

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

APPLICATION NO. 27 OF 2025

BETWEEN

KILI BK ENTREPRISES LTD::: APPLICANT

AND

ARUA CITY COUNCIL::: RESPONDENT

**APPLICATION FOR REVIEW IN RESPECT OF THE PROCUREMENT
FOR COLLECTION OF REVENUE FROM ABATTOIR/SLAUGHTER
SLAB IN ARUA CENTRAL DIVISION AT AN ESTIMATED MONTHLY
REVENUE OF TWENTY-FIVE MILLION SHILLINGS FOR A PERIOD
OF TWELVE MONTHS UNDER PROCUREMENT REFERENCE
NUMBER ARUA601/SRVCS/25-26/00004.**

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

DECISION OF THE TRIBUNAL

A. BRIEF FACTS

1. Arua City (the Respondent) initiated a procurement for the collection of revenue from the abattoir/Slaughter Slab in Arua Central Division at an estimated monthly revenue of UGX. 25,000,000 (Twenty-Five Million Shillings) for a period of twelve months using open domestic bidding procurement method under procurement reference number ARUA601/SRVCS/25-26/00004 on June 27, 2025.
2. The Respondent received bids from four (4) bidders, namely; *Aggregate Company Limited, Kili BK Enterprises Ltd* (the Applicant), *Arua Livestock and Meat Sellers Association and Rainbow Market Vendors Association Ltd* on July 17, 2025.
3. Upon concluding the evaluation process, the Respondent issued a best-evaluated bidder notice on August 1, 2025, stating that *Kili BK Enterprises Ltd.* was the Best-Evaluated Bidder at a Contract Price of UGX 28,050,000 per month.
4. *Rainbow Market Vendors Association Ltd*, being aggrieved with the conduct and outcome of the procurement process, filed a complaint with the Respondent's Accounting Officer on August 11, 2025.
5. The Respondent's Accounting Officer made and communicated a decision on August 14, 2025, finding merit in the complaint of *Rainbow Market Vendors Association Ltd.*
6. The Respondent's Accounting Officer stated that upon reviewing the procurement process and in accordance with the evaluation criteria, *Rainbow Market Vendors Association Ltd* had been evaluated as the compliant best-evaluated bidder. Accordingly, it

would be awarded the contract at a bid price of UGX 26,250,000 (Twenty-Six Million Two Hundred Fifty Thousand Shillings Only), and its administrative review fees would be refunded.

7. The Applicant, aggrieved by the decision of the Respondent's Accounting Officer, filed this Application on August 25, 2025, before the Tribunal to review the Respondent's decision.

B. SUBMISSIONS

During the oral hearing, the Applicant and Respondent emphasized their written submissions and responses and presented oral arguments to the Tribunal members.

Applicant

1. The Applicant adopted its Application filed on August 25, 2025, and its written submissions filed on September 4, 2025.
2. The Applicant argued that the Accounting Officer acted without authority when he attempted to evaluate and award the contract to Rainbow Market Vendors Ltd. It was submitted that under the PPDA Act and the PPDA (Evaluation) Regulations 2023, the functions of bid evaluation are assigned to the Evaluation Committee, while the authority to award contracts resides with the Contracts Committee. By conducting his own evaluation and making the award, the Accounting Officer overstepped the powers granted by law to those bodies.
3. The Applicant argued that the Accounting Officer also erred by awarding the contract to *Rainbow Market Vendors Ltd* without cancelling and setting aside the previous award by the Contracts Committee to *Kili BK Enterprises*. They referenced Section 81 of the *Public Procurement and Disposal of Public Assets Act*, which allows cancellation of a procurement by the procuring and

disposing entity only before a contract is awarded, not after the contract award by the Contracts Committee. It was therefore argued that the supposed cancellation of the Applicant's award was irregular and unlawful.

4. The Applicant argued that *Rainbow Market Vendors Ltd.* was not a responsive bidder and failed to meet the minimum requirements, including providing evidence of prior experience in revenue collection from abattoirs or slaughter slabs. Meanwhile, the Applicant had been evaluated as the best bidder and was approved by the Contracts Committee. Therefore, the award to *Rainbow Market Vendors Ltd* was claimed to lack a legal basis.
5. The Applicant argued that the Accounting Officer acted inconsistently and selectively by cancelling only the Applicant's award, while leaving other procurements managed by the same Evaluation Committee—whose chairperson he had found to be irregularly appointed—undisturbed. It was claimed that fairness and transparency required that if the evaluation process was flawed, all procurements handled by that evaluation committee should have been cancelled, rather than only the Applicant's.
6. The Applicant prayed that the Accounting Officer's decision be set aside, that a duly constituted Evaluation Committee undertake a fresh evaluation and award, and that costs be awarded to the Applicant.

Respondent

1. The Respondent adopted its Response to the Application filed on September 1, 2025 and prayed that the Application be dismissed with costs.
2. The Respondent argued that the Accounting Officer acted within his authority when he upheld the findings of the Administrative

Review Committee and awarded the contract to *Rainbow Market Vendors Ltd.* It was submitted that although the Applicant claimed a lack of authority, Section 28 of the *Public Procurement and Disposal of Public Assets Act* grants the Accounting Officer overall responsibility for the procurement and disposal process, including appointing the Contracts Committee, to whom the Committee is accountable, and signing contracts on behalf of the entity. The Respondent also noted that the Administrative Review Committee found irregularities in the nomination of the Evaluation Committee Chairperson, conflicts of interest in the Applicant's bid and deficiencies in meeting eligibility requirements. Given these circumstances, the Accounting Officer's decision was justified.

3. The Respondent argued that upon receiving the Administrative Review Application, the Accounting Officer suspended the procurement process and asked bidders to extend bid validity and security. It was therefore contended that there was no improper cancellation of the Applicant's award, and the Tribunal was invited to conclude that the Accounting Officer acted lawfully.
4. The Respondent argued that *Rainbow Market Vendors Ltd.* was a responsive bidder according to Section 28.2 of the bidding document, which defines a substantially compliant bid as one that meets all terms, conditions, and requirements. It was stated that *Rainbow Market Vendors Ltd.* fulfilled these criteria and was therefore appropriately considered for the award.
5. The Respondent maintained that the finding of irregularity in the appointment of the Evaluation Committee Chairperson was a matter of law, which overrode other considerations. It was argued that this did not amount to selective cancellation as alleged by the Applicant. The Respondent relied on the Administrative Review Committee's observations, which had found merit in

Rainbow Market Vendors Ltd's complaint, and submitted that the decision to award the contract to it was justified.

6. The Respondent prayed that the Application be dismissed with costs, for being devoid of merit.

Rainbow Market Vendors Association Ltd as the Best Evaluated Bidder

1. The Best Evaluated Bidder stated that the Accounting Officer acted within his Authority when communicating the outcome of the administrative review. It was argued that Section 28 of the PPDA Act grants the Accounting Officer overall responsibility for procurement and disposal, including the appointment and supervision of the Contracts Committee and signing contracts to bind the entity.
2. The Best Evaluated Bidder also noted that the Evaluation Committee chairperson was appointed irregularly, contrary to Regulation 3(1) of the Evaluation Regulations, 2023. Additionally, the Applicant's bid had multiple irregularities, including a conflict of interest involving the City Engineer, inconsistencies in the bid submission sheet and power of attorney, and a failure to submit a valid recommendation letter from the relevant Division Town Clerk. Based on these issues, the Best Evaluated Bidder argued that the Applicant should have been disqualified during the evaluation stage and had no standing to file this application.
3. The Bidder maintained that upon receipt of the request for administrative review, the Accounting Officer lawfully suspended the procurement process pursuant to Regulation 5 of the Administrative Review Regulations, 2023, and requested that bidders extend the bid validity and security. It was submitted that this action meant there was no irregular cancellation of the Applicant's award, since no contract had been signed.

4. The Bidder argued that *Rainbow Market Vendors Association Ltd.* was responsive under Section 28.2 of the bidding document, which requires a substantially compliant bid to adhere to the terms, conditions, and requirements of the bidding documents. It was claimed that the Best Evaluated Bidder met these standards and was therefore appropriately considered for the award.
5. The Best Evaluated Bidder argued that the finding regarding the irregular appointment of the Evaluation Committee chairperson was a legal matter that could not be ignored. While the Applicant claimed selective treatment, the Best Evaluated Bidder contended that the irregularity justified the decision and did not constitute discrimination. The Best Evaluated Bidder asked the Tribunal to cancel the incorrect evaluation of *Kili BK Enterprises* and to uphold the Administrative Review Committee's recommendation.
6. The Best Evaluated Bidder prayed that the Application be dismissed with costs, for lack of merit.

C. THE ORAL HEARING

The Tribunal held an oral hearing via Zoom software on September 8, 2025. The appearances were as follows:

For the Applicant

1. **Atiku Jimmy Bati** served as Counsel. **Buni Rashid**, Manager of **Kili BK Enterprises Ltd**, and **Omar Rajab**, Site Manager.

For the Respondent

2. **Angudubo Emmanuel** - Assistant Deputy Town Clerk and Chairperson of the Administrative Review, represented the

Respondent on behalf of the Accounting Officer, **Odama Henry - Senior Legal Officer/Counsel, Omale Jimmy** - Senior Procurement Officer, **Adia Charles** - Senior Revenue Officer / Chairperson Evaluation Committee, **Afedra Bosco** - Mechanical Foreman/Chairperson Contracts Committee, **Afuru Iren** - Inventory Management Officer/Member, Evaluation Committee.

For the Best Evaluated Bidder

3. **Baslir Abdul Akim** as Counsel for **Rainbow Market Vendors Association Ltd. Anyole Mohammed Edema**, the Managing Director, and **Ichile Ismail Musa**, Cashier.

D. RESOLUTION BY THE TRIBUNAL

Issues

The Application raised four issues for determination. The Tribunal has framed the following issues for determination.

- 1) *Whether the Accounting officer erred in law and fact when he purported to evaluate bids in the course of conducting an administrative review and consequently awarded the contract in the impugned procurement to Rainbow Market Vendors Ltd.*
- 2) *Whether the Accounting Officer erred in law and fact when he awarded the contract in the impugned procurement to Rainbow Market Vendors Ltd without cancelling and setting aside the award of the contract to the Applicant.*
- 3) *Whether the Accounting Officer erred in law and fact when he awarded the contract in the impugned procurement to Rainbow Market Vendors Ltd.*

- 4) *Whether the Accounting Officer, in law and in fact, acted irregularly by selectively cancelling the award of the contract to the Applicant and awarding it to Rainbow Market Vendors Ltd despite the same Evaluation Committee (whose chairperson's appointment had been challenged as unlawful in the Administrative Review) handling multiple procurements for the same Entity?*
- 5) *What remedies are available to the parties?*

Issue No. 1

Whether the Accounting officer erred in law and fact when he purported to evaluate bids during an administrative review and award the contract in the impugned procurement to Rainbow Market Vendors Ltd.

1. Under section 106(7) of the *Public Procurement and Disposal of Public Assets Act, Cap 205*, and Regulation 8 of the *Public Procurement and Disposal of Public Assets (Administrative Review) Regulations, 2023*, the Accounting Officer must, within ten days of receiving a complaint, make and communicate a written decision addressed to the bidder who filed the complaint. The decision shall specify the reasons and any corrective action to be taken.
2. Upon receiving the complaint from *Rainbow Market Vendors Association* on August 11, 2025, the Accounting Officer appointed a four-member administrative review committee to investigate it. The committee comprised Angudubo Emmanuel, the Assistant Deputy Town Clerk; Odama Henry, the Senior Legal Officer; Akua Fred, the Senior Revenue Officer; and Omale Jimmy, the Senior Procurement Officer.
3. The Administrative Review Committee, during its meeting on August 13, 2025, reviewed the complaint and upheld ground two

concerning the irregular appointment of the Chairperson of the Evaluation Committee. In its report, the Administrative Review Committee re-evaluated the bids in the disputed procurement and concluded that *Kili BK Enterprises'* bid should have been disqualified at the preliminary stage due to a conflict of interest, as its proposed Contract Manager, *Eng. Omona Charles Kasongo* (ERB Registration No. 1068) also served as the City Engineer of Arua City, the Procuring and Disposing Entity.

4. The Administrative Review Committee also noted that the Evaluation Committee improperly waived the mandatory requirement of a recommendation letter, which was a key condition of the solicitation document. After re-evaluation, the Administrative Review Committee determined that the bid from *Rainbow Market Vendors Association* was responsive to the bidding document's requirements and therefore recommended it to the Accounting Officer for the award of the contract at a total evaluated price of UGX26,250,000.
5. On August 14, 2025, the Accounting Officer adopted the findings and recommendations of the Administrative Review Committee in their entirety, found merit in ground two of the Complaint that had alleged that the Chairperson of the evaluation committee was single handedly nominated by the procuring and disposal unit with Contracts Committee approval contrary to regulation 3(1) of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023*. As part of corrective measures, the *Respondent's* Accounting Officer instead awarded the contract to *Rainbow Market Vendors Association* as the compliant best evaluated bidder.
6. An Accounting Officer can delegate his procurement function to a staff member of the procuring and disposing entity. See section 41(a)(ii) of the *Public Procurement and Disposal of Public Assets*

Act and *Nalu Tours and Travel Ltd versus Jinja City, Application No. 30 of 2022, paras 30-32.*

7. The Accounting Officer also has power to investigate a complaint by considering information provided by the staff of the procuring and disposing entity. See regulation 6 (c) of the *Public Procurement and Disposal of Public Assets (Administrative Review) Regulations, 2023.*
8. Therefore, the appointment of an administrative review Committee is within the Accounting Officer's discretion to delegate and consider information from staff. However, the recommendations of an administrative review committee are only advisory and not binding on an Accounting Officer, who is required to make and communicate an administrative decision within the statutory deadlines, as the Accounting Officer did in this case on August 14, 2025. See section 106(7) of the *Public Procurement and Disposal of Public Assets Act* and the Tribunal decisions in *Nalu Tours and Travel Ltd Versus Jinja City, Application No. 19 of 2023 paras 32 and 33; Consolidated Applications No. 15, 17, and 18 of 2023, Quality Inspection Services Inc Japan and 2 others v Uganda National Bureau of Standards* and *Application No. 13 of 2023, Rhema Engineering Company Limited v Arua City.*
9. It is well-established law and practice that in public procurement, the Procurement and Disposal Unit recommends the membership of the Evaluation Committee in accordance with the regulations made under the Act, and the Contracts Committee approves the membership.
10. Once approved by the Contracts Committee, the members of an Evaluation Committee are free to select a chairperson from

among themselves. See regulation 3(1) of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023*.

11. Even though the Evaluation Committee chairperson in this disputed procurement was specifically chosen by the Procurement and Disposal Unit and approved by the Contracts Committee, a departure from usual practice, there was no evidence adduced that this compromised the main evaluation process. According to regulation 3(1) of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023*, the chairperson must be chosen by the Evaluation Committee members themselves, rather than appointed from outside.
12. This irregularity in the chairperson's appointment did not materially affect the outcome. The Evaluation Committee's report in the impugned procurement was not dissenting; no disagreement was recorded. Under regulation 4(9) of the *Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023*, evaluation must be conducted jointly. The decision of an Evaluation Committee shall be unanimous, and, by consensus, unless the methodology permits individual assessments.
13. Since the Evaluation Committee in the challenged procurement reached a unified conclusion, the procedural irregularity regarding the chairperson's appointment did not undermine the integrity of the bid evaluation substantially and should not have served as a basis to set aside the contract award to *Kili BK Enterprises Ltd.*
14. A procuring and disposing entity consists of five distinct units; the *Accounting Officer, a Contracts Committee, a Procurement and Disposal Unit, a User Department, and an Evaluation Committee*. See section 26 of the *Public Procurement & Disposal of Public Assets Act, Cap 205*.

15. Subject to the provisions of the Act, the Accounting Officer, the Contracts Committee, the Procurement and Disposal Unit, the User Department, and the Evaluation Committee are authorized to act independently regarding their respective functions and powers. See section 40 of the *Public Procurement & Disposal of Public Assets Act, Cap 205*.
16. The Accounting Officer, having upheld the complaint filed by the *Rainbow Market Vendors Association*, was only authorized to make and communicate a decision, in writing, addressed to the bidder who made the complaint not to cancel the contract award to *Kili BK Enterprises Ltd*. See sections 28(1)(j) and 106(7) of the *Public Procurement & Disposal of Public Assets Act Cap 205*.
17. Once the Contracts Committee has made a contract award decision, only then is the Accounting Officer authorized to communicate that decision, as specified under section 28(1)(e) of the *Public Procurement & Disposal of Public Assets Act, Cap 205*.
18. If the Accounting Officer in the instant Application deemed re-evaluation of the bids necessary, the proper course of action was to refer the bids back to the Evaluation Committee, since, under Section 39(1) of the *Public Procurement & Disposal of Public Assets Act Cap 205*, that Evaluation Committee must conduct all evaluations and not the Accounting Officer. Consequently, any re-evaluation by the Accounting Officer during the administrative review is ultra vires, null and void.
19. Relatedly, adjudicating recommendations from the Procurement and Disposal Unit and making award decisions is the preserve and a power to be exercised by the Contracts Committee. See Sections 30(a) and 31(1)(c) of the *Public Procurement & Disposal of Public Assets Act Cap 205*.

20. The Respondent's Accounting Officer lacked the authority to establish itself as a contracts committee and to issue a contract award decision in favor of *Rainbow Market Vendors Association* without the approval of the award by a Contracts Committee. Therefore, Accounting Officer's decision to award the contract to *Rainbow Market Vendors Association* is invalid and is hereby overturned.
21. **This issue is resolved in the affirmative.**
22. The determination of issue no.1 in favor of the Applicant inherently resolves issues 2, 3 and 4 of the Application.

Issue no. 5:

What remedies are available to the parties?

23. In the context of public procurement in Uganda, conflict of interest issues are of significant legal importance because they can compromise key procurement principles such as non-discrimination, transparency, accountability, and fairness. Therefore, the Tribunal must consider conflict of interest claims that are properly brought to its attention.
24. At the hearing, the Tribunal reviewed the allegations of a conflict of interest raised by the Administrative Review Committee. The Respondent presented evidence, including an appointment letter dated May 8, 2023, confirming *Eng. Omona Charles Kasongo* as City Engineer of Arua City on probation; a letter dated October 21, 2024, confirming his ongoing appointment; and a letter dated June 27, 2025, appointing him as Vote Controller for Works and Engineering for the 2025/2026 fiscal year. The Applicant, however, denied that *Eng. Omona Charles Kasongo* was listed as its Contract Manager and claimed that the Respondent had altered its bid to include him in that position.

25. Since the alleged conflict of interest in the Applicant's bid was not brought before the Evaluation Committee, it is fair and appropriate to send the bids back to the Respondent for re-evaluation by a newly formed Evaluation Committee. This will ensure the evaluation process upholds the principles of transparency, accountability, and fairness.
26. In conclusion, the Tribunal finds that the Respondent's Accounting Officer erred in purporting to set aside the award of the contract to *Kili BK Enterprises Ltd* due to the irregular appointment of the Evaluation Committee Chairperson, and in subsequently awarding the contract to *Rainbow Market Vendors Association*. Further, the Evaluation Committee did not consider the conflict of interest issue in the Applicant's bid. Accordingly, the matter is remitted to the Respondent for re-evaluation by a newly constituted Evaluation Committee in strict compliance with the law.

E. DISPOSITION

1. The Application is allowed.
2. The decision of the Respondent's Accounting Officer dated August 14, 2025, is set aside.
3. The award of contract in the impugned procurement to *Rainbow Market Vendors Association*, as communicated in the Accounting Officer's decision dated August 14, 2025, is set aside.
4. The Respondent is directed to re-evaluate the bids in the impugned procurement in a manner not inconsistent with this decision and the law.
5. The bids in 4 above should be evaluated by a new evaluation committee within 10 days of the Tribunal's decision date.
6. The Tribunal's suspension order dated August 25, 2025, is vacated.
7. Each party shall bear its own costs.

Dated at Kampala, this 12th day of September, 2025.



FRANCIS GIMARA SC.
MEMBER



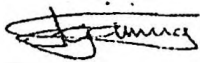
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