

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

APPLICATION NO. 36 OF 2025

BETWEEN

GEO JET PLACEMENTS LTD::: APPLICANT

AND

MBARARA CITY::: RESPONDENT

**APPLICATION FOR REVIEW IN RESPECT OF THE PROCUREMENT
FOR COLLECTION OF REVENUE FROM VARIOUS SOURCES IN
MBARARA CITY, INCLUDING THE COLLECTION OF REVENUE
FROM CENTRAL MARKET TOILETS UNDER PROCUREMENT
REFERENCE NO. MBAR 609/SCRV/2025/2026/00001 (LOT 7).**

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

DECISION OF THE TRIBUNAL

A. BRIEF FACTS

1. Mbarara City (the “**Respondent**”) initiated a procurement for revenue collection from various sources in Mbarara City, including revenue collection from Central Market Toilets under Procurement Reference No. MBAR609/SCRV/2025/2026/00001 (Lot 7) on June 18, 2025.
2. The Respondent received proposals from **six (6) bidders**: *Geo Jet Placements Ltd (the Applicant)*, *Keneth Katungye*, *Ainebyona Paul*, *Bakamuhinga Jackson*, *Namayanja Veronica* and *Muhangi Cathbert* on June 27, 2025.
3. On 10th September 2025, the Respondent issued a notice of best-evaluated bidder for the impugned procurement stating that *Muhangi Cathbert* was the best evaluated bidder at a weekly contract price of Uganda Shillings Seven Hundred Thirty-Eight Thousand Four Hundred Sixty-One (UGX 738,461).
4. The notice of best-evaluated bidder further indicated that the Applicant was deemed unsuccessful, having been eliminated at the preliminary examination stage for failing to submit a copy of a registered Power of Attorney for companies or joint ventures.
5. On 22nd September 2025, the Applicant lodged a complaint with the Respondent’s Accounting Officer, contesting the evaluation process. The Applicant maintained that it had included the Power of Attorney in its bid and that the Evaluation Committee should have sought clarification regarding the alleged missing document.
6. Subsequently, on 2nd October 2025, the Accounting Officer issued an administrative review decision dismissing the Applicant’s complaint of 22nd September 2025 for lack of merit. The decision stated that the Applicant had not attached a Power of Attorney in its bid, the bid lacked page numbering, and the Evaluation

Committee could not ascertain whether any pages were missing. It further noted that the countersigned table of contents did not list a Power of Attorney among the submitted documents. The Accounting Officer concluded that the Power of Attorney was a critical document, and its omission rendered the Applicant ineligible.

7. On October 13, 2025, the Applicant, aggrieved with the decision of the Respondent's Accounting Officer, filed the instant Application before the Tribunal for review of the said decision.

B. THE ORAL HEARING

The Tribunal held an oral hearing via Zoom software on October 23, 2025. The appearances were as follows:

- 1) *John Allan Kwatampora* from *Kaganzi & Co. Advocates (Head Office-Mbarara)* as Counsel for the Applicant.
- 2) *Alauterio Ntegyereize*, Senior Legal Officer, as Counsel for the 1st Respondent. In attendance for the Respondent was *Atwiine Edgar Rwabutwagu*, Senior Procurement Officer.

Muhangi Cathbert, the best evaluated bidder, was served with a copy of the application on 14th October 2025 and notified of the hearing. However, he neither filed a response nor attended the hearing.

C. SUBMISSIONS

During the oral hearing, the Applicant and Respondent highlighted their written submissions and responses and made oral arguments before the members of the Tribunal.

Applicant

1. Counsel for the Applicant adopted the contents of the application and relied on the written submissions filed on 20th October 2025.
2. The Applicant contended that the Respondent erred in rejecting her bid for alleged administrative non-compliance due to the omission of a Power of Attorney. While acknowledging that non-compliant bids are to be rejected at the preliminary stage under regulations 16(2) and 18(4) of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, S.I. No. 103 of 2023*, the Applicant maintained that such rejection is only proper where the Respondent first requests the missing document and the bidder fails to furnish it within the prescribed time.
3. The Applicant argued that Regulation 18(2)(f) of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, S.I. No. 103 of 2023*, which provides that a bidder shall be administratively compliant where it submits additional documents as may be required, imposed a positive duty on the Respondent to request missing documents and asserted that since the Respondent never requested the Applicant to produce the Power of Attorney, its bid could not lawfully be declared non-compliant. Therefore, the Respondent's reliance on the said provision defeated its own case.
4. Applicant further submitted that the Evaluation Regulations must be read as a whole and not in isolation. The Applicant faulted the Respondent for applying regulations 16(1)(b) and (2) without considering regulation 17(3)(d) and (6), which permit a Procuring Entity to request additional documents that were omitted from a bid where such omission does not amount to a material deviation. The Applicant insisted that her omission fell squarely within this curable category.

5. The Applicant submitted that a Power of Attorney fell within the category of documents contemplated under Regulation 17(3)(d) as “any other documents or statements required by the bidding document.” Relying on the “associated words” principle of statutory interpretation, it argued that a Power of Attorney was analogous to a trading licence or certificate of registration documents whose absence could be rectified if requested. The Applicant further contended that the Respondent’s failure to request the document should not prejudice it. In support, it referred to the decision in *Kuuku Amos & 2 ors v. Attorney General*, Constitutional Petition No. 002 of 2024 at p.17 per Florence Nakachwa, JCC.
6. The Applicant averred that the Respondent’s differentiation between a Power of Attorney and other eligibility documents, such as a trading license or certificate of incorporation, was unjustified. In the Applicant’s view, all these documents serve the same purpose of establishing a bidder’s legal status and capacity, and therefore, the same procedure for rectification should apply to all.
7. On the Respondent’s claim that the omission of the Power of Attorney constituted a material deviation affecting legal capacity to contract, the Applicant argued that this reasoning ignored the obligation under Regulations 6(1) and 17(3)(d) & (6) to seek clarification or request for missing documents. The Applicant contended that the Respondent cannot rely on its own failure to perform a statutory duty to justify the Applicant’s disqualification. Citing *Makula International Ltd v. Cardinal Nsubuga (1982) HCB 11*, the Applicant maintained that no party should benefit from its own illegality.
8. The Applicant contended that its Power of Attorney was valid and existed at the time of bid submission, as shown by Annexure “F” to the Application. The failure to attach it was a minor omission that did not affect the substance of the bid or its legal capacity to contract. The Applicant argued that the Respondent’s failure to

request the document rendered the subsequent disqualification premature and unlawful.

9. Concerning the Respondent's argument that the Power of Attorney was not a historical document, the Applicant submitted that this position was misconceived and emphasized that Regulation 17(7) would only have applied if the Respondent had requested and received the Power of Attorney but found it had expired, which was not the case. The Applicant maintained that, had the Respondent requested it, the Applicant would have promptly furnished a valid copy.
10. Regarding differing signatories, *Mugisha Georgious Gibbs* and *Mugisha Reagan*, the Applicant argued that this contention was irrelevant and an afterthought. It pointed out that both individuals were directors of the Applicant company and that the Respondent's Accounting Officer had not raised this issue during the administrative review. The Applicant further explained that the registered Power of Attorney had authorized *Mugisha Georgious Gibbs* to sign the bid, and that any director, including the donor, could lawfully lodge a complaint on behalf of the company.
11. In conclusion, the Applicant prayed that the Tribunal find that its omission to attach a Power of Attorney constituted a curable irregularity caused by the Respondent's failure to act in accordance with regulations 6(1), 7(4), and 17(3) & (6) of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023* and sought orders setting aside the Respondent's decision of 2nd October 2025, directing a re-evaluation of bids, or alternatively declaring the Applicant as the best evaluated bidder, an order for the refund of its administrative review fees, and costs of the Application.

Respondent

1. The Respondent adopted its written submissions filed in support of its statement in response to the application on October 23, 2025.
2. The Respondent contended that the Applicant failed to comply with the basic requirement to attach a Power of Attorney to its bid, contrary to regulations 16(1)(b), (2) and 18(1) & (2)(f) of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023*. The Respondent argued that this omission rendered the Applicant's bid administratively non-compliant at the preliminary evaluation stage.
3. It further submitted that the failure to attach a Power of Attorney constituted a material deviation that affected the Applicant's legal capacity to sign the bid, enter into, and execute the contract, contrary to regulations 7(4)(b) and 17(2)(a) of the same regulations.
4. The Respondent maintained that a Power of Attorney is not a historical document and does not fall in the same category as a trading license or certificate of incorporation, which the Evaluation Committee must request under regulation 17(7).
5. On the whole, the Respondent argued that a Power of Attorney is a crucial document forming the heart of a bid, as it empowers a company's representative to sign the bid and contract. Without it, the bid is non-existent.
6. In support of its position, the Respondent relied on the Tribunal's decision in *Transac Ltd v. PPDA & Ministry of Works and Transport* (Application No. 10 of 2017), where the Tribunal held that omission to submit a Power of Attorney constituted a fatal, non-curable material deviation rendering a bid non-responsive and that the Evaluation Committee was right not to call for a Power of Attorney as an additional document.

7. The Respondent argued that the facts in the instant case were distinguishable from *Gibb (Pty) Ltd in Joint Venture with Acmiris Consulting Ltd v. Ministry of Works and Transport & Another* (Application No. 16 of 2025), and that the Tribunal had no justifiable reason to depart from its earlier position in *Transac*. It urged the Tribunal to follow precedent and uphold the disqualification of the Applicant's bid, asserting that its decision was correct and in accordance with established law.
8. The Respondent also highlighted an alleged discrepancy between the signatories, noting that Mr. Mugisha Georgious Gibbs signed the bid, while Mr. Mugisha Reagan signed the complaint to the Accounting Officer, creating uncertainty as to who had authority to act on behalf of the Applicant.
9. The Respondent prayed that the application be dismissed.

D. RESOLUTION BY THE TRIBUNAL

Issues

The Application raised 3 issues for determination. The Tribunal has reframed the issues as follows.

- (i) *Whether the Respondent erred in law and fact when it disqualified the Applicant's bid for omission to attach powers of attorney?*
- (ii) *Whether there are available remedies to the Parties.*

Resolution of Issues

Issue No. 1

Issue No. 1- Whether the Respondent erred in law and fact when it disqualified the Applicant's bid for omission to attach powers of attorney?

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1. The Bidding Document for the impugned procurement stipulated that the preliminary examination would evaluate bids for eligibility and administrative compliance on a pass-or-fail basis and outlined the specific documents required to satisfy the eligibility criteria as follows.

Eligibility Criteria: You are required to meet the following criteria to be eligible to participate in public procurement:

- 1. A certificate of registration issued by the Authority for bidders currently registered with the Authority*
 - 2. A copy of valid trading license for the year 2025 with the exception of individuals.*
 - 3. A copy of the Bidder's Certificate of Incorporation/Registration or equivalent for bidders not currently registered with the Authority.*
 - 4. A copy of registered powers of Attorney for companies/Joint Ventures*
 - 5. A list of directors/proprietors and their photographs.*
 - 6. Telephone contact & physical address.*
 - 7. The bidders MUST be able to identify themselves with copies of National Identity Cards*
 - 8. A copy of receipt as evidence of payment of non-refundable fee for purchase of bid document.*
 - 9. Two copies of submitted bids.*
2. The Tribunal examined the Applicant's bidding document and noted that it was duly countersigned on each page. The table of contents, however, only listed the following documents: the Quotation Submission Sheet (page 2), Code of Ethical Conduct in Business for Bidders and Providers (page 3), Part 2: Statement of Requirements/Terms of Reference (page 5), List of Services and Price Schedule (page 7), National IDs (page 8), Passport Size Photos (page 9), TIN Certificate (page 10), Tax Clearance Certificate (page 11), Certificate of Registration (page 12), and

Particulars of Directors (page 13). The final item in the spiral-bound bid was the company's contact information.

3. The Power of Attorney was neither listed in the table of contents nor included in the bid, and there is no evidence to suggest it was deliberately removed or overlooked by the Evaluation Committee, contrary to the Applicant's allegation in its 22nd September 2025 complaint.
4. The requirement for a Power of Attorney in the instant case, was listed by the Respondent in its bidding document as an eligibility document under the Preliminary Examination criteria. Its absence at the time of bid submission does not automatically render a bid invalid, as the Procuring and Disposing Entity (PDE) is obligated to seek clarification and allow the bidder to provide the missing document in accordance with Regulation 17(6) of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023*. This principle is supported by previous decisions, including Application No. 35 of 2025 (*D&D Law Publishing House Ltd v Electoral Commission*) and Application No. 16 of 2025 (*Gibb (PTY) Limited in Joint Venture with Acmir Consulting Limited v Ministry of Works and Transport and Another*).
5. The Tribunal further held that a missing document may be requested from the bidder as long as it was valid at the bid submission deadline, in line with Regulations 6(1) and 17(7) of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023*.
6. The Tribunal has observed that the Respondent relied heavily on the decision in Application No. 10 of 2017, *Transac Ltd v. PPDA & Ministry of Works and Transport*, urging the Tribunal to depart from its later decision in Application No. 16 of 2025, *Gibb (PTY) Limited in Joint Venture with Acmir Consulting Limited v. Ministry of Works and Transport and Another*.

7. In the *Transac* Application, the bidder attempted to submit a Power of Attorney at bid opening after the submission deadline, which the Respondent refused to accept. The Tribunal held that a bidder cannot modify the substance of a bid after submission except to clarify or correct non-material omissions, and that the missing Power of Attorney constituted a material deviation under Instruction to Bidders (ITB) 12.1(c), rendering the bid invalid and non-existent.
 8. The instant Application is, however, distinguishable. Under Regulations 17(3)(d) and 17(6) of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023*, the Evaluation Committee is explicitly empowered to request a bidder to submit **any eligibility document** omitted at bid submission. Similar provisions existed in the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2014*, specifically Regulations 17(3)(d) and 17(6), but these were not considered by the Tribunal in the *Transac* Application, creating a legal distinction that allows the Evaluation Committee to obtain missing documents in a controlled and time-bound manner in accordance with the law and bidding document.
 9. The decision in *Gibb (PTY) Limited in Joint Venture with Acmiris Consulting Limited v. Ministry of Works and Transport and Another* is consistent with earlier Tribunal decisions, including *Application 12 of 2024, Juan Carlos Surace Limited v. Masindi District Local Government*; *Application 30 of 2024, Maleka Engineering and Construction Company Limited and Another v. Kira Municipal Council*; and *Application No. 5 of 2025, Emtec Technical Services Ltd v. Uganda High Commission, Dar es Salaam, Tanzania*. It correctly reflects the established law and practice regarding omitted eligibility documents, and there is no basis or reason to depart from this position.
 10. The Tribunal noted that the Applicant had attached a Power of Attorney as Annexure "F" to the application. This document, dated
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4th December 2010, authorized Mr. Mugisha Georgious Gibbs to act as the Applicant's lawful attorney for activities including tender submission and award, and was registered with the Uganda Registration Services Bureau on 12th December 2019. The Tribunal observed that the Evaluation Committee never had the chance to review or assess this document, as it was not part of the bid submitted on 27th June 2025. Accordingly, the Tribunal makes no determination on the validity or adequacy of the said Power of Attorney.

11. The Tribunal determines that the Respondent should have requested the Applicant to submit the registered Power of Attorney through a clarification process because it had listed it as an eligibility document in its bidding document. This would have enabled the Applicant to demonstrate that the document was valid and existed at the bid submission deadline and give the evaluation committee an opportunity to assess its validity. Accordingly, the Tribunal finds that the Respondent erred and acted contrary to regulation 17(6) of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023*, in disqualifying the Applicant's bid for the alleged non-submission of a Power of Attorney, that had been specified in the bidding document among others as an eligibility document.

12. Issue no. 1 is resolved in the affirmative.

Issue No.2:

What remedies are available to the parties?

13. The Tribunal finds that the Respondent erred and breached Regulation 17(6) of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023*, by disqualifying the Applicant's bid for alleged non-submission of the Power of Attorney, as an eligibility document. The Tribunal therefore

directs that the procurement process be returned to the Respondent for re-evaluation

E. DISPOSITION

1. The Application is allowed
2. The Best Evaluated Bidder Notice displayed on and dated September 10, 2025, is set aside.
3. The administrative review decision of the Respondent's Accounting Officer issued on 2nd October 2025, is set aside.
4. The Respondent is ordered to re-evaluate the bids in a manner not inconsistent with this decision, the bidding document, and the law
5. The re-evaluation in no. 4 above shall be conducted within 10 working days from the date of this decision.
6. The Respondent is ordered to refund the administrative review fees paid by the Applicant.
7. The Tribunal's suspension order dated October 14, 2025, is vacated.
8. Each party shall bear its own costs.

Dated at Kampala, this 28th day of October 2025.



FRANCIS GIMARA SC.
MEMBER



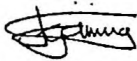
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