

THE REPUBLIC OF UGANDA
IN THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC
ASSETS APPEALS TRIBUNAL AT KAMPALA
REGISTRY APPLICATION NO.17 OF 2025

BETWEEN

PUREARC ENGINEERING COMPANY LIMITED.....APPLICANT

AND

UGANDA ELECTRICITY DISTRIBUTION CO. LTDRESPONDENT

**APPLICATION FOR REVIEW IN RESPECT OF THE DECISION OF THE
RESPONDENT IN THE FRAMEWORK PROCUREMENT FOR LAST MILE
CONNECTIONS UNDER PROCUREMENT REFERENCE NUMBER
UEDCL/SRVCS/2024-2025/10244 (IN RESPECT OF LOT 3)**

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

DECISION OF THE TRIBUNAL

A. BRIEF FACTS

1. **UGANDA ELECTRICITY DISTRIBUTION CO. LTD** (the "Respondent") initiated a procurement for **LAST MILE CONNECTIONS UNDER FRAMEWORK CONTRACT (FOR LOT 1, LOT 2, LOT 3, LOT 4 and LOT 5)** under Procurement Reference Number **UEDCL/SUPLS/2024-2025/10244** using open domestic bidding method and was advertised on February 21, 2025. According to the bidding document, bidders were allowed to bid for any or all of the five lots indicated below, but a successful bidder would only be awarded one lot.

- Lot 1- "No-pole and pole service connections for Central region",
- Lot 2- "No-pole and pole service connections for Central region",
- Lot 3- "No-pole and pole service connections for Central region",
- Lot 4- "No-pole and pole service connections for Western region",
- Lot 5 "No-pole and pole service connections for Eastern & Northern regions".

2. On March 14, 2025, according to the Respondent's record of bid opening, the Respondent received bids for the five lots from twenty-two bidders, namely;

- i. *Voltech Engineering Company Limited,*
- ii. *Modest Associate Limited,*
- iii. *MTSL Energies Limited,*
- iv. *Segken Services Limited,*
- v. *On-Track Technical Services Limited,*
- vi. *Broad Five Ltd,*
- vii. *Delta Electricals Limited,*
- viii. *Seru & Badru Technical Services Limited,*
- ix. *Purearc Engineering Limited (the Applicant),*

- x. *Made Technical Services Limited,*
- xi. *Basama Enterprises Limited,*
- xii. *Muttico Technical Services Limited,*
- xiii. *Itungo Engineering Company Limited,*
- xiv. *Linear Fiber Energies Ltd,*
- xv. *ATNA Technologies Ltd,*
- xvi. *Dimerc Investments Limited,*
- xvii. *Tetra Technical Services Limited,*
- xviii. *SMT Works & Services Limited,*
- xix. *Tumo Technical Services Limited,*
- xx. *Haso Engineering Company Limited,*
- xxi. *Winner Global Enterprises Ltd and*
- xxii. *Cablesult Civil & Electrical Engineering Co. Ltd*

This application for administrative review concerns Lot 3, “No Pole and pole service connections for Central region.”

3. According to the Respondent’s evaluation report under the preliminary examination table pages 8-9, seven bidders submitted bids and were evaluated for Lot 3: *Muttico Technical Services Limited, Purearc Engineering Limited (the Applicant), Made Technical Services Limited, Basama Enterprises Limited, MTSL Energies Limited, Haso Engineering Company Limited, and Broad Five Ltd.*
4. Upon completing the evaluation process, the Respondent issued a Best Evaluated Bidder Notice, signed on May 26, 2025, for all five lots, indicating *MTSL Energies Limited* as the Best Evaluated Bidder for Lot 3 at a contract price of **UGX 14,516,950,000 VAT Inclusive.**
5. The Best Evaluated Bidder Notice indicated that the Applicant was disqualified at the technical stage of evaluation for demonstrating four years of general experience in electrical installation works for

MV and LV instead of the required five years and that the Applicant did not have any specific experience in similar last-mile project works.

6. On Saturday, June 7, 2025, the Respondent's Head of the Procurement and Disposal Unit, in an email addressed to all bidders, informed them that the impugned procurement process had been cancelled because some bidders had raised pertinent issues on the last mile connection tender requirements and process. A similar communication containing the cancellation notice dated June 10, 2025, was also sent by email to bidders on June 13, 2025
7. The Applicant, dissatisfied with the procurement process, lodged an administrative review complaint before the Respondent's Accounting Officer. The complaint was received on June 10, 2025

B. APPLICATION TO THE TRIBUNAL

1. The Applicant, having not received a response to the administrative review application, notified the Respondent's Accounting Officer on June 25, 2025, of its decision to file an application with the Tribunal.
2. The Applicant then filed the instant Application on July 2, 2025, before the Tribunal to review the Respondent's decision.
3. The Applicant filed written submissions on July 4, 2025, and then filed a rejoinder on July 11, 2025.
4. The Applicant contended that its disqualification from the procurement process was unlawful because the Evaluation Committee applied an unknown evaluation requirement, namely, *a minimum of five years' experience in MV and LV electrical works*, which was not included in the evaluation methodology of the

Solicitation Document. That the applicable legal framework, including section 76(3) of the *Public Procurement and Disposal of Public Assets Act* and regulation 47 of the *Public Procurement and Disposal of Public Assets (Rules and Methods For Procurement of Supplies, Works and Non Consultancy Services) Regulations*, mandates strict adherence to stated evaluation criteria. That by introducing a criterion that was merely stated as a preference in the statement of requirements but excluded from the evaluation methodology, the Evaluation Committee acted beyond its lawful mandate.

5. The Applicant argued that the term “*last mile*” was not defined in the bidding documents. Yet, its submitted projects involved activities such as MV/LV line installation, end-user connections, and material delivery consistent with the National Electricity Connections Policy (ECP) 2018–2027 definition of last mile. That completion certificates were provided for each project, and thus the Applicant contended that their experience satisfied and exceeded the scope of work required.
6. Concerning the cancellation of the procurement, the Applicant contended that it was procedurally and substantively flawed. The cancellation was first communicated informally via an unsigned email on June 7, 2025 and later repeated in a signed notice on June 13, 2025, citing “*pertinent issues*” raised by other bidders. However, no lawful justification under section 81(2) of the *Public Procurement and Disposal of Public Assets Act*, such as funding constraints, technical changes, or changed circumstances, was provided, nor was approval from the Contracts Committee demonstrated. The Applicant argued that this cancellation undermined transparency, fairness, and due process.

7. The Applicant further highlighted that the Respondent introduced a third ground for disqualification, such as “*incomplete logistical resources*”, only after issuing the Best Evaluated Bidder Notice. That this reason was not mentioned in the original evaluation notice or supported by evaluation forms, and its retroactive introduction violates Section 76(3) of the *Public Procurement and Disposal of Public Assets Act* and Regulation 47 of the *Public Procurement and Disposal of Public Assets (Rules and Methods For Procurement of Supplies, Works and Non Consultancy Services) Regulations*, which prohibit post-facto evaluation justifications. That such conduct raises legal and procedural red flags.
8. The Applicant also disputed the Respondent’s claim that they had no locus standi to challenge the procurement process. The Applicant asserted that it had submitted a notice of intention to file an administrative review before the cancellation was communicated and was legally entitled under section 117 of the *Public Procurement and Disposal of Public Assets Act* to challenge the disqualification and cancellation. That its claims are rooted in the law and made in good faith, including their prayer for refund and compensation.
9. In conclusion, the Applicant submitted that the disqualification and cancellation were both unlawful and procedurally defective and prayed that the Tribunal nullifies the cancellation, reinstates the procurement at the point it was disrupted, directs a fresh technical evaluation using only the published criteria, and orders a refund of administrative costs and compensation for losses incurred in reliance on a fair and legal process.

C. RESPONSE TO THE APPLICATION

1. The Respondent filed a response to the application on July 4, 2025 and filed detailed submissions on July 8, 2025.

2. The Respondent averred that the Evaluation Committee lawfully disqualified the Applicant for failing to meet a mandatory requirement in the bidding document: *the demonstration of five years' experience in last mile electricity connection projects*. The Applicant admitted to submitting only four such projects, thereby falling short of the specified threshold. That this disqualification was made in strict compliance with section 76 of the *Public Procurement and Disposal of Public Assets Act* and regulation 5 of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023*, which prohibit the use of any criteria other than those stated in the bid documents.
3. The Respondent contended that the Evaluation Committee treated all bidders equally and uniformly applied the stated evaluation criteria. The Applicant's bid was thoroughly reviewed and found lacking in key technical areas, including experience in medium and low voltage installations and logistical capacity. Since the Applicant failed to meet a mandatory criterion, the Evaluation Committee was legally obliged to disqualify the bid and had no discretion to waive or amend the requirements.
4. Regarding the cancellation of the procurement, the Respondent argued that the Applicant, having been disqualified and not named among the successful bidders, had no enforceable right or interest in the continuation of the process. Therefore, the cancellation did not infringe on any of the Applicant's rights. Moreover, section 81(1) of the *Public Procurement and Disposal of Public Assets Act* permits a procuring entity to cancel a procurement at any stage before the contract is awarded, which was the case here.

5. In conclusion, the Respondent submitted that the evaluation and cancellation processes were fair, lawful, and consistent with procurement law. That the instant Application was without merit, and prayed that the Tribunal dismiss it, upholds the decisions of the Evaluation Committee, confirms the lawfulness of the disqualification, and awards costs to the Respondent.

D. ORAL HEARING

The Tribunal held a virtual hearing on July 16, 2025, using the Zoom cloud-based video conferencing application. The appearances were as follows:

- 1) **Anthony Ahimbisibwe**, an Advocate, represented the Applicant. **Eria Ndayizeye**, the Applicant's Director and authorised representative, was in attendance.
- 2) **Kitenda Jesse Stephen**, **Irada Aruho** and **Rogers Mugisha**, all Senior Legal Officers, represented the Respondent. In attendance were **Doreen Keisha Ninsiima**, Manager Procurement & Disposal and a member of the evaluation committee, **Tumwesigye Simon**-Senior Energy Loss Reduction Officer and a Member of the evaluation committee, **Hannington Natuhweera**, Evaluation committee member and **Ngabirano Raymond**, Senior Management Consultant and Member of the evaluation committee.

E. RESOLUTION

1. The Tribunal has considered the oral and written submissions and perused the pleadings, the proposals and the request for proposals.

2. The Application raised two substantive grounds, which the Tribunal has recast as issues as follows:

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

- 1) *Whether the instant Application is competent before the Tribunal*
- 2) *Whether the Respondent's Accounting Officer erred in law and fact when it omitted to make and communicate a decision upon receipt of the Applicant's application for Administrative Review.*
- 3) *Whether the Respondent erred in law and fact when it cancelled the procurement process.*
- 4) *Whether the Respondent erred in law and fact when it disqualified the Applicant's bid.*
- 5) *What remedies are available to the parties*

Issue No. 1:

Whether the instant application is competent before the Tribunal

1. Section 115(1)(a)-(c) of the *Public Procurement and Disposal of Public Assets Act Cap 205* and reg 9(1)(a)-(c) of the *Public Procurement and Disposal of Public Assets (Administrative Review) Regulations, 2023* govern the incidences of filing applications before the Tribunal
2. Section 115(2)(a)-(c) of the *Public Procurement and Disposal of Public Assets Act Cap 205* prescribes the timelines for filing applications before the Tribunal and states as follows;

The application shall;

- a) *for section 106 (7), within ten working days from the date of receipt of the decision of the Accounting Officer.*
- b) *for section 106 (8), within ten days from the date of expiry of the period specified in the section; and*

- c) *for section 106 (9), within ten days from the date when the omission or breach by the procuring and disposing entity is alleged to have taken place*
3. The Applicant, being dissatisfied with the procurement process, lodged an administrative review complaint dated June 10, 2025, before the Respondent's Accounting Officer.
 4. Having received the Applicant's complaint on June 10, 2025, the Accounting Officer was statutorily mandated to make and communicate a decision, in writing, addressed to the bidder who made the complaint within ten (10) days. The time of reckoning for the Respondent's Accounting Officer to make and communicate a decision to the Applicant commenced on **June 11, 2025** and elapsed on **June 20, 2025**. See section 106 (7) of the *Public Procurement and Disposal of Public Assets Act Cap 205*.
 5. Once the 10 days prescribed in section 106 (7) of the *Public Procurement and Disposal of Public Assets Act Cap 205* have elapsed, an aggrieved bidder must act with haste and immediately proceed to file an application before the Tribunal within 10 days.

The time of reckoning for the Applicant to file an application before the Tribunal commenced on June 21, 2025 and elapsed on June 30, 2025. See sections 106 (8) and 115(2)(b) of the *Public Procurement and Disposal of Public Assets Act Cap 205* and **Application No. 15 of 2024 - Multiplex Limited v Masaka City**.

6. During the hearing, the Applicant's lawyer admitted that the application was filed late.

7. In the instant application, the Applicant was expected to act with haste and file an application for review of the Respondent's decision, including the failure to make a decision within the statutory timelines specified in the Act. The time of reckoning for the Applicant to file this application before the Tribunal commenced on **June 21, 2025** and elapsed on **June 30, 2025**. See **Application 15 of 2025 Buu-Lepu Foundation Limited v Lira City Council**
8. We observed that the Applicant filed a notice of intention to file an application with the Respondent's Accounting Officer on June 25, 2025.
9. The Tribunal has however previously held that service of a notice on an accounting officer has no bearing on the timelines within which an applicant must file an application before the Tribunal as stipulated in section 115(2)(a)-(c) of the *Public Procurement and Disposal of Public Assets Act Cap 205* because failure to file such a notice with the Accounting Officer does not vitiate the Tribunal's Jurisdiction. The statutory limitation period continues to run before and after the notice of intention to appeal to the Tribunal. See **Application 29 of 2024, Clear View Investments Limited v Mbarara University School of Science and Technology (MUST), pages 9-10, para 11-13.**
10. It is therefore our finding that the instant application filed on **July 2, 2025**, was filed out of the statutory time frames and contrary to section 115(2)(b) of the *Public Procurement and Disposal of Public Assets Act Cap 205*.
11. The Tribunal has consistently held that timelines within the procurement statute were set for a purpose and are couched in mandatory terms. There is no enabling provision within the *Public Procurement and Disposal of Public Assets Act* that accords the

Tribunal the power to enlarge or extend time. Once a party fails to move within the time set by law, the Tribunal's jurisdiction is extinguished as far as the matter is concerned. See ***Eclipse Edisoil JVC Ltd v Napak District Local Government, High Court (Civil Appeal) No. 05 of 2024***, (arising out of Tribunal Application No. 33 of 2023 - *Eclipse Edisoil JVC Ltd v Napak District Local Government*) and ***Application No. 4 of 2025, D&D Law Publishing House Limited Vs. Uganda Printing and Publishing Corporation***

12. The instant Application is time-barred and incompetent. In the circumstances, we shall not delve into the merits of the Application.
13. **This issue is resolved in the negative.**

F. DISPOSITION

1. The Application is struck out.
2. The Tribunal's suspension order dated July 2, 2025, is vacated.
3. Each party shall bear its own costs.

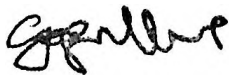
Dated at Kampala this 23rd day of July 2025.



FRANCIS GIMARA. S.C
CHAIRPERSON



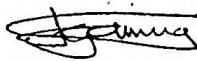
NELSON NERIMA
MEMBER



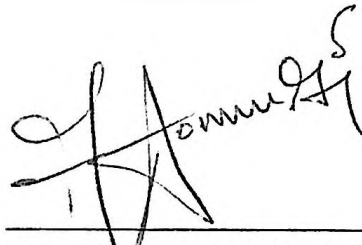
GEOFFREY NUWAGIRA KAKIRA
MEMBER



PAUL KALUMBA
MEMBER



CHARITY KYARISHIMA
MEMBER



ENG. CYRUS TITUS AOMU
MEMBER