

UGANDA / JUDGMENT

Gamose Holdings Limited v Lira University (Application 8 of 2025)

[2025] UGPPDPAAT 12 (27 March 2025)

[2025] UGPPDPAAT 12

COURT

Public Procurement and Disposal of Public Assets
Appeals Tribunal

BEFORE

Gimara SC, Chairperson, Nerima, Panel Member,
Nuwagira, Kalumba, Kyarisiima, Kayemba

CASE / FILE NUMBER

Application 8 of 2025

Source: ulii.org · Research copy typeset by Esheria. Not court-issued or certified.

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

REGISTRY APPLICATION NO. 8 OF 2025

BETWEEN

GAMOSE HOLDINGS LIMITED:.....

AND

LIRA UNIVERSITY:.....

APPLICATION FOR ADMINISTRATIVE REVIEW IN RESPECT OF THE PROCUREMENT BY LIRA UNIVERSITY FOR THE INDOOR AND OUTDOOR CLEANING SERVICES UNDER FRAMEWORK CONTRACT ARRANGEMENT UNDER PROCUREMENT REFERENCE NO. LU310/SRVCS/2024-2025/00022.

BEFORE: FRANCIS GIMARA S. C CHAIRPERSON; NELSON NERIMA; GEOFFREY NUWAGIRA KAKIRA; PAUL KALUMBA; CHARITY KYARISIIMA AND KETO KAYEMBA MEMBERS.

DECISION OF THE TRIBUNAL

\$A.\$ BRIEF FACTS

- 1. Lira University (the "Respondent") initiated a procurement for indoor and outdoor cleaning services under framework contract arrangement under Procurement Reference No LU310/SRVCS/2024-2025/00022. The invitation to bid was published in New Vision Newspaper on October 31, 2024.
- The Respondent received bids from two (2) Bidders namely; \$2.\$ **GAMOSE HOLDINGS LTD and BELLAN CLEANERS AND SERVICES LTD**
- Upon conclusion of the evaluation process of the bids, the \$3.\$ Respondent issued a Notice Best Evaluated Bidder on February 7, 2025, in which BELLAN CLEANERS AND SERVICES LTD was the stated as the Best Evaluated Bidder with a Contract Monthly rate of UGX 3,800,000.
- \$4.\$ The Notice Best Evaluated Bidder stated that **GAMOSE HOLDINGS LTD** (the Applicant) was eliminated at the financial stage of evaluation and Ranked number 02 with an evaluated bid price of UGX 3,990,000.
- \$5.\$ The Applicant being dissatisfied with award of the contract, filed an administrative review complaint dated February 10, 2025, to the Respondent's Accounting Officer. The Complaint was received by the Respondent on February 12, 2025.
- 6. The Accounting Officer made and communicated a decision in which he dismissed the Applicant's complaint on March 3, 2025.
- \$7.\$ The Applicant being aggrieved with the decision of the Respondent's Accounting Officer, filed the instant application before the Tribunal on March 6, 2025, for review of the decision of the Respondent.
- The Applicant contended that **BELLAN CLEANERS AND 8. SERVICES LTD** did not provide evidence of eligibility by way of evidence of proof of ownership lease or ownership of tools and equipment, did not provide proof of experience in a medical facility or hospital or university for the last two years as stated in the bidding document, did not conduct evaluation within stipulated timelines and that the evaluation committee was not properly constituted to conduct the evaluation.
- 9. The Application raised 4 issues for determination. The Tribunal has reframed the issues as follows.
- Whether the instant application is competent before the \$(i)\$ Tribunal.
- (ii) Whether the evaluation committee that evaluated the bids in the impugned procurement was properly constituted in *accordance with the law.*

- (iii) Whether the Respondent evaluated the bid of Bellan Cleaners and Services Ltd in accordance with the criteria specified in the *bidding documents and the laws?*
- *(iv) Whether there are available remedies to the Parties.*

\$B.\$ THE ORAL HEARING

- The Tribunal held a virtual hearing on March 21, 2025, by \$1.\$ Zoom Cloud Application. The appearances were as follows:
- Omara Isaac from Akoko, Ojok, Omara & Co. Advocates- \$1)\$ Lira as Counsel for the Applicant. In Attendance was Alele Stephen -a Managing Director and Bua Mercy - a Director and Authorised holder of Power of Attorney.
- Auma Racheal a Legal Officer represented the Respondent. \$2)\$ In Attendance for the Respondent was Kibwota Geoffrey- a Procurement Officer
- *Otim Bernard* as a Director for *Bellan Cleaners and Services* \$(3)\$ *Ltd* as the Best Evaluated Bidder
- The parties adopted the contents of their respective pleadings \$2.\$ and made oral submissions as follows:

\$\mathbf{C}\$. SUBMISSIONS

Applicant

- The Applicant adopted the contents of its application and its \$1.\$ written submissions filed with the Tribunal.
- The Applicant submitted that the Accounting Officer of the \$2.\$ Respondent erred in law when he did not make and/ or communicate the administrative review decision within the statutory timeframe.
- The Applicant contended that the Complaint was filed on 12th 3. February 2025, the administrative review fees paid and communicated to the Respondent on February 17, 2025, and that the prescribed ten days from the date of payment elapsed on 26th February 2025 without any decision made by the Accounting Officer. That failure to make an administrative review decision within statutory timelines was fatal and rendered the procurement process null and void. The Applicant cited the decision in JV AGT S. P. A & Zhucheng Dingheng Machinery Co. Ltd -Vs- Private Sector Foundation Uganda, Application No. 29 of 2022 (Page 13) and Galleria in Africa Ltd -Vs- Uganda Electricity Distribution Co. Ltd, Civil Appeal No. 08 of 2017 to supplement its submissions on the fatality of the omission to render a decision

- \$4.\$ The Applicant submitted that the bid of Bellan Cleaners and Services Limited was not substantially compliant with the requirements of the bidding document for failure to provide evidence of eligibility, to include experience in the provision of cleaning of Medical/ Hospital and University facilities evidenced by either Copies of LPOs, Invoices or Contract Agreements.
- 5. The Applicant submitted that the bid of Bellan Cleaners and Services Limited was not substantially compliant with the requirements of the bidding document for failure to provide evidence of eligibility specifically the proof of Ownership, Lease

or Hire of Tools and Equipment listed under Terms of Reference (TOR) as required in Part 3: Section: 6 Statement of Requirements of Bidding Document.

- The Applicant averred that Bellan Cleaners and Services Limited 6. as the Best Evaluated Bidder was never subjected to post qualification evaluation before being awarded the Contract contrary to Regulation 11(1-7) of the Public Procurement and Disposal of Public Assets (Evaluation) Regulations of 2023.
- \$7.\$ The Applicant contended that the Evaluation Committee departed from the evaluation criteria in its determination of Best Evaluated Bidder. That Criteria Number 9.1 (b) of the Evaluation methodology and Criteria in the Bidding Document dictated that the Best Evaluated Bid would be determined by the Bid achieving the highest combined technical and Financial Score and that Bellan Cleaners and Services Limited had not attained the highest combined technical and financial score.
- 8. It was the Applicant's submission that the Evaluation Committee contravened Section 77 of the Public Procurement and Disposal of Public Assets Act Cap. 205 and Regulation 4(1) (a) of the Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023 when it conducted evaluation for more than the prescribed ten working days. That bids were opened on 20th November 20, 2024, and evaluation concluded on February 6, 2025, rendering the entire procurement process null and void
- 9. The Applicant prayed that the Tribunal finds merit in the Application and grants the reliefs prayed for in the Application.

Respondent

- The Respondent adopted its response filed with the Tribunal on 1. March 10, 2025, together with its written submissions.
- Regarding the alleged failure by the Respondent to render an \$2.\$ administrative review decision, the Respondent contended that

the Accounting Officer made a decision and communicated it to the Applicant on March 3, 2025, within the 10 working days, in accordance with section 106 (7) and (8) of the Public Procurement and Disposal of Public Assets Act Cap 205. At the hearing, Counsel for the Respondent confirmed that the respondent computed the 10 working days from the date when the Applicant made payment of administrative review fees on February 17, 2025.

- In response to the allegation that the Accounting Officer erred $\frac{S}{S}$ in law by appointing Kia Sandra, a procurement officer of the Respondent, as a technical person during the Administrative Review, yet the complaint was against Respondent University where she is a staff member, the Respondent retorted arguing that the said Kia Sandra did not participate in the evaluation process and was appointed as part of an investigation team into the applicant's complaint.
- The Respondent dismissed the Applicant's allegations that there 4. was deviation from the Evaluation Criteria in as far as evidence of experience in the provision of cleaning of Medical/Hospital and University facilities evidenced by providing either copies of LPOs, invoices or contract agreements is concerned. The Respondent submitted that Bellan Cleaners and Services Limited, the best evaluated bidder complied with the said evaluation criteria.
- \$5.\$ The Respondent submitted that Bellan Cleaners and Services *Limited* had submitted proof that it had the required experience for provision of indoor and outdoor cleaning services at Faculty of Education under LPOs No. 212 (June 2nd, 2023), No.896 (March 28th, 2022), and No. 87 (November 28th, 2022) from Lira Regional Referral Hospital and copies of Contracts for similar services \$at\$ Lira Regional Referral Hospital and Law Development Centre.
- The Respondent refuted the Applicant's claims that Bellan 6. *Cleaners and Services Limited* did not provide evidence of proof of ownership, lease, or hire of tools and equipment listed under

the terms of reference stated in Part 3 - Section 6: Statement of Requirements of Bidding Document. The Respondent contended that *Bellan Cleaners and Services Limited* had submitted numerous receipts No. 5885, 657, 6678, 116 and attached recommended listed of tools and equipment as evidence of ownership. That The Best Evaluated Bidder therefore met the eligibility criteria.

- The Respondent submitted that the best evaluated bidder in the 7. impugned procurement was determined by the lowest priced bid which is eligible and administratively compliant to the technical and financial requirements specified in the bidding document in accordance with the Technical Compliance Selection methodology that recommends the lowest priced bid and not by using a bid that had achieved the highest combined technical and financial score as alleged by the Applicant.

- 8. The Respondent disputed the Applicant's allegation that the Evaluation Committee was inquorate to conduct a proper meeting since only two members of the Evaluation Committee namely Okallo Daniel as Chairperson and Kibwota Geoffrey as Secretary participated in the evaluation of the bids contrary to Section 39(3) of the Public Procurement and Disposal of Public Assets Act, Cap 205 and Regulations 4(3) and (7) of the Public Procurement and Disposal of Public Assets (Evaluation) Regulations, 2023.
- 9. The Respondent submitted that the Evaluation Committee was well constituted of Egang Godwin, Kibwota Geoffrey, Okeng Denis Frazier, Ogwang Jimmy and Okallo Daniel, who all participated in the evaluation of all bids.
- The Respondent averred that there was no disagreement \$10.\$ between members of the evaluation committee as alleged by the Applicant. That to the contrary, there were agreement recorded amongst the members of the Evaluation Committee who duly signed the Attendance and Code of Ethical Conduct in Business (Form 13). That only one member Mr. Okeng Denis Frazier did not sign the Minutes and the Evaluation report because the said member had excused himself to participate in the Estates and Works Committee meeting of Council.
- The Respondent submitted that there was no need to conduct a \$11.\$ post-qualification evaluation pursuant to regulation \$11(1)\$ of the PPDA (Evaluation) Regulations, 2023. because postqualification evaluation was not part of the evaluation criteria in the bidding document.
- The Respondent submitted that the instant application is \$12.\$ without merit and should be dismissed with costs to the Respondent.

Response or submissions of Bellan Cleaners and Services Limited as the Best Evaluated Bidder

- The Best Evaluated Bidder adopted its response to the \$\{1\}\$. Application filed with the Tribunal on March 17, 2025.
- Bellan Cleaners and Services Limited decried the fact that the \$2.\$ Applicant was in possession of information such as constitution of the evaluation committee and attendant minutes, which information is ordinarily in possession of the Procuring and Disposing Entity. The Best Evaluated Bidder relied on the decision in Application No. 23 of 2021, Coil Ltd V National Housing and Construction Company Limited to buttress its submissions that the Applicant unlawfully accessed the said documents in violation of ethical code of conduct rendering the instant application incompetent.
- \$3.\$ The Best Evaluated Bidder dismissed the allegations that the Evaluation Committee was not well constituted. The Best Evaluated Bidder argued that the evaluation committee report which was shared by the Respondent on 3rd March 2025 included an attendance sheet for a meeting held on 9th November 2024 at Sexual Reproductive Health

Boardroom. That the list shows that the evaluation committee was composed of 5 members namely Ogwang Jimmy, Ejang Godwin, Okeng Denis as members, *Kibwota Geoffrey* as Secretary and *Okello Daniel* as the Chairperson.

- The Best Evaluated Bidder contended that the failure by one \$4.\$ member of the Evaluation Committee to sign the Evaluation Report does not invalidate the Report considering a purposive reading of regulation 15 of the PPDA (Evaluation) Regulations 2023 if the minimum quorum of least three members is achieved
- The Best Evaluated Bidder submitted that there was no \$5.\$ deviation from the evaluation criteria since the Applicant did not adduce any evidence of deviation from the set evaluation criteria in the Bid Document.
- Regarding the claim that evaluation was not conducted within 6. 10 working days, The Best Evaluated Bidder submitted that from the evaluation committee through its chairperson Mr Okello Daniel requested for an extension of time within which to conclude the evaluation process on 5th December 2024 and the request was granted by the University Secretary in accordance with regulation 4(2) Public Procurement and Disposal of Public Assets (Evaluation) Regulations 2023.
- \$7.\$ The Best Evaluated Bidder contended that it has and submitted evidence of the required experience and proof that it owns the tools and equipment to be used in executing the contract as required in the Bid document.
- The Best Evaluated Bidder prayed that the Tribunal upholds 8. the findings of the Accounting Officer and for the Applicant to be penalised to costs

\$D\$. RESOLUTION BY THE TRIBUNAL

Issue no. 1

Whether the instant application is competent before the Tribunal

- A bidder who is aggrieved by a decision made by the Accounting $\mathbf{1}$ Officer must make an application for review by Tribunal within ten working days from the date of receipt of the decision of the Accounting Officer pursuant to section \$115(1)(a)\$ and \$115(2)(a)\$ of the Public Procurement and Disposal of Public Assets Act Cap 205.
- Where an Accounting Officer does not or omits to make and \$2.\$ communicate a decision, in writing, addressed to Bidder who makes the complaint within ten days of receipt of a complaint, the aggrieved bidder must make an application for review by Tribunal within **ten days** from the date of expiry of the period specified in the section 106(7) of the Public Procurement and Disposal of Public Assets Act Cap 205. See section 106(8) and 115(2)(b) of the *Public Procurement and Disposal of Public Assets Act Cap 205.*

- The Applicant having filed its administrative review complaint 3. on **February 12, 2025**. The Accounting Officer was duty bound to make and communicate a decision within ten days. The days commenced on February 13, 2025 and elapsed on February 22, 2025.

See section 106(7) of the Public Procurement and Disposal of Public Assets Act Cap 205, APPLICATION NO. 31 OF 2024- *JILK* CONSTRUCTION COMPANY LIMITED *v* KIRA MUNICIPAL COUNCIL, APPLICATION NO. 21 OF 2024 RAXIO DATA CENTRE SMC LTD VS BANK OF UGANDA APPLICATION NO. 21 OF 2024.

- We disagree with the Respondent's submission that the 10 days 4. are working days and that they commenced on February 17, 2025, when administrative review fees were paid by the Applicant.
- The duty of the Accounting Officer to make and communicate a decision and administrative review decision under section 106(7) of the Public Procurement and Disposal of Public Assets Act Cap 205 is not dependant on the payment of administrative review fees.
- 6. Therefore, the days of reckoning for an Accounting Officer to make and communicate and administrative review decision commence the day after or upon receipt of a Complaint whether or not the administrative review fees are paid.
- 7. The Tribunal has clarified that the plural noun **days** referred to in the legislative text of section 106 (7) of the Public Procurement and Disposal of Public Assets Act means "calendar days" and not "**working days**". For emphasis, "**calendar days**" refer to any day in the calendar including weekends and public holidays basically all the 7 days in a week as opposed to just working days. See APPLICATION NO. 33 OF 2021, SUPER TASTE LIMITED *v*. BANK OF UGANDA, page 9-10, para 9-14, APPLICATION NO. 29 OF 2021 SANLAM GENERAL INSURANCE (U) LIMITED *v* UGANDA NATIONAL ROADS AUTHORITY. Also see UK Court of Appeal in A & V BUILDING SOLUTIONS LTD *v*. J & B HOPKINS, 2023 [EWCA Civ 54] that relied on LESTER *v* GARLAND (1808) 15 Ves 248.
- It is our finding that the decision made by the Accounting Officer of the Respondent on March 3, 2025, was made out of prescribed statutory timelines and contrary to the law. It is no decision at all and inconsequential.
- 9. Where the Respondent's Accounting Officer did not make a decision or communicate a decision by February 22, 2025 as stipulated in law, the aggrieved bidder like the Applicant ought

to have made an application to the Tribunal within **ten days** from February 22, 2025.

- The time of reckoning for filing an application to the Tribunal following the failure of the Accounting Officer to make a decision or communicate a decision in time, commenced on February 23, 2025 and elapsed on March 4, 2025.
- The Application filed by the Applicant on March 6, 2025 was 11. therefore filed out of time.

- The Tribunal has consistently held that timelines within the 12. 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 power to enlarge or extend time. Once a party fails to move within the time set by law, the jurisdiction of the Tribunal 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**
- In the premises, it is our finding that the Application is 13. incompetent, and the Tribunal shall not delve into the merits of the Application.

$\mathbf{E}$. DISPOSITION

- \$1. The Application is struck out.
- \$2. The Tribunal's suspension order dated March 6, 2025, is vacated.
- Each party to bear its own costs. 3.

Dated at Kampala this 27th day of March 2025.

FRANCIS GIMARA S. C CHAIRPERSON

GEOFFREY NUWAGIRA KAKIRA MEMBER

tunne

CHARITY KYARISIIMA MEMBER

Meurin

NELSON NERIMA MEMBER

PAUL KALUMBA MEMBER

Kato pam

KETO KAYEMBA MEMBER

Page 13 of 13 Decision for PAT Application No. 8 of 2025, Gamose Holdings Ltd V Lira University

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE	https://ulii.org/akn/ug/judgment/ugppdpaat/2025/12/eng@2025-03-27
CASE PAGE	https://chat.esheria.ai/case-law/uganda/gamose-holdings-limited-v-lira-university-application-8-of-2025-2025-ugppdpaat-12-27-march-2025-unknown-topic-unknown-court-2025

Prepared on 13 October 2026 · Esheria