



THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS APPEALS TRIBUNAL

ANNUAL REPORT 2015/16

FOREWORD BY THE CHAIRPERSON



The Public Procurement and Disposal of Public Assets Appeals Tribunal was established with the core function of hearing and determining applications for review of the decisions of the Public Procurement and Disposal of Public Assets Authority filed with the Tribunal by aggrieved bidders. The Tribunal commenced business in July 2014. This is its second Annual Report.

Over the past one year, the Tribunal has continued to effectively execute its core mandate. The number of applications filed with the Tribunal increased from ten (10) in the first year 2014/15 to twenty four (24) in the year under review, 2015/16, pointing to an increase in public confidence in the work of the Tribunal. It is significant that the Tribunal has no case backlog. The Tribunal has complied with the requirement of the PPDA Act that its decisions must be issued within ten (10) working days from the time an application is filed with the Tribunal.

During the year 2015/16, the Tribunal was able to recruit staff for its Secretariat. The Tribunal has also put in place policies, processes and procedures aimed at streamlining its operations.

The Tribunal shall need further resources to automate its filing system; automate the Tribunal Registry and procure recording and transcription equipment for Tribunal proceedings.

In keeping with its mandate, the Tribunal shall continue to play its role in delivering fair and expeditious justice in the best interests of all stakeholders involved in the business of procurement and / or disposal of public assets in Uganda.

I want to convey my deep appreciation to the members of the Tribunal, the Registrar and staff of the Tribunal, the bidders, learned counsel and other stakeholders for their diligent work and support in ensuring that the Tribunal efficiently and effectively executes its statutory mandate.

I wish to thank the Ministry of Finance, Planning and Economic Development for the policy guidance and support.

A handwritten signature in black ink, appearing to read 'Olive Zaale Otete'. The signature is stylized and cursive.

Olive Zaale Otete
CHAIRPERSON

REGISTRAR'S MESSAGE



I'm grateful to have been appointed the first substantive Registrar of the PPDA Appeals Tribunal, a quasi - judicial institution mandated to dispense justice amongst all stakeholders in the procuring and disposing of public assets field.

The Chairperson of the Tribunal Ms Olive Zaale Otete and members are such a great team endowed with skill, experience and professionalism. They have always put aside other commitments whenever called upon to hear applications or references that are filed at the Tribunal. The Tribunal since its inception has always concluded matters brought before it within the statutory 10 days' time limit.

Credit goes to my predecessor Christine Kaahwa the then Ag. Registrar for the excellent work undertaken during the period under review despite the thin staff at the time. It is under her stewardship that staff at the secretariat were recruited myself inclusive. Procedural Regulations of the Tribunal were also developed, gazetted and operationalized. A website was also developed for purposes of sharing of information with the public and stakeholders in the procurement business. We have made sure this site is interactive and regularly updated. All decisions of the Tribunal and any other relevant information can be accessed at www.ppdaappealtribunal.go.ug. Anyone can send mail to the Registrar at info@ppdaappealtribunal.go.ug.

I am hopeful that with the Tribunal Secretariat duly constituted now, many activities shall be undertaken including but not limited to conducting outreach programmes and sensitization workshops for all stake holders within the realm of procurement business. This is aimed at creating awareness to the public so that they are able to pursue their rights in accordance with existing laws.

As part of Tribunal strategy to improve efficiency, we have plans to introduce an E-filing option of cases, automation of the Registry and acquisition of a recording and transcription equipment for Tribunal proceedings. We are also in the process of reviewing the Tribunal Strategic plan and development of a corporate brand to give the Tribunal an own identify.

All these achievements and future plans could and cannot come to pass without the support of the Government of Uganda through the Ministry of Finance, Planning and Economic Development our line Ministry which we appreciate.

A handwritten signature in black ink, appearing to read 'Kwizera Amos'.

Kwizera Amos
REGISTRAR

LIST OF ACRONYMS

ABOT	Agricultural Business Initiative Trustee Board
CTB	Central Tender Board
CPPS	Certified Private Partnership Specialist
PAT	Public Procurement and Disposal of Public Assets Appeals Tribunal
PEC	Presidential Economic Council
PPDA	Public Procurement and Disposal of Public Assets Authority

Contents

FOREWORD	2
LIST OF ACRONYMS.....	4
1.0. INTRODUCTION AND ORGANISATION OVERVIEW	6
1.1. Vision Statement	6
1.2. Mission Statement	6
1.3. Core Values	6
1.4. Functions of the Tribunal	7
1.5. Powers of the Tribunal	7
1.6. Organizational Structure	7
1.7. Budget	7
2.0. ACTIVITIES OF THE TRIBUNAL DURING THE REPORT PERIOD	8
2.1. Determination of applications for review of the decisions of PPDA	8
2.2. Determination of matters referred to the Tribunal by PPDA	11
2.3. Development of Manuals	11
2.4. Recruitment of Staff	11
2.5. Benchmarking Visits	11
3.0. ACHIEVEMENTS OF THE TRIBUNAL OF THE TRIBUNAL	11
4.0. CHALLENGES	12
4.1. Funding	12
4.2. Transport	12

5.0.	PLANNED ACTIVITIES FOR THE FINANCIAL YEAR 2017/2018	
6.0.	APPENDICES	13
	Appendix I – Particulars of Tribunal members	13
	Appendix II – Regulations of the Tribunal	16

1.0. INTRODUCTION AND ORGANISATION OVERVIEW

The Public Procurement and Disposal of Public Assets Appeals Tribunal (Tribunal) is a quasi-judicial body established by section 91B of the Public Procurement and Disposal of Public Assets Act of 2003.

The Tribunal consists of a chairperson and four members who are appointed by the Minister of Finance, Planning and Economic Development. Members of the Tribunal are appointed from the private sector for a three year term which may be renewable for only one term.

The Members of the Tribunal as at 30th June 2016 are:

- | | |
|--------------------------|-------------|
| a) Olive Zaale Otete | Chairperson |
| b) David Kabateraine | Member |
| c) Abraham Nkata | Member |
| d) Arch. Joel Kateregga | Member |
| e) Mr Moses Jurua Adriko | Member |

Particulars of each member of the Tribunal are indicated in Appendix I of this report.

1.1 Vision Statement

A Tribunal for equitable, fair, just and expeditious justice.

1.2 Mission Statement

To deliver fair and expeditious justice to all of its users.

1.3 Core values

- a) Integrity
- b) Accountability
- c) Transparency
- d) Equity
- e) Efficiency
- f) Teamwork
- g) Timeliness.

1.4 Functions of the Tribunal

The core function of the Tribunal is to hear and determine applications for review of the decisions of the Public Procurement and Disposal of Public Assets Authority (PPDA) by aggrieved bidders.

The other function of the Tribunal is to hear matters referred to it by PPDA and to hear applications made to it by aggrieved procuring and disposing entities. The PPDA Act requires the Tribunal to issue a decision within a period of not more than ten (10) working days after receiving an application for a review of a decision of the Authority.

1.5 Powers of the Tribunal

- a) Taking evidence on oath;
- b) Proceeding in the absence of a party who has had reasonable notice of the proceedings;
- c) Adjourning hearing of the proceedings; and
- d) Making orders as to costs against any party, which shall be enforceable like an order of the High Court; and
- e) Examining witnesses who are outside Uganda.

1.6 The Secretariat

The Tribunal Secretariat is located at 7th Floor Communications House Colville Street in Kampala. The Registrar is the Chief Executive and accounting officer of the Tribunal, he is assisted by a number of staff including Manager Finance and Administration, Senior Legal Officer and Accountant among others.

1.7 Budget

During the reporting period, the Tribunal had a total of one billion five hundred million shillings (1,500,000,000/=) approved for the Financial Year 2015/2016. The budget of the Tribunal is a subvention which is mainly to facilitate the operations of the Tribunal as indicated in the work plan. The total actual amount of the approved budget received and spent was 909,370,820/=. The Budget shortfall affected activities of the tribunal in a substantial manner.

2.0 ACTIVITIES OF THE TRIBUNAL DURING THE REPORT PERIOD

2.1 Determination of applications for review of the decisions of PPDA

In the report period, the Tribunal heard and determined a total of 23 applications, summarised below as follows:

1. Lion Assurance Company Limited Vs. PPDA (Application No.2 of 2015). This was an application for review of the decision of PPDA to cancel the procurement in respect of the tender for provision of insurance services for group / personal accident and workmen compensation. The Tribunal set aside the decision of the respondent that the entity should cancel the procurement and ordered that the procurement process proceeds to its conclusion.

2. Peace Gloria Vs. PPDA (Application No. 3 of 2015). This was an application for review of the decision of PPDA in respect to the tender (procurement) for Ejupala Market FY 2015-2016. The Tribunal set aside the decision of PPDA that the entity should re-evaluate the bids and ordered the Accounting Officer Arua District Local Government to refund the applicant's administrative review fees.

3. Arua Kubala Park Operators and Market Vendors (SACCO) Vs PPDA (Application No. 4 of 2015). This was an application for the review of the decision of the PPDA in respect to the tender (procurement) for Kubala Main Market for FY 2015-2016. The Tribunal set aside the decision of PPDA and ordered the Chief Administrative Officer Arua District to refund administrative review fees to the applicant.

4. Pawor Operators and Market Vendors Cooperative Society (SACCO) Vs PPDA (Application No. 5 of 2015). This was an application for review of the decision of PPDA in respect to the tender (procurement) for Pawor market for financial year 2015-2016. The Tribunal set aside the decision of PPDA and advised the entity to proceed with procurement for management and collection of revenue for Pawor market and not to refund the administrative review fees paid by the applicant. The Tribunal further ordered the Accounting Officer Arua District local Government to refund the applicant administrative review fees.

5. Bazaar Arua Bus Operators Cooperative Society LTD Vs. PPDA (Application No.6 of 2015). This was an application for review of the decision of the PPDA in respect of the procurement for Merwa market. The Tribunal decided that the decision of the Authority to rescind the procurement process be vacated. The Tribunal ordered the accounting officer Yumbe District to refund the applicant's administrative review fees.

6. Northern Region Taxi Drivers and Brokers Cooperative Society Vs. PPDA (Application No. 7 of 2015). This application was in respect to the management of taxi, lorry, street parking and Bus Park in Koboko Town council. The Tribunal dismissed the application and affirmed the decision of the Authority.

7. Arua Kubala Park Operators & Market Vendors Cooperative Society Limited Vs PPDA. (Application No. 8 of 2015). This application was withdrawn before hearing.

8. Uganda Tourism (Toved Property) Development Limited Vs PPDA (Application No. 9 of 2015). This application was for review of the decision of PPDA in administrative review over procurement for office space for Uganda Tourism Board. The Tribunal dismissed the application and affirmed the decision of the Authority and ordered that the Entity (Uganda Tourism Board) proceeds with the new procurement process.

9. Arch Design Limited Vs PPDA (Application No.10 of 2015). Administrative review on the continuation of services and further services under conflicts of interest. The Tribunal dismissed the application.

10. Patrick Aluma Vs PPDA (Application No. 11 of 2015). Review of the decision of PPDA in respect to the tender for Okollo market for F/Y 2015-2016 The Tribunal dismissed the application.

11. Ren-Form Vs PPDA (Application No. 12 of 2015). Administrative review in respect of the tender for printing and supply of ballot papers for presidential and parliamentary and local Government council elections 2016. The Tribunal set aside the decision of PPDA.

12. Kalamazoo Secure Solutions Limited Vs PPDA (Application No. 13 of 2015). Administrative review in respect of the tender for printing and supply of ballot papers for presidential, parliamentary and local Government council elections 2016. The Tribunal set aside the decision of PPDA.

13. International Procurement Consultants Limited Vs PPDA (Application No. 14 of 2015) Administrative review in respect to unfair procurement process and request for an impartial technical evaluation of procurement reference PPDA/ cons/15-16/00580 of 8th June 2015. The Tribunal found that the applicant was evaluated by the committee in accordance with pre-set evaluation criteria and the application was dismissed.

14. Ren-Form and Kalamazoo Vs PPDA (Application No. 15 of 2015). Administrative review for failure by the Electoral Commission and PPDA to provide documents and investigate Ren-form and Kalamazoo applications. The Tribunal dismissed the application.

15. Kazini Fredrick Vs PPDA (Application No. 16 of 2015). Administrative review of the decision of PPDA in respect to an unfair recommendation by the PPDA in respect to procurement for management of local revenue sources by Buliisa District Local Government. The Tribunal dismissed the application.

16. GAT Consultants Limited Vs PPDA (Application No. 17 of 2015). Administrative review in respect to the decision of the PPDA of the tender for construction of Bulegeni Town water supply. The Tribunal dismissed the application and affirmed the decision of the Authority.

17. China National Aero-Technology International Engineering vs. PPDA (Application No. 1/2016). Administrative review of the decision of the Authority in respect of construction of proposed 250 beds UPDF National Referral Hospital at lower Mbuya. The Tribunal set aside the decision of PPDA.

18. Ren-Form Vs PPDA (Application No. 2 of 2016). This was an application seeking orders of the tribunal to direct the authority to hear the applicant's application for administrative review where the former had declined to do so. The Tribunal declined to make an order for the Authority to re-hear the application for administrative review because the complaint had been substantially disposed of in this application.

19. Kalamazoo Secure Solutions Limited Vs PPDA (Application No. 3 of 2016 for the review of decision of the Authority). The Tribunal set aside the decision of the Authority declining to hear the applicant's complaint on account that the contract had already been signed. In exercise of its mandate under S.91(5) of the Act, the Tribunal awarded costs of UGX 25,000,000/- to the applicant against the entity and the Tribunal declined to make an order for the Authority to rehear the application for administrative review because the complaint had been disposed off. The Tribunal also declined to annul the contract, given the grave implication to the electoral process underway in the country.

20. China Geo-Engineering Corporation vs. PPDA (Application No.4 /2016). Administrative review in respect to procurement of works for the construction of Rwengaju irrigation scheme in Kabarole District procurement. The Tribunal set aside the Accounting Officer's decision dated 8th December 2015 and directed the entity to request the applicant to submit certified copies of education and professional qualifications or certifications from the National Council of Higher Education in Uganda.

21. Greco-International Limited Vs PPDA (Application No.5 of 2016). This was an application for administrative review of the decision of the Authority in respect to the procurement for the design, supply, installation, testing, commissioning and maintenance of oxygen plants for 13 Regional Referral Hospitals in Uganda. The Tribunal dismissed the application and upheld the decision of the Authority in part.

22. Abamwe Transporters Co-operative Society Limited Vs PPDA (Application No. 6 of 2016). This was an application against the decision of PPDA in respect of the tender for management and collection of user fees for Ntungamo Taxi Park. The Tribunal dismissed the application.

23. Dott Services Limited Vs. PPDA (Application No. 7/2016). Application for administrative review in the matter of civil works for upgrading Kigumba Bulima road (69kms) from gravel to pavement (Bituminous Standard).The Tribunal held that the applicant's bid was compliant. The entity (UNRA) was directed to proceed with further evaluation of the bid.

2.2 Determination of matters referred to the Tribunal by PPDA (References)

In the report period, the Tribunal handled one reference made to it by PPDA, namely **PPDA Vs. Electoral Commission (Ref No.1/2016)**. This was a reference over serious breach of the PPDA Act 2003 by the Electoral Commission. The Tribunal declared that the decision to execute contracts in respect of procurement during the administrative review period was in breach of PPDA Act 2003. The Tribunal further held that the Authority should consider exercising its powers under S.9 of the Act to recommend appropriate disciplinary action against the Respondent's Accounting Officer by the competent Authority.

2.3 Development of Manuals

The Tribunal prepared a Draft Human Resource Manual and a Draft Financial Management Manual.

2.4 Recruitment of staff

The Tribunal finalised the recruitment of four (04) staff namely the Registrar, Finance and Administration Manager, Senior Legal Officer and Accountant on a three (03) year contract basis replacing those that were appointed in acting capacities.

2.5 Benchmarking Visits

During the period under review, a study tour was conducted for Tribunal members to Botswana, Kenya and Tanzania. The study tour was aimed at benchmarking best practices and establishing how procurement related appeals are handled by similar bodies.

3.0 ACHIEVEMENTS OF THE TRIBUNAL

1. The Tribunal's core function is to hear and determine applications for review of the decisions of PPDA and to determine matters referred to it by PPDA. In the report period, the Tribunal successfully determined twenty three Applications and one reference. There are no incidents of case backlog.

2. In handling matters that were brought before it, the Tribunal issued decisions within the ten (10) working days timeline stipulated under the PPDA Act after receipt of an application for review.
3. The Tribunal has efficiently and effectively managed its financial and human resources.

4.0 CHALLENGES

4.1 Funding constraints

As already seen in 1.7 of this report, The budget of the Tribunal was approved at UGX 1,500,000,000/= (One Billion five hundred million only) but the actual and total amount disbursed was 909,370,820/= (Nine hundred nine million three hundred seventy thousand eight hundred twenty only) This was hardly enough to sustain its work plan and thus many activities were left pending.

4.2 Transport

The lack of vehicles has continued to stifle work of the Tribunal as work upcountry matters cannot be effectively performed.

5.0 PLANNED ACTIVITIES FOR THE FINANCIAL YEAR 2017/2018

In the financial year 2017/2018, the Tribunal plans to carry out the following:

- a) Introduce an E-filing option for applications and references;
- b) Automate the Tribunal Registry;
- c) Procurement of recording and transcription equipment for Tribunal proceedings;
- d) Sensitise procuring and disposing entities, bidders and the general public on the roles of the Tribunal;
- e) Compile and publish a Compendium of applications and references handled by the Tribunal;
- f) Procure vehicles to facilitate and ease the work of the Tribunal;
- g) Training and capacity building for staff and Tribunal members in procurement related matters; and
- h) Prepare a Tribunal Strategic plan.

APPENDICES

Appendix I – Particulars of Tribunal members



OLIVE ZAALE OTETE

Ms Otete is an Advocate of the High Court of Uganda. She holds a Bachelor of Laws (LLB) Degree and a Master of Laws (LLM) Degree, both of Makerere University. She worked as a legislative drafter with the Ministry of Justice and Constitutional Affairs in the Directorate of First Parliamentary Counsel for twelve years retiring at the Senior Rank of Commissioner Legislative Drafting in 2007. Since 2007, she works as a legislative drafting consultant in Uganda and abroad.

She practices with the Law Firm M/s Zaaale Otete and Company Advocates in Kampala.



ABRAHAM NKATA

Mr. Nkata holds MBA (Procurement) from Uganda Management of Institute, Bachelor of Purchasing and Supply Management, UK, Graduate Diploma in Purchasing and Supply-CIPS, Diploma in Procurement Management in Public Sector-Italy and is a Chartered Member of the Chartered Institute of Purchasing and Supply, UK, a Chartered Member of the Institute of Logistics and Transport UK, a Chartered Member of the Institute of Management, UK and a Certified Member of the Institute of Procurement Professionals of Uganda.

Currently, he is the Procurement Technical Advisor, Medical Access Uganda Limited, Member, Public Procurement and Disposal of Public Assets Appeals Tribunal and Council Member, Institute of Procurement Professionals of Uganda.

He possess over 39 years of continuous Professional Procurement and Supply Chain Management experience. Twelve (12) years of his experience has been unrivalled hands-on and consulting experience in both public and private sectors.

His major competences are in the areas of development and implementation of procurement legal frameworks, policies, systems and procedures, strategic procurement management, international procurement contracting under various national and international funding arrangements as well as conducting training and skills development in the procurement and supply chain management function.

He has worked as a Procurement Consultant for the World Bank, USAID, DFID, Crown Agents, Trade Marks East Africa and National Water and Sewerage Corporation and a trainer for the PPDA and the Commonwealth Secretariat.

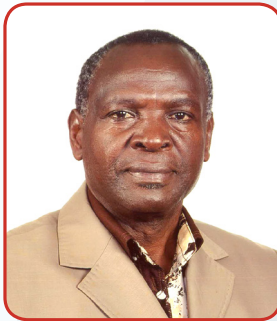


ARCHITECT JOEL K. KATEREGGA

He is a holder of a Masters Degree of Architecture and a Bachelors Degree in Architectural- Studies (Hons) University of Nairobi. He is an expert in Building and Housing Designs, Preparation of Condominium Plans, Property Development, Physical Development & Master Plans, Building, Materials & Construction Technology, Construction Supervision and Project Management among others.

He served as member of a number of Boards including National Social Security Fund.

He is currently the managing Director Co- Coordinator- Eco Shelter & Environmental Consultants.



DAVID KABATERAINE

David is a Certified Public Private Partnership Specialist (CPPS) USA, Post Graduate Diploma in Procurement and Supply Chain Management, Post Graduate Diploma in management, Fellow Economic Development Institute USA, B.A. Economics.

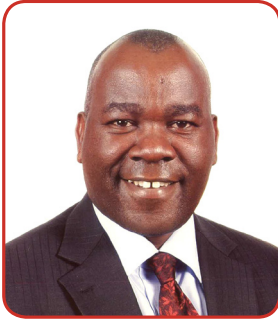
David served as Finance Officer for 10 years, 2 years as Senior Finance Officer and four years as Secretary for the Presidential Economics Council (PEC). He served in the capacity of Principal Finance Officer for 5 years and Deputy Secretary with the Central Tender Board (CTB). He also headed the Procurement Unit and Indirect Tax Policy Department for 2 years. He was Ag. Commissioner Public Procurement Policy Department, in the Ministry of Finance Planning and Economic Development, for 2 years.

He was the Chairman of the Technical Committee for the review of the PPDA Act which was successfully amended together with the Regulations.

He is currently a member of the Agricultural Business Initiative Trustee Board (ABOT) and a freelance consultant.

MOSES JURUA ADRIKO

Moses is a Partner of MMAKS Advocates and Co- head of the Firm’s Litigation Team. His practice focuses mainly on Corporate and Commercial Law, Civil Litigation, Intellectual Property and International Criminal law. He is a Solicitor of the Supreme Court of England of Wales. He holds LLB (Hons) degree from the University of East Anglia. He also has a Diploma in Legal Practice from the Law Development Centre.



He is a past President of the Uganda Law Society and chaired the African Forum of the International Bar Association (IBA). Moses has served on the IBA Human Rights Institute as a Council Member and as a member of the Transitional Justice Issues Committee, in the Government of Uganda.

He chaired as Investigator in Chief Accident Investigation into the crash involving an aircraft belonging to Furgo Airborne Surveys (PTY) Ltd. Moses serves as a Non- Executive Director of Standard Chartered Bank (U) Limited as well as Non- Executive Director of Sanlam General Insurance (U) Ltd.

Appendix II – Regulations of the Tribunal

STATUTORY INSTRUMENT No. 16 of 2016

The Public Procurement and Disposal of Public Assets (Tribunal) (Procedure) Regulations, 2016. (Made under section 91T of the Public Procurement and Disposal of Public Assets Act, 2003)

IN EXERCISE of the powers conferred upon the Minister responsible for finance by section 91T of the Public Procurement and Disposal of Public Assets Act, 2003 and on the recommendation of the Tribunal, these Regulations are made, this 22nd day of December, 2015.

PART I—PRELIMINARY

1. Title. These Regulations may be cited as the Public Procurement and Disposal of Public Assets (Tribunal) (Procedure) Regulations, 2016.

2. Interpretation. In these Regulations, unless the context otherwise requires—

“Act” means the Public Procurement and Disposal of Public Assets Act, 2003;

“applicant” means a person who has filed an application or a reference under these Regulations and includes a representative of the applicant;

“application” means—

(a) an application made under section 91I (1) or (3) of the Act for review of a decision made by the Authority; or

(b) an application made under section 91I (2) of the Act alleging that the Authority has a conflict of interest in a matter before it and

therefore cannot impartially handle a matter;

“Authority” means the Public Procurement and Disposal of Public Assets Authority established under the Public Procurement and Disposal of Public Assets Act, 2003;

“authorized office” means a person appointed as an authorized officer under section 8 of the Act;

“chairperson” means the chairperson of the Tribunal appointed under section 91B(5) of the Act;

“conferencing notes” means a brief set of facts, brief set of issues, summary of arguments in support of a parties case, and any relevant decisions, materials or authorities;

“currency point” is equivalent to twenty thousand Uganda shillings;

“interlocutory application” refers to an application made by a party to the proceedings, between the beginning and end of the proceedings, for the Tribunal to decide a particular point or matter that is not the final issue or to prevent irreparable harm during consideration of the main application or reference;

“member” means a member of the Tribunal appointed under section 91B(6) of the Act;

“reference” means a matter referred to the Tribunal by the Authority under section 91J of the Act;

“registrar” means the registrar of the Tribunal;

“representative” means an advocate, employee or any person authorised in writing by the applicant or respondent

to represent the applicant or respondent at a proceeding of the Tribunal;

“respondent” means—

(a) a person against whom an application or a reference has been filed under these Regulations and includes a representative of the respondent; or

(b) such other person as the Tribunal may determine;

“Tribunal” means the Public Procurement and Disposal of Public Assets Appeals Tribunal established by section 91B of the Act.

PART II—MANAGEMENT AND ADMINISTRATION

3. Business and sittings of Tribunal. (1) The business of the Tribunal shall be transacted at the Tribunal offices between 8.00 a.m. and 5.00 pm on official working days, unless the chairperson directs otherwise.

(2) The sittings of the Tribunal and the matters to be disposed of at the sittings shall be determined by the chairperson and shall be notified as the chairperson may direct.

4. Functions of Registrar. (1) The Registrar shall be the head of the registry and shall assist the chairperson to manage the Tribunal and advise on its operations.

(2) Without limiting the general effect of sub regulation (1), the registrar shall—

(a) receive and register applications, notices of decision and all documents or things relating to the application;

(b) process applications and references;

(c) issue and serve notices and summons of the Tribunal;

(d) facilitate the listing and conduct of conferences and hearings;

(e) keep all documents, books, things or records of the proceedings of the Tribunal;

(f) provide information to parties and their representatives and the general public on the operation and procedures of the Tribunal;

(g) issue interim orders; and

(h) tax costs.

5. Maintenance of registers and files. (1) The registrar shall—

(a) maintain a register of the applications and references; and

(b) enter in the register, the particulars of every application and reference, by serial number in every year, according to the order in which the applications and references are entered.

(2) The register shall contain for each application and reference, as may be applicable—

(a) the serial number of the application or reference;

(b) the date on which the application or reference is lodged;

(c) the name and address of the applicant;

(d) the name and address of the person or entity who made a decision to which the application or reference relates;

- (e) the particulars of the application or reference;
- (f) a brief description of the decision of the Authority that gave rise to the application or reference, where applicable;
- (g) the date of the hearing of application or reference;
- (h) the names of witnesses;
- (i) interlocutory orders of the Tribunal and the date on which they are made;
- (j) decision of the Tribunal and the date on which it is made; and
- (k) notice of appeal to the High Court and date of request for proceedings.

PART III—PROCEDURE FOR HANDLING APPLICATIONS AND REFERENCES BEFORE THE TRIBUNAL

Lodging of applications and references

6. Application, documents accompanying application, etc. (1) An application made to the Tribunal under section 91I of the Act by—

- (a) a bidder;
 - (b) a procuring and disposing entity; or
 - (c) any person whose rights are adversely affected by a decision of the Authority,
- shall be filed with the Tribunal by the applicant or applicant's representative.

(2) The application shall—

- (a) include a brief statement of the reasons for the application and issues on which a decision is sought and shall be accompanied by—

- (i) the decision to be reviewed, where applicable;
 - (ii) request for information from the Authority, where necessary; and
 - (iii) evidence of payment of filing fee.
- (b) be as specified in Form 1 set out in the Schedule;
 - (c) be submitted in eight bound copies in book form, with a title on the cover including an index and each page consecutively numbered.
 - (d) be accompanied by a filing fee of three hundred thousand shillings.

(3) An application under these Regulations shall be incomplete if not accompanied by the documents referred to in sub regulation (2)(a).

7. Reference by the Authority. (1) A reference made to the Tribunal by the Authority under section 91 J(1) or (3) of the Act shall be filed by a duly authorised officer of the Authority or by an advocate representing the Authority.

(2) The reference shall include a brief statement of the reasons for the reference and issues on which a decision is sought and shall be accompanied by—

(a) where the reference is made under section 91J(1), details of the bidder and a report containing a brief statement of persistent breach of the Act, regulations or guidelines by a bidder; or

(b) where the reference is made under section 91J(3), details of the bidder and a summary of the results of an investigation or a procurement or disposal contract audit or performance audit;

(c) request for information from the bidder, where necessary; and

(d) evidence of payment of the filing fee referred to in sub regulation (6)(2)(d).

(3) The reference shall be as specified in Form 2 set out in the Schedule, and shall be supported by an affidavit.

(4) The reference shall be submitted in eight bound copies in book form, with a title on the cover including an index and each page consecutively numbered.

(5) The reference shall be accompanied by a filing fee of two hundred thousand shillings.

(6) A reference under these Regulations is not complete if it is not accompanied by the documents referred to in sub regulation (2) and proof of payment of filing fees.

8. Time within which application or reference may be lodged. (1) Where the application is for review of a decision of the Authority under section 91I(1) or (3) of the Act, the application shall be filed within ten days after an applicant is served with the decision of the Authority.

(2) Where the application consists of an allegation that the Authority has a conflict of interest under section 91I(2) of the Act, the application shall be filed within ten days of determining the facts constituting the conflict of interest.

(3) The reference by the Authority shall be filed within ten working days, of determining the fact under section 91J (1) or (3) of the Act.

9. Procedure on receipt of application or reference. (1) On receipt of an application or reference, the Registrar shall duly date, stamp and sign the eight copies of the application or

reference.

(2) The Registrar shall retain six copies for the use of the Tribunal.

(3) The seventh and eighth copies shall be returned to the applicant to be served on the respondent in accordance with regulation 11.

(4) The registrar shall forthwith issue summons to the respondent to file a response to the application or reference and may give other directions on appearance before the Tribunal.

(5) The summons shall be as specified in Form 3 set out in the Schedule.

10. Service on the respondent. (1) A copy of the application or reference shall be served on the respondent not later than the next working day following the filing of an application or reference with the Tribunal.

(2) The application or reference shall be served by delivering or tendering the seventh and eighth copies of the application or reference to the respondent.

(3) The respondent shall date, sign and stamp the second copy of the application or reference as proof of service and return the copy to the applicant.

(4) The respondent shall retain the eighth copy of the application or reference.

11. Response to application. (1) A respondent shall, within two working days of being served with an application, lodge with the Registrar eight copies of each the following material documents—

(a) the notice of the decision;

(b) the statement in reply giving reasons for the decision;

(c) the relevant documents in the possession of the respondent or under the control of the respondent and shall include the bid document and all relevant documents referred to in the decision; and

(d) any document requested for by the applicant.

(2) A respondent shall lodge the material documents specified under sub regulation (1) using Form 4 set out in the Schedule.

(3) The Tribunal shall give the respondent a notice specifying the document to be lodged, where the Tribunal requires a respondent to lodge a specific document,

(4) The notice specified under sub regulation (3) shall be as specified in Form 5 set out in the Schedule.

(5) Where the respondent fails to lodge the documents required under this regulation, the Tribunal shall exercise its power under section 91K (2) of the Act to require the respondent to produce the document.

12. Response to reference. A respondent shall within two working days of being served with a reference by the Authority file with the Registrar—

(a) a brief statement of defence to the allegations contained in the reference; and

(b) relevant documents in support of the defence.

13. Conferencing session. (1) The Parties shall appear before the Registrar within six working days after the response to the application or reference has been received by the Tribunal for the purposes of holding a conferencing session before the Registrar to agree on the following matters—

(a) facts;

(b) issues for determination by Tribunal;

(c) authorities or precedents in support of the application of reference; or

(d) any interlocutory application.

(2) The parties shall at the conferencing session agree on a trial bundle to be filed with the Tribunal on the next working day following the conferencing session.

(3) The agreed trial bundle shall include—

(a) agreed facts;

(b) issues for review by the Tribunal;

(c) authorities or precedents relied on by the Parties; and

(d) skeleton arguments in support of each party's case.

(4) At the conferencing session, the Parties may consider alternative dispute resolution.

14. Interlocutory applications. Any interlocutory application, including an application to stay action of a procuring or disposing entity shall only be entertained after an application has been filed with the Tribunal in accordance with these Regulations.

15. Consolidation of applications. Where two or more applications for review of a decision of the Authority are instituted arising from the same procurement or disposal process between the same parties, the Tribunal may consolidate the applications and handle them as if they were one application.

16. Withdrawal of applications or references. (1) An applicant may at any time before or during consideration of the application or reference by the Tribunal, by notice in writing, addressed to the

Registrar, discontinue the application against the Respondent.

(2) The notice shall be served on the respondent or any person or entity affected by the application or reference.

(3) The Tribunal shall approve the withdrawal of the application or reference, with or without costs.

(5) When the application or reference is withdrawn, the registrar shall immediately inform the respondent or any persons affected by the application or reference.

17. Notification of proceedings. (1) Upon receipt of an application for review of a decision of the Authority, the Tribunal shall notify the concerned procuring or disposing entity of the application and may, where applicable, ask the entity to stay signing of any contract pending the determination of the application by the Tribunal.

(2) The notification under sub regulation (1) shall be copied to the Solicitor General.

18. Suspension of procuring or disposal proceedings by Tribunal. Where a party to the proceedings applies to the Tribunal or where the Tribunal is of the view that proceedings before the Tribunal for review of a decision of the Authority may be rendered irrelevant if procurement or disposal proceedings subject to the review are not suspended, the Tribunal shall notify the concerned procuring or disposing entity suspending the procurement or disposal proceedings of the entity, until the Tribunal makes a decision on the matter.

Review by Tribunal

19. Summons to appear before Tribunal. The Tribunal may summon the applicant or respondent or their representative to appear before the Tribunal.

20. Summons for witnesses. (1) Where the Tribunal, in its discretion decides to call and examine a witness, the registrar shall, issue a summons requiring the attendance of a witness at a date, time and place specified in the summons.

(2) The witness summons shall be specified in Form 6 set out in the Schedule.

(3) The registrar shall issue summons for the appearance of an expert witness where the appearance of the expert witness is required by the Tribunal.

21. Service of summons or notices. (1) Every witness summons or other notice requiring service shall where practicable, be served personally on the person named in the summons or notice by delivering or tendering a duplicate of the summons or notice to the person and at the same time producing the original, if required to do so.

(2) Wherever it is practicable, service shall be made on the respondent in person, unless he or she has an agent authorised to accept service, in which case service on the agent shall be sufficient.

(3) Every person upon whom a summons or notice is served shall sign or put a mark on the original copy of the summons or notice in acknowledgement of receipt of the summons or notice.

(4) Where the person who is served refuses to acknowledge receipt of the summons or notice the person who effects service of the summons or notice shall record the refusal on the back of the summons or notice.

(5) Every summons or issued under these Regulations and requiring service shall be served by an officer of the Tribunal or any other person authorized by the High Court.

(6) Any notice or summons served on the advocate, representative or agent of any party whether by registered post or by leaving it at the registered chamber, office or ordinary residence of the advocate, representative or agent and whether it is for the personal appearance of the party or not shall be presumed to be duly communicated and made known to the party whom the advocate, representative or agent represents and, unless the Tribunal otherwise directs, shall be effectual for all purposes as if it had been served on the party in person.

(7) Every summons, warrant, order, notice or other formal document issued by the Tribunal shall be signed by the Registrar and shall be sealed with the seal of the Tribunal.

22. Substituted service. Where it is not practicable or possible to effect personal service of a summons in the manner provided in regulation 21, the summons shall be taken to have been duly served where—

(a) the duplicate of the summons is given to an adult person residing with the person or to an adult member of the family, or with the employer or employee of the person;

(b) the duplicate of the summons is affixed to a conspicuous place in the house or homestead in which the person named in the summons ordinarily resides, or where the duplicate is affixed in a conspicuous place in the office or place of work of the person and also to a conspicuous place in the Tribunal;

(c) the particulars of the summons or notice are published in a newspaper or using other media circulating in the area of residence, work or business of the person;

(d) the duplicate summons is posted to the respondent by registered post.

23. Arrest warrant for witnesses. (1) Where, without sufficient cause, a witness does not

appear in obedience to a summons, the Tribunal shall, on proof that proper service was effected on the witness, issue a warrant of arrest for the witness to be brought before the Tribunal at the date, time and place specified in the warrant.

(2) The warrant of arrest shall be as specified in Form 7 set out in the Schedule.

24. Experts. The Tribunal may engage an expert to assist it in proceedings in which it feels it lacks the necessary expertise, but the opinion of the expert shall not be binding on the Tribunal.

25. Attendance at hearing. (1) Where the Tribunal, in its discretion decides to conduct a hearing, where on the date set down for hearing—

(a) the applicant appears and the respondent fails to appear, the hearing of the matter shall proceed in the absence of the respondent unless the Tribunal considers it fit to adjourn the hearing;

(b) the respondent appears but the applicant fails to appear, the application or reference may be dismissed or may be determined in the absence of the applicant; or

(c) if both parties fail to appear, the application or reference may be dismissed or may be determined in the absence of the parties;

(2) The notice of hearing for the parties shall be as specified in Form 8 set out in the Schedule.

26. Order of addresses. (1) Where the Tribunal, in its discretion, calls for witnesses to appear before it, sub regulations (2) to (5) shall apply.

(2) The Tribunal shall first hear the evidence of the witnesses of the applicant

followed by the evidence of the witnesses of the respondent.

(3) The applicant has the right to cross-examine the witnesses of the respondent, after the witnesses of the respondent give evidence, and the respondent has the right to cross examine the witnesses of the applicant after the witnesses of the applicant give evidence.

(4) The Parties shall after the cross-examination and reexamination, where necessary make submissions.

(5) The Tribunal may, put questions to any witness and may, at its discretion, call additional evidence as may be necessary to provide further clarification of the issues raised by the witnesses hearing of the application or reference.

27. Rules of evidence. The Tribunal may not strictly observe the rules of evidence in the hearing of an application or reference under these Regulations.

28. Adjournments. (1) An application for an adjournment shall not be granted unless there are sufficient grounds for an adjournment to be granted.

(2) Where the Tribunal adjourns a hearing, the Tribunal shall resume the next working day for further hearing of the application, or as soon as may be practicable.

29. Recording of evidence. The evidence of the parties and the witnesses shall be recorded in a format agreed to by the members of the Tribunal who hear the application or reference.

30. Evidence by interrogatories, commissions and letters of request. (1) Where the Tribunal requires evidence to be received by interrogatories, the interrogatories and answers to interrogatories shall be by means

and in a form the Tribunal shall direct.

(2) Where the evidence of a witness who resides outside Uganda is necessary, for the proceedings before the Tribunal, the Tribunal shall have the power to issue a commission or letter of request to examine the witness abroad.

PART IV—MISCELLANEOUS

31. Vacation period. In each year the Tribunal shall be in vacation from the 22nd December to the 15th January, both days inclusive.

32. Tribunal business in vacation. The Tribunal shall not conduct business during a vacation, unless the matter is shown to be one of urgency.

33. Computation of time. In computing time for purposes of these Regulations, the following rules shall apply—

(a) in determining the time for the performance of any action or any proceeding under these Regulations, Saturday, Sunday and any other day appointed as a public holiday shall not be reckoned in the computation of the ten days specified in section 91I (7) of the Act;

(b) where the time for doing any act expires on a Saturday or Sunday or other day on which the offices are closed, and by reason thereof the act or proceeding shall , so far as regards the time of doing or taking the act or proceeding be held to be duly done or taken if done or taken on the day on which the offices shall next be open;

(c) unless the Tribunal otherwise directs the vacation period shall not be reckoned in the computation of time.

(d) a period of days from the happening of an event or the doing of any act or thing shall be taken to be exclusive of the day on which the event happens or that act or thing is done.

34. Other applications to Tribunal. Any other application to the Tribunal may be made by notice of motion or by chamber summons as specified in the Civil Procedure Act and Rules, by letter or orally as the Tribunal may direct.

35. Application of the Advocates (Remuneration and Taxation of Costs) Rules. Where the applicant is represented by an advocate, the scale of costs applicable to costs in the High Court and Magistrates Courts for instructions to prosecute or defend an application before the Tribunal shall be those prescribed in the Advocates (Remuneration and taxation of Costs) Rules 1982 as amended.

36. Applicability of Rules of Practice and Procedures (1) In any matter relating to the proceeding of the Tribunal for which these Regulations do not provide, the rules of practice and procedure of the High Court shall apply.

(2) The Tribunal may direct the modification of the use of any rule of practice or procedure of the High Court.

37. Communications to Tribunal. All communications to the Tribunal relating to matters pending before the Tribunal shall be made through the Registrar or such other officer as the Tribunal may authorise.

38. Appeal to the High Court. A person aggrieved by a decision of the Tribunal under these Regulations may appeal to the High Court against the decision of the Tribunal in accordance with section 91M of the Act.

FORM 1

Regulation 6(3)

THE REPUBLIC OF UGANDA

(Fill 8 copies)*.

In the Public Procurement and Disposal of Public Assets Appeals Tribunal

at _____

Registry Application No _____ Year _____

In the matter of _____ Applicant

And _____ Respondent

APPLICATION (Under section 91I and regulation 6)

1. Particulars of the applicant (a) Name _____

_____ (b) Nature of business _____

_____ (c) Postal address _____

_____ (d) Physical address of applicant: Plot _____

_____ Street _____ Town/City _____ (e)

Telephone No. _____ Fax No. _____ E-mail _____

2. A statement of facts and the reasons in support of the application

3. The issues on which a decision of the Tribunal is sought

4. The date of service of the decision of the Authority (where applicable)

5. The costs arising from the application _____

6. The damages arising from the dispute _____

7. A list of books, documents, evidence or things to be produced before the Tribunal, if any.
(Give brief description of each.)

8. Names of the witnesses of the applicant , if any, and their addresses.

Dated this _____ day of _____, 20 _____

Signature of Applicant/Advocate
for the Applicant/Agent of Applicant

(FOR OFFICIAL USE ONLY)

9. By the Registrar/ Officer in charge

Date of filing the application _____

Signature _____

Official stamp of registrar _____

10. By Respondent Service of copy of application on the respondent

Date _____

Signature _____

Official stamp of or on behalf the respondent

*All pages must be numbered

FORM 2

Regulation 7(3)

THE REPUBLIC OF UGANDA

(Fill 8 copies. Form to be accompanied by affidavit*.)

In the Public Procurement and Disposal of Public Assets Appeals Tribunal at

Registry Reference No _____ Year _____

REFERENCE TO TRIBUNAL (Under section 91J and regulation 7)

PUBLIC PROCURMENT AND DISPOSAL OF PUBLIC ASSETS AUTHORITY (PPDA)

..... APPLICANT

AND

..... RESPONDENT

1. Particulars of Respondent (a) Name

_____ (b) Nature of business
_____ (c) Postal address
_____ (d) Physical address of applicant: Plot
_____ Street _____ Town/City
_____ (e) Telephone No. _____ Fax No. _____ E-mail _____

2. A statement of facts and reasons in support of the reference

3. State the decision of the Tribunal sought

4. A list of books, documents, evidence or things to be produced before the Tribunal, if any.
(Give brief description of each.)

Dated this _____ day of _____, 20 _____

Signature of Officer of the Authority/Advocate for the Authority.

(FOR OFFICIAL USE ONLY)

9. By the Registrar/ Officer in charge Date of filing the reference

Signature _____

Official stamp of registrar _____

10. By Respondent Service of copy of reference on the respondent

Date _____

Signature _____

Official stamp of or on behalf the respondent

*All pages must be numbered

FORM 3

Regulation 9(5)

THE REPUBLIC OF UGANDA

In the Public Procurement and Disposal of Public Assets Appeals Tribunal at

Registry Application No _____ Year _____

In the matter of

_____ Applicant

and

_____ Respondent

SUMMONS TO FILE RESPONSE WITH TRIBUNAL (Under section 91I and regulation 9(5))

To _____

Whereas an application for review of a decision made by you in respect to the applicant on the ... day of 20... has been filed with the Tribunal;

OR

Whereas the Public Procurement and Disposal of Public Assets Authority has made a reference to the Tribunal with respect to (briefly state facts relating to persistent breach of PPDA Act or, where applicable, a state brief results of the investigation or audit).

You are required to file a response with the Tribunal within two working days of being served with an application by the applicant, or as the case may be, within two working days of being served with a reference by the Authority. Other directions on appearance before the Tribunal:

Failure to respond or to obey this summons renders you liable to penalties.

Given under my hand and the seal of the Tribunal this _____ day of _____, 20 _____.

_____ Registrar.

Acknowledgment of service of summons.

Full name _____

Address _____

Date and time _____

FORM 4

Regulation 11(2)

THE REPUBLIC OF UGANDA

In the Public Procurement and Disposal of Public Assets Appeals Tribunal at

Registry Application No _____ Year _____

In the matter of _____ Applicant
and _____ Respondent

LODGING OF MATERIAL DOCUMENTS BY RESPONDENT (Under regulation 12(2))

Fill 8 copies* (Form to be accompanied by an affidavit)*

Pursuant to regulation 11(2) of the Public Procurement and Disposal of Assets (Tribunal) (Procedure) Regulations, 2015,

I _____ of _____ lodge with the Registrar of the Tribunal two copies of each of the following—

(a) the notice of the decision; (b) a statement giving the reasons for the decision; and (c) other documents (give brief description of each).

_____ (If space not sufficient, use separate sheet)

Date on which application/reference was served on the respondent

_____ Date Respondent

_____ Seal of the Tribunal

FORM 5

Regulation 11(4)

THE REPUBLIC OF UGANDA

In the Public Procurement and Disposal of Public Assets Appeals Tribunal at

Registry Application No _____ Year _____

In the matter of _____ Applicant
and _____ Respondent

NOTICE TO LODGE SPECIFIED DOCUMENTS OR THINGS. (Under regulation 12(5))

To _____

Take notice that you are required to lodge with the Tribunal, on or before the _____ day of _____, 20 ____, the following documents or things, which, in the opinion of the applicant, are in your possession or under your control (give brief description of each document)—

Given under my hand and the seal of the Tribunal this _____ day of _____, 20 _____

..... Registrar.

FORM 6

Regulation 20(2)

THE REPUBLIC OF UGANDA

In the Public Procurement and Disposal of Public Assets Appeals Tribunal at

Registry Application No _____ Year _____

In the matter of _____ Applicant
and _____ Respondent

WITNESS SUMMONS (Under regulation 19(2))

To _____

Whereas your attendance is required as a witness on behalf of the _____

during the hearing of the above application, you are by this summons required to appear before this Tribunal on the _____ day of _____, 20 ____, at _____ O'clock in the forenoon/afternoon and to bring with you or send the following books, documents or things to the Tribunal—

Failure to respond or to obey this summons renders you liable to penalties.

Given under my hand and the seal of the Tribunal this _____ day of _____, 20 ____.

Registrar

Acknowledgment of service of summons.

Full name _____

Address _____

Date and time _____

FORM 7

Regulation 23(2)

THE REPUBLIC OF UGANDA

In the Public Procurement and Disposal of Public Assets Appeals Tribunal at

_____ Registry Application No. _____ Year _____

In the matter of _____ Applicant
and _____ Respondent

WARRANT OF ARREST OF WITNESS. (Under regulation 21(2).)

To _____

Whereas _____ has been duly served with a summons (certified copy attached) but has failed to attend, you are by this warrant ordered to arrest and bring _____ before the Tribunal.

You are further ordered to return this warrant on or before the _____ day of _____, 20____, with an endorsement certifying the day on and manner in which this warrant is executed.

Given under my hand and the seal of the Tribunal this _____ day of _____ year _____
_____ Registrar.

FORM 8

THE REPUBLIC OF UGANDA

In the Public Procurement and Disposal of Public Assets Appeals Tribunal at

Registry Application No _____ Year _____

In the matter of _____ Applicant and
_____ Respondent

NOTICE TO PARTIES TO APPEAR (Under regulation 25(2))

To _____

Take notice that the above application will be heard by the Tribunal on the _____ day of _____, 20 ____, at _____ o'clock in the forenoon/afternoon.

You are accordingly required to appear before the Tribunal and to bring your witnesses with you.

If no appearance is made by you or by any person duly authorized by you to act on your behalf, the application may be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this _____ day of _____, 20 ____.

..... Registrar.