

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

REGISTRY APPLICATION NO. 3 OF 2025

BETWEEN

SSAALONGO MATOVU M =====APPLICANT

AND

**1. UGANDA NATIONAL ROADS AUTHORITY
2. MINISTRY OF WORKS AND TRANSPORT =====RESPONDENTS**

APPLICATION FOR REVIEW IN RESPECT OF THE PROCUREMENT FOR THE UPGRADING OF NATIONAL ROADS IN UGANDA-UPGRADING OF THE KYENJONJO (KIHURA) BWIZI-RWAMWANJA-KAHUNGE (68KM) AND MPARA-BWIZI ROAD (38KM); INCLUDING THE CONSTRUCTION OF 20KM OF TOWN ROADS TO BITUMINOUS STANDARDS UNDER PROCUREMENT REFERENCE NO. UNRA/WORKS/2022-23/00032 USING INTERNATIONAL OPEN BIDDING METHOD

BEFORE: FRANCIS GIMARA S.C, NELSON NERIMA, GEOFFREY NUWAGIRA KAKIRA, PAUL KALUMBA, CHARITY KYARISIIMA, AND ENG. CYRUS TITUS AOMU, MEMBERS

A. BRIEF FACTS

1. The Government of Uganda, represented by the Uganda National Roads Authority, received financing from the Islamic Development Bank (hereinafter called “IsDB”) to upgrade Uganda's National Roads.
2. Uganda National Roads Authority (hereinafter called “the 1st Respondent”) initiated a procurement for the upgrading of National Roads in Uganda—upgrading the *Kyenjonjo (Kihura) Bwizi-Rwamwanja-Kahunge* (68km) and *Mpara-Bwizi* road (38km); including the construction of 20 km of town roads to bituminous standards under Procurement Reference No. UNRA/WORKS/2022-23/00032 using the International Open Bidding method of procurement.
3. On August 3, 2025, the 1st Respondent received 9 (Nine) bids, namely; *Lankaran Yol Tinkinti OJSC in Joint Venture with UCA Insaat, Dott Services Ltd in Joint Venture with Sdeem A1 Kuwait General Trading and Contracting Company, The Arab Contractors (Osman Ahmed Osman and Co., Maleka Engineering and Contracting Company in joint venture with Teskin Muhendislik Ltd STI, Gulsan Insaat Sanayi Turizm Nakliyat Ve Ticaret A.s, Samco National Construction Company, Batco-Badawi Azour Trading and Constructing S.A.L, United Gulf Construction Company W.L.L, Gocay Instaat Taahhut ve Ticaret Anonim Sirketi in joint venture with Arastirma Ticaret Ltd Sirketi.*
4. On November 23, 2023, the 1st Respondent submitted the evaluation report and draft Contract to IsDB for approval (no objection). In a letter dated November 30, 2023, the bank did not issue a no objection but gave comments and advised the 1st Respondent to revise the Bid Evaluation Report and re-submit it to the bank.

5. On December 14, 2023, the 1st Respondent made revisions as advised by the Bank and resubmitted the evaluation report and draft Contract to IsDB for approval (no objection).
On July 5, 2024, the Bank issued its approval (no objection) to the evaluation report and draft Contract. The evaluation report recommended awarding the contract to the *Arab Contractors (Osman Ahmed Osman and Co)* as the Best Evaluated Bidder.
6. The 1st Respondent sent a corresponding notification of award to all bidders on July 5, 2024.
7. On September 16, 2024, *Ssaalongo Matovu M* (the Applicant), claiming to be a concerned citizen, wrote letters to the Solicitor General dated September 20, 2024, and to the Inspector General of Government (IGG) also dated September 20, 2024; among other things, alleging irregularities in the evaluation of bids and thus requesting a review and disclosure of the evaluation report for UNRA/WORKS/2022-23/00032.
8. On October 22, 2024, the Applicant, claiming to be a *concerned citizen and whistleblower*, wrote a letter to the Islamic Development Bank alleging that the impugned procurement was marred by irregularities and requested the Bank to disqualify *Arab Contractors* from the bidding process and to order for the re-evaluation of bids including that of UCA INSAAT because it had a valid bid security. The Applicant also requested the Bank to provide a copy of the final evaluation report.
9. On October 31, 2024, the Inspectorate of Government wrote to the Applicant, advising him that the Public Procurement and Disposal of Public Assets Authority was best suited to handle his matter and that his letter had been forwarded to the Authority on October 4, 2024, to investigate and inform the Inspectorate of Government of its findings.

10. On November 13, 2024, the applicant wrote a letter to the Executive Director of the Public Procurement and Disposal of Public Assets Authority in which the Applicant provided a narrative of his communication with officers of the Inspector General of Government (IGG) necessitating a formal complaint to the Authority on October 5, 2024. The Applicant then requested the Authority respond to his letter within seven days, failing which, he would resort to courts of law to secure an injunction on the procurement process.
11. On January 9, 2025, the Applicant filed Registry Application No. 3 of 2025 with the Tribunal, alleging irregularities in the procurement process and requesting the Tribunal to review the impugned procurement process.
12. In his Application, the Applicant describes himself as a Ugandan of sound mind and a resident of Rubaga Division. He claims that he is tendering his application for review of the project as a person whose rights are adversely affected due to the anomalies that marred the evaluation process.
13. The Applicant enumerated the following alleged anomalies in the procurement: discrepancy in the engineer's estimates; contradiction in the awarded price; non-compliance with mandatory requirements by *Arab Contractors* (audited financial statements, powers of attorney, uncertainty over the contracting entity, equipment requirements, method statement; and unjustified disqualification of UCA INSAAT).
14. The 2nd Respondent filed a reply on January 21, 2025. The Respondent traversed the Applicant's allegations and raised two objections: that the application is time-barred and that the applicant does not have *locus standi*.

B. ORAL HEARING

1. The Tribunal held an oral hearing via Zoom on January 24, 2025. The appearances were as follows:
 - i. Mr. *Charles Kevin Nsubuga* and Ms. *Nakyeyune Flavia*, counsel for the Applicant.
 - ii. Mr. *Ssaalongo Matovu Moses*, Applicant, present.
 - iii. The Respondent was represented by Mr *Kisakye Robert*, Acting Policy and Legal analyst; Mr *Andrew Aribaruho*, Assistant Commissioner Procurement and Head PDU; Eng. *Dan Iga*, Assistant Manager Road Development; and Mr *Henry Njuba*, Assistant Manager Procurement.
2. At the hearing, the parties and their counsel highlighted their respective cases as pleaded.
3. The Applicant also presented Eng. Richard Ssebamala as an expert witness on the alleged non-compliance with the specifications for equipment by *The Arab Contractors*.
4. With leave of the Tribunal, the Applicant filed a written rejoinder on January 25, 2025, through *M/S Muwema & Co. Advocates*.

C. RESOLUTION

1. The Tribunal has considered the oral and written submissions, the oral evidence, the pleadings, the bids, and the bidding document. The Application did not raise any issues. However, points of law arose regarding whether the Applicant has *locus standi* and whether the Application is time-barred.
2. The Tribunal has therefore framed the following issues:

- i. Whether the Applicant has *locus standi* before the Tribunal?
 - ii. Whether the Application is time-barred?
 - iii. Whether there were discrepancies in the engineer's estimates?
 - iv. Whether there was a contradiction in the awarded price?
 - v. Whether the bids were evaluated according to the evaluation criteria?
 - vi. Whether the best-evaluated bid was responsive to the evaluation criteria?
 - vii. What remedies are available remedies to the parties?
3. Before resolving the issues raised, we found it important to address the proper Respondent in this procurement.
 4. In the instant application, the applicant named the Uganda National Roads Authority as the 1st Respondent and the Ministry of Works and Transport as the 2nd Respondent.
 5. The *Ministry of Works and Transport* filed a response to the Application in a letter addressed to the Registrar of the Tribunal dated January 21, 2024.
 6. The Uganda National Roads Authority Act Cap 214 was repealed to enable the mainstreaming of functions of the Uganda National Roads Authority into the ministry responsible for roads. Consequently, the Uganda National Roads Authority was dissolved. Effective December 23, 2024, all assets, rights and obligations of Uganda National Roads Authority were vested in the Government of Uganda under the ministry responsible for roads. See Sections 3, 4(1), 5 and 7(4) of the ***Uganda National Roads Authority Act (Repeal) Act of 2024***.
 7. However, under section 7(5) of the ***Uganda National Roads Authority Act (Repeal) Act of 2024***, any proceedings commenced

by or against the *Uganda National Roads Authority* may be continued by or against the Attorney General.

8. It is important to note that a General Notice published in the Daily Monitor Newspaper on January 21, 2026, declared that the *responsibilities, rights, obligations, and liabilities of the former Uganda National Roads Authority and Uganda Road Fund were transferred to and assumed by the Government of Uganda under the Ministry of Works and Transport.*
9. Therefore, the *Ministry of Works and Transport* is the proper procuring and disposing entity and Respondent in the instant Application.

Issue No.1:

Whether the Applicant has locus standi before the Tribunal?

10. The term *locus standi* means a place of standing. It means a right to appear in court, and conversely, to say that a person has no *locus standi* means that he has no right to appear or be heard in a specified proceeding. To say that a person has no *locus standi* means the person cannot be heard, even if he has a case worth listening to. See ***Njau & Others v City Council of Nairobi [1976–1985] 1 EA 397 at 407.***
11. Under section 115 (1)(a)-(c) of the ***Public Procurement and Disposal of Public Assets Act cap 205***, the following may apply to the Tribunal for review of a decision of a procuring and disposing entity—
 - i. *a bidder who is aggrieved, as specified in section 106 (7) or (8);*
 - ii. *a person whose rights are adversely affected by a decision made by the Accounting Officer; and*
 - iii. *a bidder who believes that the Accounting Officer has a conflict of interest as specified in section 106(9).*

12. The Applicant instituted this application before the Tribunal pursuant to section 115 (1) (b) of the **Public Procurement and Disposal of Public Assets Act, Cap 205**, which provides redress for a person whose rights are adversely affected by a decision made by the Accounting Officer. The provision creates an avenue for persons who are not necessarily bidders but are aggrieved by a decision made by an Accounting Officer to apply to the Tribunal for a review of the decision.
13. The Respondent averred that the Applicant has no *locus standi* to institute this application and that, therefore, this Tribunal has no jurisdiction to hear the same.
14. The Tribunal has on numerous occasions held that applications for administrative review are not only restricted to bidders but are also open to any persons whose rights are adversely affected by a decision of the Accounting Officer. A person who is not a bidder in a procurement may apply to the Tribunal for a review of a decision if the Applicant shows that his or her rights are adversely affected by the decision. The Tribunal also guided that in determining whether a person is adversely affected, the Tribunal must consider the facts of each particular application. See **Application No. 33 of 2024, Trio Consultants Limited v Uganda National Roads Authority; Application No. 21 of 2022, Tumwebaze Stephen Kiba v Mbarara City & 2 Others; Application No. 20 of 2021, Obon Infrastructure Development JV v Mbarara City & Others; Application No. 7 of 2017, Old Kampala Students Association v Public Procurement and Disposal of Public Assets Authority & Old Kampala Senior Secondary School.**
15. The Tribunal has previously given detailed guidance on who can be said to be adversely affected by a decision pursuant to section 115 (1) (b) of the **Public Procurement and Disposal of Public Assets Act, Cap 205**. Although an application under section 115 (1) (b) is not a public interest litigation, we drew guidance from court

decisions on the issue of *locus standi* in public interest litigation cases.

See: ***Application No. 21 of 2022; Tumwebaze Stephen Kiba v Mbarara City & UB Consulting Engineers Ltd in JV with Professional Engineering Consultants Ltd.***

In summary, the legal position is as follows:

16. The correct approach considers whether the Applicant has any express or implied right, the nature of the Applicant, and the extent of his interest in the issues raised. It is not enough to assert the existence of a right. The facts in the pleadings must bear out the extent of such right, and that its breach would give rise to relief.
17. The interest in issues raised has to be actual and not abstract. It need not be too remote. The need for sufficient interest prevents “*abuse by busybodies, cranks and other mischief makers*”. The nature of the relief sought must not point to some relief or motive outside the Application.
18. From a careful interpretation of the law and the facts of this instant application, the Applicant ought to show and convince the Tribunal that his rights are adversely affected by the Accounting Officer’s decision for his application to be tenable.
19. Therefore, for this application to be successful, the Tribunal ought to be satisfied of the existence of the following elements:
 - (a) that the Accounting Officer made a decision; and
 - (b) that the Applicant's rights have been adversely affected by the said decision of the Accounting Officer.
20. For purposes of section 115 (1) (b), an Applicant must show that he

or she had some legal right or rights in the first place. The **Public Procurement and Disposal of Public Assets Act** does not define the concept of “rights” as used in section 115 (1)(b). Black’s Law Dictionary defines rights to include the following:

- i. *Something that is due to a person by just claim, legal guarantee or moral principle*
 - ii. *A power, privilege, or immunity secured to a person by law*
 - iii. *A legally enforceable claim that another will do or not do a given act; a recognised and protected interest, the violation of which is a wrong*
 - iv. *The interest, claim or ownership that one has in tangible or intangible property.*
21. Therefore, an Applicant under 115 (1)(b) must demonstrate that his rights under the Constitution, a statute, common law, customary law or equity have been adversely affected by an Accounting Officer’s decision.
22. In the present application, the Applicant has averred that he is *a law-abiding citizen of sound mind, Ugandan, a resident of Rubaga Division, Kampala, Lule Zone, and a person whose rights are adversely affected by the Authority’s decision due to the anomalies that marred the evaluation process.*
23. The Applicant claimed that his “petition” is premised on the fact that he is a noble Ugandan following government activities and processes concerned with equity, fairness and transparency while Government Agencies, Departments and Ministries are conducting business. That he participates in ensuring a corruption-free country and cannot hesitate to do his part when detecting any anomaly. That he even loses sleep while observing such vices being conducted by persons entrusted with good offices. That having noticed the discrepancies in the procurement process for this contract, he wrote to the Solicitor General, the Inspector General of

Government, the Islamic Development Bank, and the Public Procurement and Disposal of Public Assets Authority but waited for a response in vain.

24. The Application purports that his rights *are adversely affected by a decision of the **Authority** due to the anomalies that marred the evaluation process*. The levels for adjudication of administrative review complaints are the Accounting Officer, the Tribunal, and the High Court. There is no statutory basis for the Applicant to apply for review of a purported decision of the Authority. This Tribunal does not review decisions of the *Public Procurement and Disposal of Public Assets Authority*. The Tribunal reviews decisions of the procuring and disposing entities and their Accounting Officers. In any case, the Applicant has not cited or even attached any decision of the Authority or Accounting Officer to be reviewed.
25. The Applicant failed to indicate in his Application any personal right that has been adversely affected or infringed by the decision to award the contract to *Arab Contractors (Osman Ahmed Osman and Co)*.
26. In the numerous annexures to its application, the Applicant has interchangeably referred to himself as a concerned citizen and whistleblower.
27. The Applicant has alleged that he is a Ugandan resident of Rubaga Division, Kampala, Lule Zone. He has not adduced any evidence by way of a National Identity Card or passport to reveal his true identity and particulars.
28. The Applicant has not averred anywhere in the Application that any of the Respondent's actions have interfered with his private right, nor did he indicate that he has suffered some special damage peculiar to himself from the interference with the said public right.

29. Counsel for the Applicant has submitted that under Article 38 of the Constitution, every citizen enjoys the right to participate in government affairs. With due respect, we do not see how the constitutional right to participate in government affairs gives the Applicant enforceable rights in this procurement. This Tribunal adjudicates public procurement and disposal disputes upon application by bidders and persons whose rights in the public procurement or disposal process are adversely affected by an Accounting Officer's decision. This Tribunal is not a law enforcement agency, or an investigation agency to clothe the Applicant, who is a noble Ugandan and an anti-corruption activist, as he claims, with *locus standi* for purposes of an application to this Tribunal.
30. The Applicant has not averred or demonstrated how the impugned acts and omissions in the procurement affect his rights as an alleged law-abiding Ugandan citizen of sound mind residing in Lule Zone, Rubaga Division, Kampala. He is not a bidder and has not shown any vested rights in the impugned procurement. Looking at the peculiar set of facts before the Tribunal, we are persuaded that in the instant Application, the Applicant seems to be a mere interloper without any rights, interest or role in this procurement.
31. This position is further supported by the lacklustre way the Applicant handled this application. The Applicant, in annexures attached to its application, specifically a letter dated October 31, 2024, addressed to the Solicitor General, clearly stated that he is neither a contractor nor a bidder.
32. In the October 22, 2024, letter addressed to the Bank, the Applicant clearly stated as follows: *NB: I am aware that the Bank has not awarded this Contract.*
33. Had the Applicant been sufficiently interested in the impugned procurement process as he claimed, he would have challenged the

same before the Tribunal within the timeframes stated in the **Public Procurement and Disposal of Public Assets Act**, to wit 10 working days or 10 calendar days as stipulated under section 116 (2) (a)-(c) as the case may expeditiously and without further delay. The Applicant waited for over 79 days from October 22, 2024, before filing the instant Application on January 9, 2025.

34. The Applicant has failed to indicate in his Application that any particular decision of the Accounting Officer has adversely affected him as a person. There is no administrative review decision of the 1st Respondent's Accounting Officer that is attached to the Application or referred to by the Applicant to qualify to be adversely affected under the precincts of *S. 115(1) (b)* of the *Public Procurement and Disposal of Public Assets Act Cap 205*.
35. In the absence of the said decision attached to the Application, for which the Applicant claims to be adversely affected, the Applicant cannot validly or legally be adversely affected.
36. The Applicant, therefore, cannot, in a representative capacity as a public-spirited citizen, be a person adversely affected when his or her legal rights are not in issue. He intends to question something with which he has shown no legitimate direct personal interest.
37. The upshot of our conclusion is that the Applicant has no legal rights in the impugned procurement, which have been adversely affected by any decision of the Respondent's Accounting Officer. He, therefore, has no *locus standi* to file this Application.
38. The result is that the Application is incompetent and will be struck out. There is no need to delve into the merits or the other issues.


D. DISPOSITION

1. The Application is struck out.
2. The suspension order dated January 10, 2025, is vacated.
3. Each party should bear its own costs.

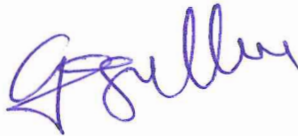
Dated at Kampala this 27th day of January 2025.



FRANCIS GIMARA S.C
CHAIRPERSON



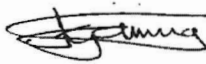
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