREY NUWAGIRA KAKIRA**  
**MEMBER**



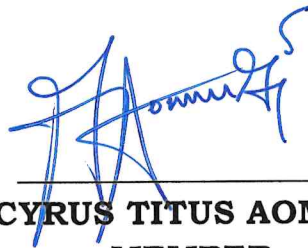
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**CHARITY KYARISIIMA**  
**MEMBER**



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**KETO KAYEMBA**  
**MEMBER**



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**ENG. CYRUS TITUS AOMU**  
**MEMBER**